

South Australia

# Primary Industry Funding Schemes (Barossa Wine 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 (Barossa Wine Industry Fund) Regulations 2007*.

## 3—Interpretation

- (1) In these regulations, unless the contrary intention appears—

*Act* means the *Primary Industry Funding Schemes Act 1998*;

*Barossa* means the geographical area in relation to which the geographical indication "Barossa" is in force under the *Australian Wine and Brandy Corporation Act 1980* of the Commonwealth at the commencement of these regulations (see Schedule 1);

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

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

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

*delivered*—see subregulation (3);

*Fund*—see regulation 4;

*prescribed grower rate*—see Schedule 2;

*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;
- (f) 15 November 2012 to 31 May 2013;
- (g) the period of 12 months commencing on 1 June 2013 or on 1 June in any subsequent year up to and including the period of 12 months commencing on 1 June 2016;

*prescribed winemaker rate*—see Schedule 2.

- (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 have not been paid; or
  - (b) the person has been refunded contributions from the Fund.
- (3) For the purposes of these regulations—
  - (a) grapes will be taken to be *delivered* to a Barossa winemaker by a grower of Barossa grapes when the winemaker takes possession of the grapes; and
  - (b) if a Barossa winemaker processes Barossa 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—Barossa Wine Industry Fund**

- (1) The Barossa Wine 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 to Fund**

- (1) The following contributions are payable to the Minister for payment into the Fund for Barossa grapes delivered to a Barossa winemaker during a prescribed period:
  - (a) subject to paragraph (c), the winemaker must contribute the prescribed winemaker rate for each tonne of grapes delivered during the prescribed period;

- (b) subject to paragraph (c), if the grapes are grown by a person other than the winemaker, the grower of the grapes must contribute the prescribed grower rate for each tonne of grapes delivered during the prescribed period;
  - (c) if the winemaker or grower of the grapes elects, by written notice given to the Minister not later than 30 June 2013, to pay a fixed contribution for each prescribed period—the winemaker or grower must contribute \$48 000 for the grapes delivered during the prescribed period.
- (2) The contributions are payable on or before the last day of the month that immediately follows the prescribed period.
- (3) If a grower of Barossa grapes has made an election under subregulation (1)(c), the grower must give notice of the election to each Barossa winemaker to whom the grower's grapes are sold.
- (4) Contributions payable by a grower of Barossa grapes who has not made an election under subregulation (1)(c) must be paid on behalf of the grower by the Barossa winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (5) A Barossa winemaker must—
  - (a) keep proper records relating to the tonnage of Barossa 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.
- (6) A Barossa 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 Barossa 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 Barossa grapes delivered during the prescribed period to which the financial statement relates.

## **6—Refunds of contributions**

- (1) Refunds of contributions paid in respect of Barossa grapes delivered during a prescribed period may be claimed by notice in writing to the Minister within the 12 months following that prescribed period as follows:
  - (a) a grower of Barossa grapes may claim a refund in respect of contributions paid by the grower or by a Barossa winemaker on behalf of the grower;

- (b) a Barossa 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 subregulation (3)—
- 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 both Barossa winemakers and growers of Barossa grapes for 1 or more of the following purposes:
- (i) the reasonable operating and management expenses of the body;
  - (ii) promoting the Barossa wine industry;
  - (iii) undertaking or facilitating research and development, or the collection and dissemination to Barossa winemakers and growers of Barossa grapes of information, relevant to the Barossa wine industry and, in particular, to the improvement of practices in the industry;
  - (iv) programs designed to encourage communication and cooperation between Barossa winemakers and growers of Barossa grapes;
  - (v) other purposes of the body;
- (b) payments for other purposes for the benefit of the Barossa wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 6.

## 7A—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 Barossa grapes and Barossa winemakers who have paid or been refunded contributions under these regulations.

## 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.

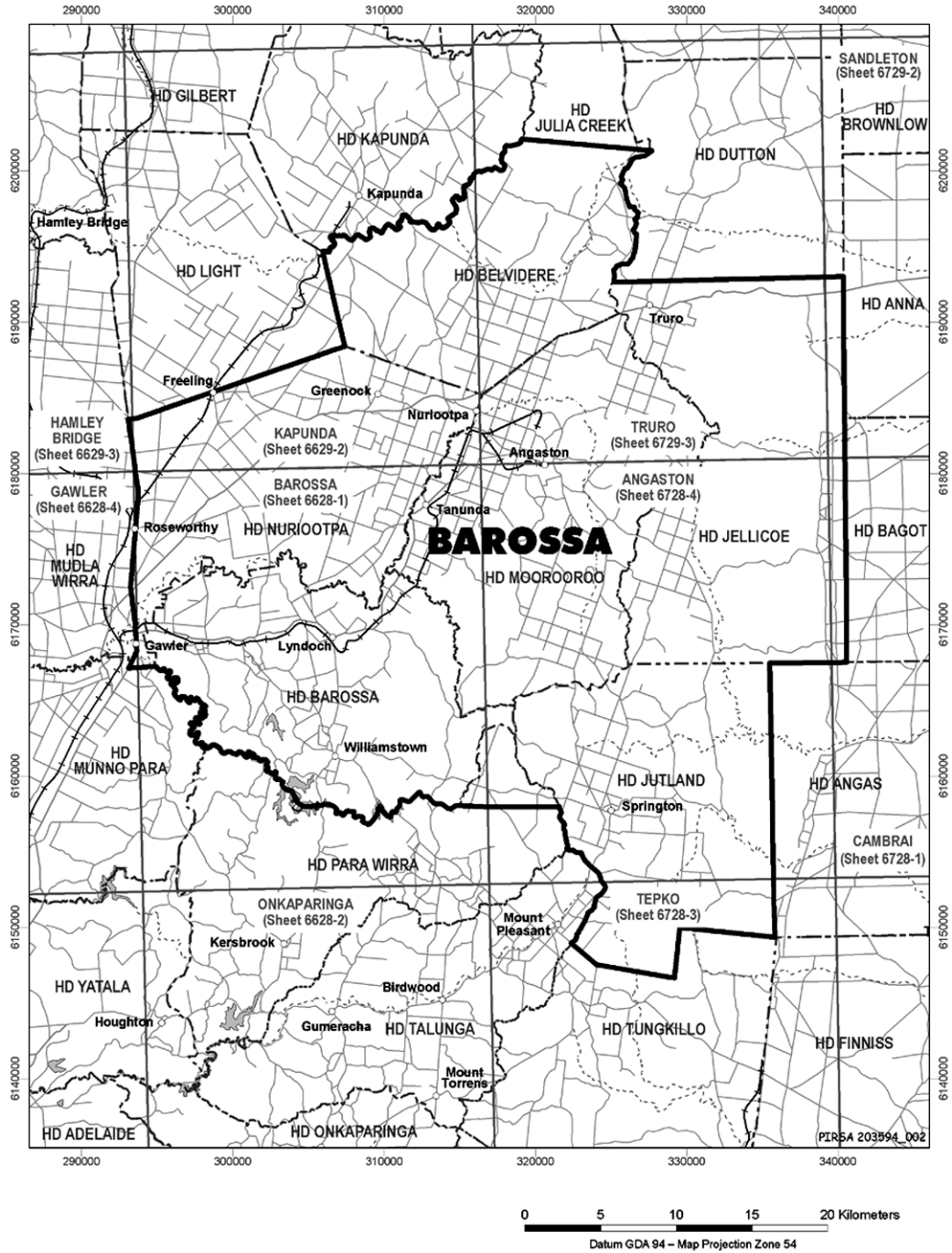
## **9—False or misleading statements**

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.

## Schedule 1—Map showing Barossa

The following map is provided for information purposes only.



### The Geographical Indication "Barossa"

## Schedule 2—Contributions

### 1 Prescribed grower rate

- |     |  |                  |
|-----|--|------------------|
| (a) | for the prescribed period commencing on the day on which these regulations come into operation and ending on 31 May 2008 | \$6.00 per tonne |
| (b) | for the prescribed period 1 June 2008 to 31 May 2009   | \$6.50 per tonne |
| (c) | for the prescribed period 1 June 2009 to 31 May 2010   | \$7.00 per tonne |
| (d) | for the prescribed period 1 June 2010 to 31 May 2011   | \$7.50 per tonne |
| (e) | for the prescribed period 1 June 2011 to 31 May 2012   | \$8.00 per tonne |
| (f) | for the prescribed period 15 November 2012 to 31 May 2013 or any subsequent prescribed period                            | \$8.00 per tonne |

### 2 Prescribed winemaker rate

- |     |  |                  |
|-----|--|------------------|
| (a) | for the prescribed period commencing on the day on which these regulations come into operation and ending on 31 May 2008 | \$5.00 per tonne |
| (b) | for the prescribed period 1 June 2008 to 31 May 2009   | \$5.50 per tonne |
| (c) | for the prescribed period 1 June 2009 to 31 May 2010   | \$6.00 per tonne |
| (d) | for the prescribed period 1 June 2010 to 31 May 2011   | \$6.50 per tonne |
| (e) | for the prescribed period 1 June 2011 to 31 May 2012   | \$7.00 per tonne |
| (f) | for the prescribed period 15 November 2012 to 31 May 2013 or any subsequent prescribed period                            | \$7.00 per tonne |

### 3 Reduction of prescribed rate

The Minister may reduce the prescribed grower rate, or the prescribed winemaker rate, for a prescribed period by notice published in the Gazette before the date for payment of contributions for that 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](http://www.legislation.sa.gov.au).

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2007	290	<i>Gazette 29.11.2007 p4368</i>	29.11.2007: r 2
<b>2012</b>	<b>226</b>	<b><i>Gazette 15.11.2012 p5010</i></b>	<b>Pt 3 (rr 8—12)—15.11.2012: r 2</b>

### 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>15.11.2012</i>
r 3		
r 3(1)		
prescribed period	varied by 226/2012 r 8	15.11.2012
r 5		
r 5(1)	substituted by 226/2012 r 9	15.11.2012
r 6		
r 6(3)	substituted by 226/2012 r 10	15.11.2012
r 6(4)	inserted by 226/2012 r 10	15.11.2012
r 7A	inserted by 226/2012 r 11	15.11.2012
Sch 2		
cl 1	varied by 226/2012 r 12(1)	15.11.2012
cl 2	varied by 226/2012 r 12(2)	15.11.2012