

South Australia

# Primary Industry Funding Schemes (Riverland 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 (Riverland 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;

*grower association*—see regulation 7(1)(b);

*industry development association*—see regulation 7(1)(a);

*industry development contribution*—see regulation 5(1)(a)(ii) and 5(1)(b)(ii);

*prescribed period* means a period of 12 months commencing on 1 June in any year up to and including the period of 12 months commencing on 1 June 2022;

*relevant day* means the day on which the *Primary Industry Funding Schemes (Riverland Wine Industry Fund) Variation Regulations 2017* came into operation;

*Riverland* means—

- (a) the areas (from time to time) of the following councils:
- (i) Berri Barmera Council;

- (ii) District Council of Loxton Waikerie;
- (iii) Renmark Paringa Council;
- (iv) Mid Murray Council (excluding the Hundred of Jellicoe);
- (v) Rural City of Murray Bridge (excluding the Hundred of Brinkley);
- (b) the Hundred of Katarapko;
- (c) the County of Young;
- (d) the County of Hamley;

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

**Riverland grapes winemaker** means a person who carries on a business of making wine and who processes Riverland grapes for that purpose (whether directly or through contracting another to do so and whether in or outside the State);

**winemaker association**—see regulation 7(1)(c);

**winemaker contribution**—see regulation 5(1)(b)(i).

- (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 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).

#### 4—Riverland Wine Industry Fund

- (1) The *Riverland 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 (Riverland 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 Riverland grapes delivered to a Riverland grapes winemaker during the prescribed period commencing on 1 June 2017:
- (a) for grapes delivered before the relevant day—
    - (i) in the case of grapes grown by a person other than the winemaker—
      - (A) 0.5% of the amount payable to the grower by the winemaker for the grapes is payable by the grower of the grapes; and
      - (B) 35 cents is payable by the winemaker as an industry development contribution;
    - (ii) in the case of grapes grown by the winemaker—
      - (A) \$1 is payable by the winemaker as a winemaker contribution; and
      - (B) 35 cents is payable by the winemaker as an industry development contribution;
  - (b) for grapes delivered on or after the relevant day—
    - (i) in the case of grapes grown by a person other than the winemaker—
      - (A) 0.5% of the amount payable to the grower by the winemaker for the grapes is payable by the grower of the grapes; and
      - (B) 50 cents is payable by the winemaker as an industry development contribution;
    - (ii) in the case of grapes grown by the winemaker—
      - (A) \$1 is payable by the winemaker as a winemaker contribution; and
      - (B) 50 cents is payable by the winemaker as an industry development contribution.
- (1a) The following contributions are payable to the Minister for payment into the Fund for each tonne of Riverland grapes delivered to a Riverland grapes winemaker during the prescribed period commencing on 1 June 2018, and each subsequent prescribed period thereafter:
- (a) in the case of grapes grown by a person other than the winemaker—
    - (i) 0.5% of the amount payable to the grower by the winemaker for the grapes is payable by the grower of the grapes; and
    - (ii) 50 cents is payable by the winemaker as an industry development contribution;
  - (b) in the case of grapes grown by the winemaker—
    - (i) \$1 is payable by the winemaker as a winemaker contribution; and

- (ii) 50 cents is payable by the winemaker as an industry development contribution.
- (2) The contributions are payable on or before the last day of the month that immediately follows the end of each prescribed period.
- (3) Contributions payable by a grower of Riverland grapes must be paid on behalf of the grower by the Riverland grapes winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (4) 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.

- (5) A Riverland 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 Riverland 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 annual financial statement required by paragraph (a), the required contributions (on the winemaker's own behalf and on behalf of growers) for Riverland grapes delivered during the prescribed period to which the financial statement relates.

## **6—Refunds**

- (1) Refunds of contributions paid in respect of Riverland 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 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;
  - (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 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.
- (5) In subregulation (4)—
- official cash rate** means the cash rate fixed by the Reserve Bank of Australia applying on the date of lodgment of the claim for the refund.

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

## **8—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.

### **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 under regulation 7(1)(d).

### **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.

## 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).

### Legislation revoked by principal regulations

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

*Primary Industry Funding Schemes (Riverland Wine Industry Fund) Regulations 2001*

### Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2016	206	<i>Gazette 25.8.2016 p3490</i>	1.9.2016: r 2
<b>2017</b>	<b>332</b>	<b><i>Gazette 12.12.2017 p5013</i></b>	<b>12.12.2017: 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>12.12.2017</i>
r 3		
r 3(1)		
prescribed period	varied by 332/2017 r 4(1)	12.12.2017
relevant day	inserted by 332/2017 r 4(2)	12.12.2017
r 5		
r 5(1)	substituted by 332/2017 r 5(1)	12.12.2017
r 5(1a)	inserted by 332/2017 r 5(1)	12.12.2017
r 5(3)	varied by 332/2017 r 5(2)	12.12.2017
r 7		
r 7(2)	varied by 332/2017 r 6(1), (2)	12.12.2017
<i>Sch 1</i>	<i>omitted under Legislation Revision and Publication Act 2002</i>	<i>12.12.2017</i>