

South Australia

# Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2016

under the *Primary Industry Funding Schemes Act 1998*

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## Legislative history

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### 1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2016*.

### 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);

**delivered**—see subregulation (3);

**Fund**—see regulation 4;

**Langhorne Creek** means—

- (a) the Hundred of Bremer;
- (b) the Hundred of Brinkley;
- (c) the Hundred of Freeling;
- (d) the Hundred of Strathalbyn;

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

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

**prescribed period** means a period of 12 months ending on 31 May in any year up to and including the period of 12 months ending on 31 May 2023.

- (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 Langhorne Creek grapes winemaker by a grower of Langhorne Creek grapes when the winemaker takes possession of the grapes; and
  - (b) if a Langhorne Creek grapes winemaker processes Langhorne Creek 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).

#### **4—Langhorne Creek Wine Industry Fund**

- (1) The *Langhorne Creek 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) contributions paid or collected in accordance with these regulations; and
  - (b) contributions paid or collected in accordance with the revoked regulations; and
  - (c) income of the Fund from investment; and
  - (d) any other sums received by the Minister for payment into the Fund.
- (4) In this regulation—

**revoked regulations** means the *Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2001*.

#### **5—Contributions to Fund**

- (1) The following contributions are payable to the Minister for payment into the Fund for each tonne of Langhorne Creek grapes processed by a Langhorne Creek grapes winemaker:
  - (a) during the prescribed period ending on 31 May 2015—
    - (i) in the case of grapes grown by a person other than the winemaker—
      - (A) \$5.15 is payable by the grower of the grapes; and
      - (B) \$3.60 is payable by the winemaker; and
    - (ii) in the case of grapes grown by the winemaker—\$8.75 is payable by the winemaker;
  - (b) during the prescribed period ending on 31 May 2016—
    - (i) in the case of grapes grown by a person other than the winemaker—

- (A) \$5.30 is payable by the grower of the grapes; and
  - (B) \$3.70 is payable by the winemaker; and
- (ii) in the case of grapes grown by the winemaker—\$9.00 is payable by the winemaker;
- (c) during the prescribed periods ending on 31 May 2017 and 31 May 2018—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$5.45 is payable by the grower of the grapes; and
    - (B) \$3.80 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$9.25 is payable by the winemaker.
- (d) during the prescribed period ending on 31 May 2019—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$5.63 is payable by the grower of the grapes; and
    - (B) \$3.94 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$9.57 is payable by the winemaker;
- (e) during the prescribed period ending on 31 May 2020—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$5.80 is payable by the grower of the grapes; and
    - (B) \$4.06 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$9.86 is payable by the winemaker;
- (f) during the prescribed period ending on 31 May 2021—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$5.97 is payable by the grower of the grapes; and
    - (B) \$4.18 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$10.15 is payable by the winemaker;
- (g) during the prescribed period ending on 31 May 2022—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$6.15 is payable by the grower of the grapes; and
    - (B) \$4.31 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$10.46 is payable by the winemaker;
- (h) during the prescribed period ending on 31 May 2023—
  - (i) in the case of grapes grown by a person other than the winemaker—
    - (A) \$6.34 is payable by the grower of the grapes; and

- (B) \$4.43 is payable by the winemaker; and
  - (ii) in the case of grapes grown by the winemaker—\$10.77 is payable by the winemaker.
- (2) However—
  - (a) no more than \$30 000 is payable by each grower in respect of grapes delivered to winemakers during a prescribed period; and
  - (b) no more than \$30 000 is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during a prescribed period.
- (3) The contributions are payable on or before the last day of the month that immediately follows the prescribed period.
- (4) Contributions payable by a grower under subregulation (1)(a)(i)(A), (1)(b)(i)(A) or (1)(c)(i)(A) must be paid on behalf of the grower by the Langhorne Creek grapes winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (5) A Langhorne Creek grapes winemaker must—
  - (a) keep proper records relating to the growers and tonnage of Langhorne Creek grapes processed by the winemaker 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 Langhorne Creek grapes winemaker must—
  - (a) within 30 days after the end of each prescribed period, furnish the Minister with a financial statement relating to the contributions (on the winemaker's own behalf and on behalf of growers) for Langhorne Creek grapes processed 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 annual financial statement required by paragraph (a), the required contributions (on the winemaker's own behalf and on behalf of growers) for Langhorne Creek grapes processed during the prescribed period to which the financial statement relates.
- (7) Refunds of contributions paid in respect of Langhorne Creek grapes processed 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 Langhorne Creek grapes may claim a refund in respect of contributions paid by a Langhorne Creek grapes winemaker on behalf of the grower;
  - (b) a Langhorne Creek grapes winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.

- (8) A person claiming a refund under subregulation (7) must supply the Minister with evidence acceptable to the Minister of the contributions made by the claimant in respect of which the claim for refund is made.
- (9) 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.
- (10) In subregulation (9)—
- 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.

## 6—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 Langhorne Creek grapes winemakers and growers of Langhorne Creek grapes for one or more of the following purposes:
- (i) the reasonable operating and management expenses of the body;
  - (ii) promoting the Langhorne Creek wine industry;
  - (iii) undertaking or facilitating research and development, or the collection and dissemination to Langhorne Creek grapes winemakers and growers of Langhorne Creek grapes of information, relevant to the Langhorne Creek wine industry and, in particular, to the improvement of practices in the industry;
  - (iv) programs designed to encourage communication and cooperation between Langhorne Creek grapes winemakers and growers of Langhorne Creek grapes;
  - (v) other purposes of the body;
- (b) payments for other purposes for the benefit of the Langhorne Creek wine industry;
- (c) payment of the expenses of administering the Fund;
- (d) repayment of contributions to the Fund under regulation 5.

## 7—Exchange of information

The Minister may provide a body to which payments are made out of the Fund under regulation 6(a) with information identifying growers of Langhorne Creek grapes and Langhorne Creek grapes 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.

## Legislative history

### Notes

- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- 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).

### Legislation revoked by principal regulations

The *Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2016* revoked the following:

*Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2001*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2016	205	<i>Gazette 25.8.2016 p3485</i>	1.9.2016: r 2
2017	237	<i>Gazette 8.8.2017 p3477</i>	8.8.2017: r 2
<b>2017</b>	<b>333</b>	<b><i>Gazette 12.12.2017 p5016</i></b>	<b>12.4.2018: 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>	8.8.2017
<b>r 3</b>		
<b>r 3(1)</b>		
<b>prescribed period</b>	<b>varied by 333/2017 r 4</b>	<b>12.4.2018</b>
r 5		
<b>r 5(1)</b>	<b>varied by 333/2017 r 5</b>	<b>12.4.2018</b>
r 5(8)	substituted by 237/2017 r 4	8.8.2017
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	8.8.2017

## **Historical versions**

8.8.2017