

South Australia

Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2021

under the *Primary Industry Funding Schemes Act 1998*

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Legislative history

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2021*.

3—Interpretation

- (1) In these regulations, unless the contrary intention appears—
 - Act* means the *Primary Industry Funding Schemes Act 1998*;
 - default* in relation to contributions to the Fund—see subregulation (2);
 - delivered*—see subregulation (3);
 - Fund*—see regulation 4;
 - prescribed period* means each of the following periods:
 - (a) a prescribed period within the meaning of the revoked regulations (up to and including the period of 12 months commencing on 1 June 2021);
 - (b) the period of 12 months commencing on 1 June 2022 or on 1 June in any subsequent year;
 - revoked regulations* means the *Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2007*;

SA grape grower means a person who grows SA grapes and who is not an SA winemaker;

SA grapes means any variety of grapes grown in this State and used or intended to be used for wine;

SA winemaker means a person who carries on a business of making wine and who processes SA grapes for that purpose.

- (2) A person is in **default** in relation to contributions to the Fund if, within the immediately preceding 2 prescribed periods—
 - (a) all or some of the contributions payable to the Fund by the person under these or the revoked regulations have not been paid; or
 - (b) the person has been refunded contributions from the Fund under these or the revoked regulations.
- (3) For the purposes of these regulations, grapes will be taken to be **delivered** to a winemaker when the winemaker takes possession of the grapes.

4—South Australian Grape Growers Industry Fund

- (1) The South Australian Grape Growers Industry Fund (the **Fund**) established under the revoked regulations continues in existence.
- (2) The Fund is administered by the Minister.
- (3) The Fund consists of—
 - (a) the amount held in the Fund at the commencement of these regulations; and
 - (b) contributions paid or collected in accordance with the revoked regulations; and
 - (c) contributions paid or collected in accordance with these regulations; and
 - (d) income of the Fund from investment; and
 - (e) any other sums received by the Minister for payment into the Fund.

5—Contributions to Fund

- (1) Subject to these regulations, an SA grape grower must, in respect of each prescribed period commencing on or after 1 June 2022, pay to the Minister (for payment into the Fund) the amount fixed for the prescribed period by the Minister, by notice in the Gazette, for each tonne of SA grapes delivered to an SA winemaker during the prescribed period.
- (2) The contributions in respect of a prescribed period are payable on or before the last day of the month that immediately follows the prescribed period.
- (3) Contributions payable by an SA grape grower must be paid on behalf of the grower by the SA winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (4) The Minister may, by notice in the Gazette published before the date for payment of contributions for a prescribed period, vary an amount fixed under subregulation (1) in respect of the prescribed period.

- (5) If the Minister varies an amount payable under subregulation (1) in respect of a prescribed period after the commencement of the prescribed period, the amount as varied applies only in respect of the part of the prescribed period following the date on which the variation takes effect.
- (6) An SA winemaker must—
 - (a) keep proper records relating to the tonnage of SA grapes delivered to the winemaker, the growers of those grapes and the contributions required to be made on behalf of growers in respect of those grapes; and
 - (b) make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- (7) An SA winemaker must, on or before the last day of the month that immediately follows a prescribed period—
 - (a) furnish the Minister with a financial statement relating to the contributions payable for SA grapes delivered during that prescribed period that—
 - (i) is in the form, and contains the information, required by the Minister; and
 - (ii) is, if the person has the necessary equipment, in an electronic form acceptable to the Minister; and
 - (b) forward to the Minister, with the financial statement required by paragraph (a), the required contributions on behalf of SA grape growers for SA grapes delivered during the prescribed period to which the financial statement relates.

6—Refunds of contributions

- (1) Refunds of contributions paid under these regulations on behalf of a grower in respect of SA grapes delivered during a prescribed period may be claimed by the grower by notice in writing to the Minister within the 6 months following that prescribed period.
- (2) A person claiming a refund under this regulation must supply the Minister with evidence acceptable to the Minister of the contributions made by or on behalf of the claimant in respect of which the claim for refund is made.
- (3) If the person satisfies the Minister that the person is entitled to a refund, the Minister must refund to the person the amount of the contributions paid by or on behalf of the person, together with interest (at the official cash rate) on that amount for the period commencing on the date of payment of the contributions to the Minister and ending on the date of lodgment of the claim for the refund.
- (4) In this regulation—

official cash rate means the cash rate fixed by the Reserve Bank of Australia and prevailing on the date of lodgment of the claim for the refund.

7—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 SA grape growers for 1 or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;

- (ii) promoting SA grape growers;
 - (iii) undertaking or facilitating research and development, or the collection and dissemination to SA winemakers and SA grape growers of information, relevant to SA grape growers and, in particular, to the improvement of industry practices;
 - (iv) fees for affiliation of the body with regional, State or national bodies representing or promoting the interests of grape growers;
 - (v) programs designed to encourage communication and cooperation between SA winemakers and SA grape growers;
 - (vi) other purposes of the body;
- (b) payments for other purposes for the benefit of SA grape growers;
 - (c) payment of the expenses of administering the Fund;
 - (d) payments to the Consolidated Account or a special deposit account established under section 8 of the *Public Finance and Audit Act 1987* of amounts in accordance with an agreement entered into between the Minister and a body to which payments may be made under paragraph (a), being repayments of an amount advanced to that body under the agreement;
 - (e) repayment of contributions to the Fund under regulation 6.

8—Exchange of information

The Minister may provide a body to which payments are made out of the Fund under regulation 7(a) with information identifying growers of SA grapes and SA winemakers who have paid or been refunded contributions under these regulations.

9—Exclusion from benefits of person in default in relation to contributions

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.

10—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

Part 2—Transitional provisions

2—Transitional provisions

- (1) Subject to this clause, the revoked regulations, as in force immediately before their revocation under clause 1 of this Schedule, continue to operate in respect of the prescribed period under the revoked regulations that commenced on 1 June 2021 (the *transitional prescribed period*).

- (2) The Minister may, by notice in the Gazette published before the date for payment of contributions for the transitional prescribed period, vary an amount fixed under regulation 5 of the revoked regulations in respect of that period.
- (3) The period within which a person may claim a refund in respect of contributions paid into the Fund for the transitional prescribed period under regulation 6 of the revoked regulations is modified to be the period of 6 months following the transitional prescribed period.

Legislative history

Notes

- 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.

Legislation revoked by principal regulations

The *Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2021* revoked the following:

Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2007

Principal regulations and variations

New entries appear in bold.

| Year | No | Reference | Commencement |
|-------------|-----------|--------------------------------------|-----------------------|
| 2021 | 128 | <i>Gazette 2.9.2021 p3453</i> | 2.9.2021: r 2 |
| 2023 | 17 | <i>Gazette 30.3.2023 p631</i> | 30.3.2023: r 2 |

Provisions varied

New entries appear in bold.

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

| Provision | How varied | Commencement |
|-------------------|--|------------------|
| <i>r 2</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>30.3.2023</i> |
| r 3 | | |
| r 3(1) | | |
| prescribed period | amended by 17/2023 r 3 | 30.3.2023 |
| Sch 2 | | |
| <i>Pt 1</i> | <i>omitted under Legislation Revision and Publication Act 2002</i> | <i>30.3.2023</i> |