

South Australia

## Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2005

under the *Primary Industry Funding Schemes Act 1998*

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#### 1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2005*.

#### 3—Interpretation

In these regulations—

*Act* means the *Primary Industry Funding Schemes Act 1998*;

*citrus fruit* means citrons, lemons, limes, grapefruit, mandarins, oranges, sevilles, tangerines or a hybrid of any of those fruits;

*citrus fruit product* means a product derived wholly or in part from citrus fruit;

*citrus grower* means a person who carries on the business of producing citrus fruit for sale;

*citrus packer* means a person who carries on the business of packing citrus fruit for sale by wholesale;

*citrus processor* means a person who carries on the business of processing citrus fruit into a citrus fruit product for sale by wholesale;

*financial year* means a period of 12 months commencing on 1 July;

*Fund*—see regulation 4;

*quarter* means any period of 3 months commencing on 1 January, 1 April, 1 July or 1 October.

#### **4—Citrus Growers Fund**

- (1) The *Citrus Growers Fund* (the **Fund**) is established.
- (2) The Fund will be administered by the Minister.
- (3) The Fund consists of—
  - (a) contributions paid or collected in accordance with these regulations; and
  - (b) income of the Fund from investment; and
  - (c) any other sums received by the Minister for payment into the Fund.

#### **5—Contributions for citrus fruit sold by citrus growers**

- (1) Contributions are payable to the Minister by or on behalf of citrus growers for payment into the Fund as follows:
  - (a) the amount payable is—
    - (i) \$1.00; or
    - (ii) if some other amount (which may be 0) is specified by the Minister by notice in the Gazette—that other amount,for each tonne of citrus fruit produced and sold by a citrus grower;
  - (b) contributions are payable on a quarterly basis, or, with the approval in writing by the Minister on application by—
    - (i) the grower; or
    - (ii) in the case of fruit sold by a grower to a citrus packer or citrus processor—the packer or processor (as the case may be),on a monthly, half-yearly or yearly basis;
  - (c) contributions payable for citrus fruit sold during a quarter (or other period as may be approved under paragraph (b)) fall due 28 days after that quarter (or other period);
  - (d) if citrus fruit is sold by the citrus grower to a person who is not a citrus packer or citrus processor—
    - (i) the contributions for a particular quarter (or other period) are payable in respect of the tonnage of citrus fruit sold during the quarter (or period); and
    - (ii) the contributions are payable directly by the grower;
  - (e) if citrus fruit is sold by the citrus grower to a citrus packer or citrus processor—
    - (i) the contributions for a particular quarter (or period) are payable in respect of the tonnage of citrus fruit packed or processed during the quarter (or period); and

- (ii) the contributions are payable by the citrus packer or citrus processor on behalf of the citrus grower out of the amount payable to the citrus grower for the citrus fruit.
- (2) A citrus packer or citrus processor who pays contributions on behalf of a citrus grower must—
  - (a) deduct the amount of the contributions from the amount payable by the citrus packer or citrus processor to the citrus grower for the citrus fruit; and
  - (b) keep proper records constituting evidence of the sale and deduction and make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (3) Each quarterly (or other periodic) payment of contributions to the Minister must be accompanied by a statement setting out the name and address of each citrus grower by or on behalf of whom the contributions are paid and, for each grower, the tonnage of citrus fruit in respect of which the contributions are paid.
- (4) The Minister may—
  - (a) vary or revoke a notice in the Gazette made under subregulation (1)(a) by subsequent notice in the Gazette;
  - (b) vary or revoke an approval under subregulation (1)(b).
- (5) A reference in subregulation (1)(a) to citrus fruit produced by a citrus grower is a reference to citrus fruit produced by the citrus grower during any season (including citrus fruit produced before the commencement of this regulation and sold after that commencement).

### **5A—Refunds of contributions**

- (1) A citrus grower may, by notice in writing to the Minister, within the month following a financial year in respect of which contributions have been paid by or on behalf of the citrus grower, make a claim for a refund in respect of those contributions.
- (2) A citrus grower claiming a refund under subregulation (1) must supply the Minister with—
  - (a) evidence acceptable to the Minister of the contributions paid by or on behalf of the citrus grower in respect of which the claim for refund is made; and
  - (b) if required by the Minister, verification of that evidence in the form of a statutory declaration.
- (3) If the citrus grower satisfies the Minister that the citrus grower is entitled to a refund, the Minister must refund to the citrus grower the amount of contributions paid by or on behalf of the citrus grower in respect of citrus fruit sold during the relevant financial year.

### **6—Application of Fund**

The Fund may be applied by the Minister for any of the following purposes:

- (a) payments to a body that, in the opinion of the Minister, represents citrus growers for 1 or more of the following purposes:
  - (i) the reasonable operating and management expenses of the body;

- (ii) fees for affiliation of the body with regional, State or national citrus or horticulture industry bodies;
  - (iii) promoting the South Australian citrus industry, including through industry field days, conferences and other events;
  - (iv) the collection and dissemination to citrus growers of information relevant to the citrus industry;
  - (v) representation of citrus growers, or participation of the body, in regional, State or national citrus or horticulture industry forums;
  - (vi) programs designed to encourage communication and cooperation between citrus growers, citrus packers, citrus processors and persons marketing citrus fruit or citrus fruit products;
  - (vii) other purposes of the body;
- (b) payments for other purposes for the benefit of citrus growers;
  - (c) payment of the expenses of administering the Fund;
  - (d) repayment of contributions to the Fund under regulation 5A.

#### **7—Exclusion from benefits of person in default in relation to contributions**

- (1) A person who is in default in relation to contributions to the Fund is not entitled to receive direct benefits or services funded by payments from the Fund.
- (2) A person is *in default in relation to contributions to the Fund* if, within the immediately preceding 2 financial years—
  - (a) all or some of the contributions payable to the Fund by the person have not been paid; or
  - (b) the person has been refunded contributions from the Fund.

#### **7A—Exchange of information**

- (1) The Minister may require a body to which payments are made out of the Fund under regulation 6(a) to provide the Minister with—
  - (a) a copy of the financial statements of the body; and
  - (b) a copy of the annual report of the body; and
  - (c) a copy of any business plan of the body; and
  - (d) any other information reasonably required for the purposes of these regulations.
- (2) The Minister may provide the body with information identifying citrus growers who have been refunded contributions under these regulations.

#### **8—False or misleading statements**

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, for the purposes of these regulations.

Maximum penalty: \$5 000.

## Schedule 1—Transitional provisions for 2012 variation

### 1—Contributions payable for August/September 2012

- (1) A contribution to the Fund payable under the revoked regulation in respect of citrus fruit produced and sold prior to the commencement of the *Primary Industry Funding Schemes (Citrus Growers Fund) Variation Regulations 2012* that has not been paid before that commencement is payable directly to the Minister for payment into the Fund.
- (2) Contributions payable to the Fund in respect of citrus fruit sold in the prescribed period fall due 28 days after the end of that period.
- (3) In this clause—

*prescribed period* means 1 August 2012 to 30 September 2012;

*revoked regulation* means regulation 5 of these regulations as in force immediately before its revocation by the *Primary Industry Funding Schemes (Citrus Growers Fund) Variation Regulations 2012*.

### 2—Refunds

- (1) A refund of contributions paid by or on behalf of a citrus grower in respect of citrus fruit sold during the prescribed period may be claimed by the citrus grower by giving notice to the Minister on or before 30 April 2013.
- (2) A citrus grower claiming a refund under subclause (1) must supply the Minister with—
  - (a) evidence acceptable to the Minister of the contributions made by or on behalf of the citrus grower in respect of which the claim for refund is made; and
  - (b) if required by the Minister, verification of that evidence in the form of a statutory declaration.
- (3) If the citrus grower satisfies the Minister that the citrus grower is entitled to a refund, the Minister must refund to the citrus grower the amount of contributions paid by or on behalf of the citrus grower in respect of citrus fruit sold during the prescribed period.
- (4) If contributions paid by or on behalf of a citrus grower in respect of citrus fruit sold during the prescribed period are refunded to the grower under this clause, any claim under regulation 5A for a refund of contributions paid by or on behalf of the grower in respect of citrus fruit sold during the financial year commencing on 1 July 2012 is limited to contributions paid in respect of citrus fruit sold after the prescribed period.
- (5) The Fund may be applied by the Minister for repayment of contributions under this clause.
- (6) In this clause—

*prescribed period* means 1 April 2012 to 31 March 2013.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Revocation of regulations

The *Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2005* were revoked by Sch 1 of the *Primary Industry Funding Schemes (Citrus Growers Fund) Regulations 2017* on 19.1.2018.

### Principal regulations and variations

| Year | No  | Reference                       | Commencement    |
|------|-----|---------------------------------|-----------------|
| 2005 | 223 | <i>Gazette 20.10.2005 p3775</i> | 20.10.2005: r 2 |
| 2009 | 241 | <i>Gazette 24.9.2009 p4725</i>  | 1.10.2009: r 2  |
| 2012 | 210 | <i>Gazette 20.9.2012 p4492</i>  | 20.9.2012: r 2  |

### Provisions varied

Entries that relate to provisions that have been deleted appear in italics.

| Provision                                  | How varied   | Commencement     |
|--|--|------------------|
| r 2  | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>1.10.2009</i> |
| r 3  |  |                  |
| Board                                      | <i>deleted by 210/2012 r 4(1)</i>                                  | <i>20.9.2012</i> |
| financial year                             | varied by 210/2012 r 4(2)  | 20.9.2012        |
| quarter                                    | inserted by 210/2012 r 4(3)  | 20.9.2012        |
| <i>r 5 before substitution by 210/2012</i> |  |                  |
| r 5(1)                                     | <i>varied by 241/2009 r 4</i>                                      | <i>1.10.2009</i> |
| r 5  | substituted by 210/2012 r 5  | 20.9.2012        |
| r 5A                                       | inserted by 210/2012 r 5   | 20.9.2012        |
| r 6  | varied by 210/2012 r 6(1)—(3)                                      | 20.9.2012        |
| r 7A                                       | inserted by 210/2012 r 7   | 20.9.2012        |
| Sch 1                                      | inserted by 241/2009 r 5   | 1.10.2009        |
|  | substituted by 210/2012 r 8  | 20.9.2012        |

## Historical versions

1.10.2009