

South Australia

Primary Industry Funding Schemes (Citrus Growers Fund) Variation Regulations 2012

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 (Citrus Growers Fund) Variation Regulations 2012*.

2—Commencement

These regulations will come into operation on the day on which the *Citrus Industry (Winding Up) Amendment Act 2012* comes into operation.

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 (Citrus Growers Fund) Regulations 2005*

4—Variation of regulation 3—Interpretation

- (1) Regulation 3, definition of *Board*—delete the definition
- (2) Regulation 3, definition of *financial year*—delete "1 April" and substitute:
1 July
- (3) Regulation 3, after the definition of *Fund* insert:
quarter means any period of 3 months commencing on 1 January, 1 April, 1 July or 1 October.

5—Substitution of regulation 5

Regulation 5—delete the regulation and substitute:

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—Variation of regulation 6—Application of Fund

- (1) Regulation 6(a)—delete "Citrus Growers of South Australia Incorporated" and substitute:
 - a body that, in the opinion of the Minister, represents citrus growers
- (2) Regulation 6(a)(iv)—delete subparagraph (iv) and substitute:
 - (iv) the collection and dissemination to citrus growers of information relevant to the citrus industry;
- (3) Regulation 6(d)—delete "regulation 5" and substitute:
 - regulation 5A

7—Insertion of regulation 7A

After regulation 7 insert:

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—Substitution of Schedule 1

Schedule 1—delete the Schedule and substitute:

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.

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 20 September 2012

No 210 of 2012

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