

South Australia

Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2021

under the *Primary Industry Funding Schemes Act 1998*

Contents

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Clare Valley Wine Industry Fund
- 5 Contributions to Fund
- 6 Refunds of contributions
- 7 Application of Fund
- 8 Exchange of information
- 9 Exclusion from benefits of person in default in relation to contributions
- 10 False or misleading statements

Schedule 1—Map showing Clare Valley

Schedule 2—Revocation and transitional provisions

Part 1—Revocation of *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*

- 1 Revocation of *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*

Part 2—Transitional provisions

- 2 Transitional provisions
-

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2021*.

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*;

Clare Valley means the geographical area in relation to which the geographical indication "Clare Valley" is in force under the *Wine Australia Act 2013* of the Commonwealth at the commencement of these regulations (see Schedule 1);

Clare Valley grapes means any variety of grapes grown in the Clare Valley and used or intended to be used for wine;

Clare Valley winemaker means a person who carries on a business of making wine and who processes Clare Valley grapes for that purpose;

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;

revoked regulations means the *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*.

- (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—
 - (a) grapes will be taken to be **delivered** to a Clare Valley winemaker by a grower of Clare Valley grapes when the winemaker takes possession of the grapes; and
 - (b) if a Clare Valley winemaker processes Clare Valley grapes grown by the winemaker, grapes will be taken to be **delivered** to the winemaker when the winemaker places the grapes 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).

4—Clare Valley Wine Industry Fund

- (1) The Clare Valley Wine 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, the following contributions are payable to the Minister for payment into the Fund for Clare Valley grapes delivered to a Clare Valley winemaker during a prescribed period commencing on or after 1 June 2022:
 - (a) in the case of a Clare Valley winemaker who has a vineyard, winemaking facility or cellar door in the Clare Valley, the winemaker must contribute whichever of the following is the greater amount:
 - (i) the amount fixed by the Minister, by notice in the Gazette, as the minimum contribution for the period;
 - (ii) an amount being the sum of—
 - (A) the amount fixed by the Minister for the period, by notice in the Gazette, for each tonne of grapes grown by the winemaker delivered during the period; and
 - (B) the amount fixed by the Minister for the period, by notice in the Gazette, for each tonne of grapes grown by a person other than the winemaker delivered during the prescribed period;
 - (b) in the case of any other Clare Valley winemaker, the winemaker must contribute the amount fixed for the period by the Minister, by notice in the Gazette, for each tonne of grapes grown by a person other than the winemaker delivered during the prescribed period;
 - (c) if the grapes are grown by a person other than the winemaker, the grower of the grapes must contribute the amount fixed by the Minister for the period by notice in the Gazette for each tonne of grapes delivered during the prescribed period.
- (2) The Minister may, by notice in the Gazette, fix maximum amounts that are to be payable for a prescribed period by the grower of grapes or a winemaker under this regulation.
- (3) 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.
- (4) Contributions payable by a grower of Clare Valley grapes must be paid on behalf of the grower by the Clare Valley winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (5) 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) or (2) in respect of the prescribed period.
- (6) 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.

- (7) A Clare Valley winemaker must—
- (a) keep proper records relating to the tonnage of Clare Valley grapes delivered to the winemaker, the growers of those grapes and the contributions required to be made (on the winemaker's own behalf and 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.
- (8) A Clare Valley 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 (on the winemaker's own behalf and on behalf of growers) for Clare Valley 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 the winemaker's own behalf and on behalf of growers) for Clare Valley grapes delivered during the prescribed period to which the financial statement relates.

6—Refunds of contributions

- (1) Refunds of contributions paid under these regulations in respect of Clare Valley grapes delivered during a prescribed period may be claimed by notice in writing to the Minister within the 6 months following that prescribed period as follows:
- (a) a grower of Clare Valley grapes may claim a refund in respect of contributions paid by the grower or by a Clare Valley winemaker on behalf of the grower;
 - (b) a Clare Valley winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.
- (2) A person claiming a refund under subregulation (1) 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 Clare Valley winemakers or growers of Clare Valley grapes (or both) for 1 or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;
 - (ii) promoting the Clare Valley wine industry;
 - (iii) undertaking or facilitating research and development, or the collection and dissemination to Clare Valley winemakers and growers of Clare Valley grapes of information, relevant to the Clare Valley wine industry and, in particular, to the improvement of practices in the industry;
 - (iv) the participation of the body in regional, State and national wine industry events;
 - (v) programs designed to encourage communication and cooperation between Clare Valley winemakers and growers of Clare Valley grapes;
 - (vi) other purposes of the body;
- (b) payments for other purposes for the benefit of the Clare Valley wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) 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 Clare Valley grapes and Clare Valley 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.

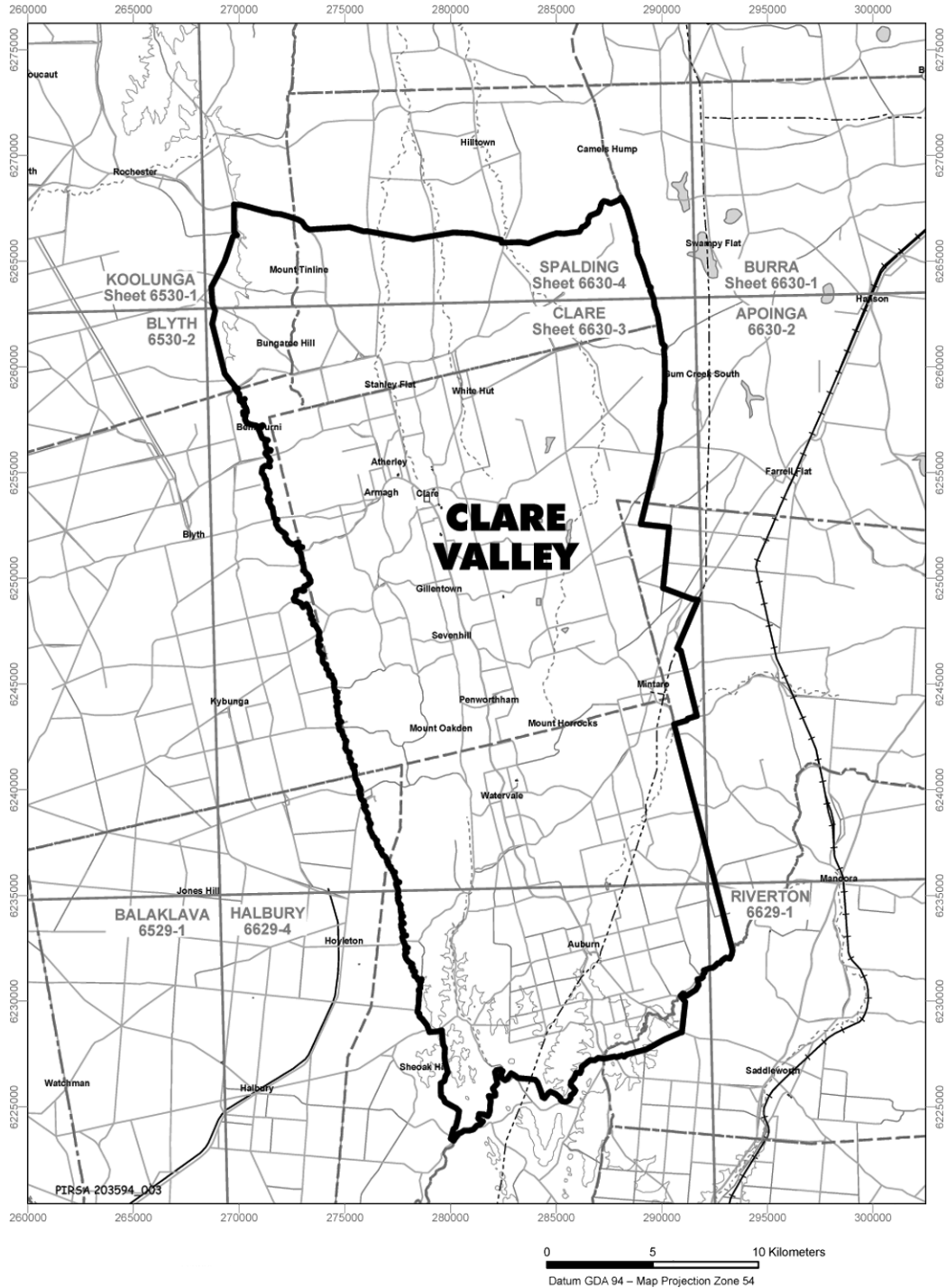
10—False or misleading statements

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—Map showing Clare Valley

The following map is provided for information purposes only.



The Geographical Indication "Clare Valley"

Schedule 2—Revocation and transitional provisions

Part 1—Revocation of *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*

1—Revocation of *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*

The *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008* are revoked.

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.

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 Administrator

with the advice and consent of the Executive Council
on 2 September 2021

No 127 of 2021