

South Australia

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

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 (SA Grape Growers Industry Fund) Regulations 2007*.

### 2—Commencement

These regulations come into operation on the day on which they are made.

### 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);

*delivery*—see subregulation (3);

*Fund*—see regulation 4;

*prescribed period* means each of the following periods:

- (a) the day on which these regulations come into operation to 31 May 2008;
- (b) 1 June 2008 to 31 May 2009;
- (c) 1 June 2009 to 31 May 2010;
- (d) 1 June 2010 to 31 May 2011;
- (e) 1 June 2011 to 31 May 2012;

*SA grape grower* means a person who grows SA grapes and who is not a 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 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.
- (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*) 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 grapes delivered during prescribed periods**

- (1) Contributions are payable by a SA grape grower to the Minister for payment into the Fund as follows:
  - (a) a contribution is payable on or before the last day of the month that immediately follows a prescribed period;
  - (b) the contribution is \$1 for each tonne of the grower's SA grapes delivered to a SA winemaker during the prescribed period (rounded down to the nearest tonne of grapes).
- (2) Contributions payable by a 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.
- (3) A 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.
- (4) A 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 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 12 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 on that amount calculated at the short term interest rate (as published by the Reserve Bank of Australia for the preceding financial year) on a monthly basis for the number of whole months in the period commencing on the date of payment of the contributions and ending on the date of 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—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.

### **9—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.

#### **Note—**

As required by section 10AA(2) of the *Subordinate Legislation Act 1978*, the Minister has certified that, in the Minister's opinion, it is necessary or appropriate that these regulations come into operation as set out in these regulations.

### **Made by the Governor**

following compliance by the Minister with section 4(2) of the Act and with the advice and consent of the Executive Council  
on 29 November 2007

No 276 of 2007

MAFF07/018CS