

South Australia

Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2017

under the *Primary Industry Funding Schemes Act 1998*

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- 1 Revocation of *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003*
- 2 Transitional provision

Legislative history

1—Short title

These regulations may be cited as the *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2017*.

3—Interpretation

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

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

delivered—see subregulation (3);

Fund—see regulation 4;

McLaren Vale means the area outlined in bold and shown on the map in Schedule 1;

McLaren Vale grapes means any variety of grapes grown in McLaren Vale and used or intended to be used for wine;

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

prescribed period means any of the following periods:

- (a) a prescribed period within the meaning of the revoked regulations;

- (b) the period comprised of—
 - (i) the period of 1 June 2017 up to (but not including) the date of commencement of these regulations; and
 - (ii) the prescribed transition period;
- (c) the period of 12 months commencing on 1 June 2018 or on 1 June in any subsequent year;

prescribed transition period means the period from the date of commencement of these regulations to 31 May 2018;

revoked regulations means the *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003*.

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

- (1) The *McLaren Vale 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.

5—Contributions to Fund

- (1) The following contributions are payable to the Minister for payment into the Fund for each tonne of McLaren Vale grapes delivered to a McLaren Vale grapes winemaker during the prescribed transition period:
 - (a) in the case of grapes grown by a person other than the winemaker—

- (i) \$8.30 is payable by the grower of the grapes; and
 - (ii) \$11.00 is payable by the winemaker; and
 - (b) in the case of grapes grown by the winemaker—\$11.00 is payable by the winemaker.
- (2) The following contributions are payable to the Minister for payment into the Fund for each tonne of McLaren Vale grapes delivered to a McLaren Vale grapes winemaker during the specified prescribed period:
 - (a) during the prescribed period ending on 31 May 2019—
 - (i) in the case of grapes grown by a person other than the winemaker—
 - (A) \$8.30 is payable by the grower of the grapes; and
 - (B) \$11.00 is payable by the winemaker; and
 - (ii) in the case of grapes grown by the winemaker—\$11.00 is payable by the winemaker;
 - (b) during the prescribed period ending on 31 May 2020—
 - (i) in the case of grapes grown by a person other than the winemaker—
 - (A) \$8.70 is payable by the grower of the grapes; and
 - (B) \$11.70 is payable by the winemaker; and
 - (ii) in the case of grapes grown by the winemaker—\$11.70 is payable by the winemaker;
 - (c) during the prescribed period ending on 31 May 2021—
 - (i) in the case of grapes grown by a person other than the winemaker—
 - (A) \$8.70 is payable by the grower of the grapes; and
 - (B) \$11.70 is payable by the winemaker; and
 - (ii) in the case of grapes grown by the winemaker—\$11.70 is payable by the winemaker;
 - (d) during the prescribed period ending on 31 May 2022—
 - (i) in the case of grapes grown by a person other than the winemaker—
 - (A) \$9.20 is payable by the grower of the grapes; and
 - (B) \$12.20 is payable by the winemaker; and
 - (ii) in the case of grapes grown by the winemaker—\$12.20 is payable by the winemaker.
- (2a) The following contributions are payable to the Minister for payment into the Fund for each tonne of McLaren Vale grapes delivered to a McLaren Vale grapes winemaker during a prescribed period ending on or after 31 May 2023:
 - (a) in the case of grapes grown by a person other than the winemaker—
 - (i) the amount fixed for the period by the Minister, by notice in the Gazette, is payable by the grower of the grapes; and

- (ii) the amount fixed for the period by the Minister, by notice in the Gazette, is payable by the winemaker; and
- (b) in the case of grapes grown by the winemaker—the amount fixed for the period by the Minister, by notice in the Gazette, is payable by the winemaker.
- (3) However—
 - (a) no more than the prescribed maximum contribution is payable by each grower in respect of grapes delivered to winemakers during a prescribed period; and
 - (b) no more than the prescribed maximum contribution is payable by each winemaker on the winemaker's own behalf in respect of grapes delivered to the winemaker during a prescribed period.
- (4) The contributions are payable on or before the last day of the month that immediately follows the prescribed period or the prescribed transitional period (as the case requires).
- (5) Contributions payable under subregulation (1) , (2) or (2a) by a grower in respect of McLaren Vale grapes where the grower and the winemaker for the grapes are different persons must be paid on behalf of the grower by the McLaren Vale grapes winemaker who purchases the grapes out of the amount payable by the winemaker to the grower for the grapes.
- (5a) 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 this regulation in respect of the prescribed period (including an amount specified as a prescribed maximum contribution under subregulation (1)).
- (5b) If the Minister varies an amount payable under this regulation after the commencement of the relevant 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.
- (6) A McLaren Vale grapes winemaker must—
 - (a) keep proper records relating to the growers and tonnage of McLaren Vale grapes delivered to 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.
- (7) A McLaren Vale grapes winemaker must—
 - (a) within 30 days after the end of each prescribed period (other than a prescribed period referred to in paragraph (a) of the definition of 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 McLaren Vale 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 McLaren Vale grapes delivered during the prescribed period to which the financial statement relates.
- (8) Refunds of contributions paid in respect of McLaren Vale grapes delivered during a prescribed period may be claimed by notice in writing to the Minister within the refund period for that prescribed period as follows:
 - (a) a grower of McLaren Vale grapes may claim a refund in respect of contributions paid by a McLaren Vale grapes winemaker on behalf of the grower; and
 - (b) a McLaren Vale grapes winemaker may claim a refund in respect of contributions paid on the winemaker's own behalf.
- (9) A person claiming a refund under subregulation (8) 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 and, if the Minister so requires, verification of that evidence in the form of a statutory declaration.
- (10) 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.
- (11) 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;

prescribed maximum contribution means—

- (a) in respect of the prescribed period ending on 31 May 2018—\$31 500;
- (b) in respect of the prescribed period ending on 31 May 2019—\$31 500;
- (c) in respect of the prescribed period ending on 31 May 2020—\$33 075;
- (d) in respect of the prescribed period ending on 31 May 2021—\$33 075;
- (e) in respect of the prescribed period ending on 31 May 2022—\$34 730;
- (f) in respect of a prescribed period ending on or after 31 May 2023—the amount fixed by the Minister, by notice in the Gazette, as the maximum contribution for the period;

refund period means—

- (a) in respect of a prescribed period up to and including the prescribed period ending on 31 May 2021—the period of 12 months following the prescribed period; or
- (b) in respect of each subsequent prescribed period—the period of 6 months following the prescribed period.

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 McLaren Vale grapes winemakers and growers of McLaren Vale grapes for one or more of the following purposes:
 - (i) the reasonable operating and management expenses of the body;
 - (ii) promoting the McLaren Vale wine industry;
 - (iii) undertaking or facilitating research and development, or the collection and dissemination to McLaren Vale grapes winemakers and growers of McLaren Vale grapes of information, relevant to the McLaren Vale wine industry and, in particular, to the improvement of practices in the industry;
 - (iv) programs designed to encourage communication and cooperation between McLaren Vale grapes winemakers and growers of McLaren Vale grapes;
 - (v) other purposes of the body;
- (b) payments for other purposes for the benefit of the McLaren Vale 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

- (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 a body to which payments are made out of the Fund under regulation 6(a) with information identifying growers of McLaren Vale grapes and McLaren Vale grape winemakers who have paid or been refunded contributions under these regulations.

8—Exclusion from benefits of person in default in relation to contributions

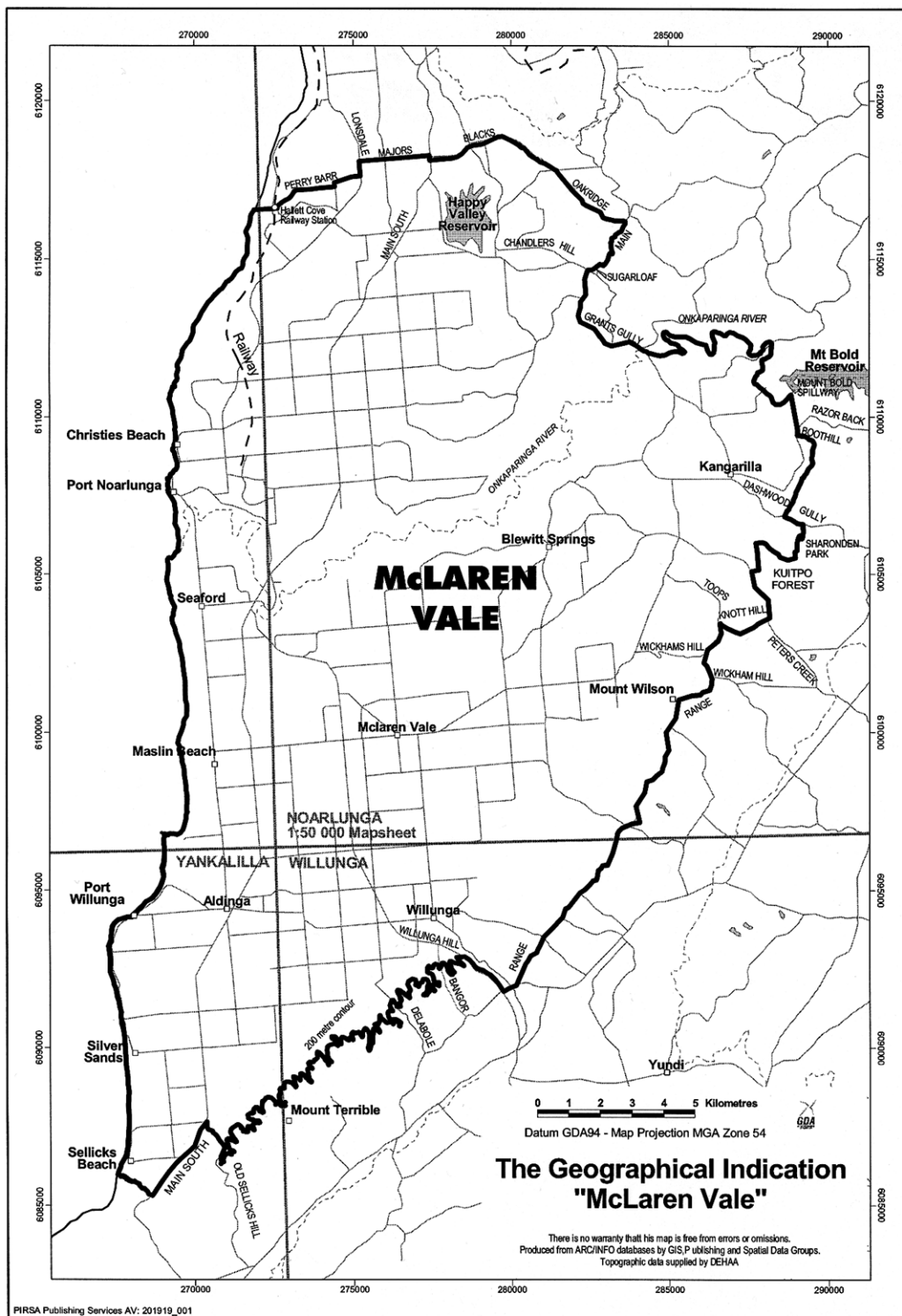
A person who is in default in relation to contributions to the Fund is not entitled to receive direct benefits or services funded by payments from the Fund under regulation 6(b).

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 McLaren Vale



Schedule 2—Revocation and transitional provision

1—Revocation of *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003*

The *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003* are revoked.

2—Transitional provision

The revocation in clause 1 of this Schedule does not affect liability for an amount payable under regulation 5(1) of the revoked regulations (including liability arising in respect of grapes delivered in the period from 1 June 2017 up to the date of commencement of regulation 5).

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.

Legislation revoked by principal regulations

The *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2017* revoked the following:

Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2003

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	336	<i>Gazette 12.12.2017 p5025</i>	12.12.2017: r 2
2021	131	<i>Gazette 2.9.2021 p3463</i>	2.9.2021: r 2
2023	15	<i>Gazette 30.3.2023 p629</i>	30.3.2023: r 2

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>2.9.2021</i>
r 3		
r 3(1)		
prescribed period	amended by 15/2023 r 3	30.3.2023
<i>r 5</i>		
<i>r 5(2)</i>	<i>(e) deleted by 131/2021 r 4(1)</i>	<i>2.9.2021</i>
<i>r 5(2a)</i>	<i>inserted by 131/2021 r 4(2)</i>	<i>2.9.2021</i>
<i>r 5(5)</i>	<i>varied by 131/2021 r 4(3)</i>	<i>2.9.2021</i>
<i>r 5(5a) and (5b)</i>	<i>inserted by 131/2021 r 4(4)</i>	<i>2.9.2021</i>
<i>r 5(8)</i>	<i>varied by 131/2021 r 4(5)</i>	<i>2.9.2021</i>
<i>r 5(11)</i>		

prescribed maximum contribution	varied by 131/2021 r 4(6)	2.9.2021
refund period	inserted by 131/2021 r 4(7)	2.9.2021

Historical versions

2.9.2021