

South Australia

Primary Industry Funding Schemes (Riverland Wine Industry Fund) Variation Regulations 2008

under the *Primary Industry Funding Schemes Act 1998*

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Part 1—Preliminary

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Riverland Wine Industry Fund) Variation Regulations 2008*.

2—Commencement

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

3—Variation provisions

In these regulations, a provision under a heading referring to the variation of specified regulations varies the regulations so specified.

Part 2—Variation of *Primary Industry Funding Schemes (Riverland Wine Industry Fund) Regulations 2001*

4—Variation of regulation 3—Interpretation

- (1) Regulation 3(1)—after the definition of *Act* insert:

default in relation to contributions to the Fund—see subregulation (2);

delivered—see subregulation (3);

- (2) Regulation 3(1)—after the definition of **Fund** insert:
 - grower association*—see regulation 6(1)(b);
 - industry development association*—see regulation 6(1)(a);
 - industry development contribution*—see regulation 5(1)(a)(ii) and 5(1)(b)(ii);
- (3) Regulation 3(1), definition of **Riverland grapes winemaker**—after "purpose" insert:

(whether directly or through contracting another to do so and whether in or outside the State)
- (4) Regulation 3(1)—after the definition of **Riverland grapes winemaker** insert:
 - winemaker association*—see regulation 6(1)(c);
 - winemaker contribution*—see regulation 5(1)(b)(i).
- (5) Regulation 3—after subregulation (2) insert:
 - (3) For the purposes of these regulations—
 - (a) grapes will be taken to be **delivered** to a Riverland grapes winemaker by a grower of Riverland grapes when the winemaker takes possession of the grapes; and
 - (b) if a Riverland grapes winemaker processes Riverland grapes grown by the winemaker, grapes will be taken to be **delivered** to the winemaker when the grapes are placed in a container for the purposes of commencing processing of the grapes (including placing the grapes in a container for fermentation or in preparation for crushing or pressing).

5—Variation of regulation 5—Contributions to Fund

- (1) Regulation 5(1)—delete subregulation (1) and substitute:
 - (1) The following contributions are payable within 30 days after the end of each financial year to the Minister for payment into the Fund for each tonne of Riverland grapes delivered to a Riverland grapes winemaker during that financial year:
 - (a) in the case of grapes grown by a person other than the winemaker—
 - (i) 0.3% of the amount payable to the grower by the winemaker for the grapes is payable by the grower of the grapes; and
 - (ii) 35 cents is payable by the winemaker as an industry development contribution; and
 - (b) in the case of grapes grown by the winemaker—
 - (i) \$1 is payable by the winemaker as a winemaker contribution; and
 - (ii) 35 cents is payable by the winemaker as an industry development contribution.

- (2) Regulation 5(1a)—delete "processed" and substitute:
delivered
- (3) Regulation 5(3)—delete subregulation (3) and substitute:
- (3) A Riverland grapes winemaker must—
- (a) keep proper records enabling—
- (i) the growers on whose behalf the winemaker must pay contributions to be identified; and
- (ii) the tonnage of grapes delivered to the winemaker by each grower to be determined; and
- (iii) the tonnage of grapes grown and processed by the winemaker to be determined; and
- (b) make those records available for inspection at any reasonable time by a person authorised by the Minister for the purpose.
- Maximum penalty: \$500.
- (4) Regulation 5(4)—delete "processed" wherever occurring and substitute in each case:
delivered
- (5) Regulation 5(5) to (7) (inclusive)—delete subregulations (5) to (7)

6—Insertion of regulation 5A

After regulation 5 insert:

5A—Refunds

- (1) Refunds of contributions paid in respect of Riverland grapes delivered during a financial year may be claimed by notice in writing to the Minister within the 12 months following that financial year as follows:
- (a) a grower of Riverland grapes may claim a refund in respect of all or part of the contributions paid by a Riverland grapes winemaker on behalf of the grower; and
- (b) a Riverland grapes winemaker may claim a refund in respect of all or part of the contributions paid on the winemaker's own behalf.
- (2) A Riverland grapes winemaker claiming a refund must specify whether the refund is sought for industry development contributions, winemaker contributions or both.
- (3) A person claiming a refund must supply the Minister with—
- (a) evidence acceptable to the Minister of the contributions paid by the claimant in respect of which the claim for refund is made; and
- (b) if the Minister so requires, verification of that evidence in the form of a statutory declaration.

- (4) If a person satisfies the Minister that the person is entitled to a refund in respect of an amount of contributions, the Minister must refund the amount to the person, together with interest 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 amount and ending on the date of the refund.

7—Substitution of regulation 6

Regulation 6—delete the regulation and substitute:

6—Application of Fund

- (1) The Fund may be applied by the Minister for any of the following purposes:
- (a) payments to a body (the *industry development association*) that, in the opinion of the Minister, represents both Riverland grapes winemakers and growers of Riverland grapes for 1 or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;
 - (ii) promoting the Riverland wine industry, including through wine shows, wine festivals or other wine industry forums or through tourism;
 - (iii) undertaking or facilitating research and development, or the collection and dissemination to Riverland grapes winemakers and growers of Riverland grapes of information, relevant to the Riverland wine industry;
 - (iv) participation of the body in regional, State or national wine industry forums;
 - (v) programs designed to encourage communication and cooperation between Riverland grapes winemakers and growers of Riverland grapes;
 - (vi) other purposes of the body;
 - (b) payments to a body (the *grower association*) that, in the opinion of the Minister, represents growers of Riverland grapes 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 wine industry bodies;
 - (iii) representation of growers of Riverland grapes in regional, State or national wine industry forums;

- (iv) the provision of industry information to growers of Riverland grapes;
 - (v) other purposes of the body;
 - (c) payments to a body (the *winemaker association*) that, in the opinion of the Minister, represents Riverland grapes winemakers 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 wine industry bodies;
 - (iii) representation of Riverland grapes winemakers in regional, State or national wine industry forums;
 - (iv) the provision of industry information to Riverland grapes winemakers;
 - (v) other purposes of the body;
 - (d) payments for other purposes for the benefit of the Riverland wine industry;
 - (e) payment of the expenses of administering the Fund;
 - (f) refunds of contributions to the Fund given under these regulations.
- (2) Subject to the management plan for the Fund and the Minister being satisfied as to matters of probity, governance and performance in relation to the associations, it is intended that—
 - (a) payments to the industry development association will comprise—
 - (i) an amount proportionate to the sum of the industry development contributions paid by Riverland grape winemakers; and
 - (ii) an amount out of the contributions paid by growers of Riverland grapes under regulation 5(1)(a)(i) that matches the amount referred to in subparagraph (i); and
 - (b) payments to the grower association will be proportionate to the remaining contributions paid under regulation 5(1)(a)(i) by growers of Riverland grapes; and
 - (c) payments to the winemaker association will be proportionate to the winemaker contributions paid by Riverland grape winemakers; and
 - (d) separate ledgers will be kept in relation to amounts available for each of the associations taking into account anticipated refunds;

- (e) in the event of insufficiency of funds for all associations, the industry development association will be afforded priority.

6A—Exchange of information

- (1) The Minister may require an industry development association, grower association or winemaker association to provide the Minister with—
 - (a) a copy of the financial statements of the association; and
 - (b) a copy of the annual report of the association; and
 - (c) a copy of any business plan of the association; and
 - (d) any other information reasonably required for the purposes of these regulations.
- (2) The Minister may provide an industry development association, grower association or winemaker association with information identifying growers of Riverland grapes and Riverland grape winemakers who have paid or been refunded contributions under these regulations.

8—Variation of regulation 7

Regulation 7—after "Fund" second occurring insert:

under regulation 6(1)(d)

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

with the advice and consent of the Executive Council
on 18 December 2008

No 314 of 2008

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