

Wine Industry Fund Regulation Amendments

Consultation Paper

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Government
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Department of Primary
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Background on Primary Industry Funding Schemes

- The *Primary Industry Funding Schemes Act 1998* (the Act) provides South Australian primary industries and producers with a legislative instrument to pool funds within their sector and undertake activities that:
 - support and develop their sector
 - maximise their strategic advantage
 - meet the challenges from an ever-increasing global marketplace.
- Regulations can be made to establish a fund for a particular primary industry sector. These regulations set out the details of the fund, specify the contributors, collection agents, the contribution rate, and what the fund may be used for.
- There are 14 Primary Industry Funding Schemes (PIFS) currently operating in South Australia covering the following sectors and regions, as well as a statewide grape growers fund. They are:
 - Apiary Industry Fund
 - Cattle Industry Fund
 - Citrus Growers Fund
 - Grain Industry Fund
 - Grain Industry Research and Development Fund
 - Pig Industry Fund
 - Sheep Industry Fund
 - Wine Industry Funds, which are:
 - Adelaide Hills Wine Industry Fund
 - Barossa Wine Industry Fund
 - Clare Valley Wine Industry Fund
 - Langhorne Creek Wine Industry Fund
 - McLaren Vale Wine Industry Fund
 - Riverland Wine Industry Fund
 - South Australian Grape Growers Industry Fund.
- The Minister for Primary Industries and Regional Development (the Minister) is the administrator of the funds. PIRSA supports the Minister in this role.
- The Act requires a management plan for each fund, which describes how the fund is managed. This ensures appropriate accountability should an Association or Board of Trustees administer the fund. With the Minister as administrator, the management plan is an opportunity to inform industry on the operation of the fund and include any guidance to industry on how monies should be used. For instance, who can apply for payments from the fund (industry representative bodies), eligible and ineligible activities, and further expanding on any administrative processes that may not be clearly described in the regulation.

- Industry organisations recognised as representative of the sector can apply to the Minister to have funds released to them for the purposes specified in the regulations, with the overarching aim of providing benefits and services to the sector.
- While it is compulsory for contributions to be collected, contributors may seek a refund of their contributions to a fund. A contributor is deemed to be 'in default of the regulations' and not entitled to receive benefits or services funded by payments from the fund, if they have not paid, or have been refunded contributions over a defined period (normally the previous two financial years)

Administrative Review of Wine Industry Funds

- The Minister and PIRSA provide a substantial level of support to manage the funding schemes, including (but not limited to):
 - establishment and variations of the regulations
 - coordinating annual applications and reporting
 - processing payments to Associations
 - validating and processing refunds.
- In line with its key priority of regulatory excellence, PIRSA undertook an administrative review of the Wine Industry Funds established under the Act to identify areas where the system might be improved.
- The administrative review examined matters such as the timing of management plan reviews, form and timing of applications to the fund and approval processes in place. A mapping exercise was also carried out to map the regulations across the funds and consolidate record keeping and reporting.
- Since this review, the following has already been implemented:
 - a new system to manage information provided to PIRSA through digital collection and refunds for the 2021 vintage
 - change on the timing of the management plan and applications to enable earlier payments to industry organisations
 - standard templates for industry applications and reporting.
- As part of the review, there were also proposals put forward to change the regulations to provide better certainty and efficiency for the industry and the Government of South Australia.

Purpose of consultation

- This consultation is intended to provide an opportunity for contributors to the Wine Industry Funds to have their say on potential changes being considered.
- Views on other changes that could be made in addition to those identified are also invited.

Proposed changes

Reducing the refund period

- It is proposed the refund period is reduced to six months in the regulations, as this balances the need to retain the voluntary nature of the schemes with better financial certainty on the balance available in the fund. This would mean the refund period would end in December each year, prior to the next vintage beginning, simplifying the administration and process required of PIRSA and contributors.

Background

- The Wine Industry Fund Regulations under the Act (such as the *Primary Industry Schemes (Adelaide Hills Wine Industry Fund) Regulations 2017*) prescribe the method by which contributors are refunded from a specific fund. Currently, under the seven Wine Industry Fund Regulations, contributors can claim refunds during the 12 months following a prescribed period ending on 31 May each year.
- Following the administrative review, and discussions with industry associations, it is proposed the refund period be shortened as it impacts on an association's ability to design and deliver effective services and programs.
- Currently, refunds from the fund can be claimed during the prescribed period (12 months), meaning an association has no certainty on the amount they can draw from the fund each year. This makes it challenging for associations to design and deliver projects over the full year when there is potential for a fund to be impacted by refunds throughout the year. Furthermore, contributors are currently able to receive a full year of service and benefits from the fund before seeking a refund on the final day of the prescribed period, compromising the intention of the fund.
- The uncertainty surrounding refunds also affects the Minister's ability to prepare management plans and limits the payments the Minister can make to the associations, ultimately depriving the sector of benefits and programs.
- If accepted, associations representing the sector will be able to operate with greater security, providing confidence to design and deliver projects that benefit contributors and the sector as a whole.

Changes to the Default period

- When a contributor seeks a refund from a wine industry fund or does not submit their required contributions, they are deemed to be in-default of the fund and no longer eligible to receive services or benefits from the fund for a period defined in the regulations.
- The Wine Industry Fund Regulations currently state that a contributor in default is required to submit all contributions, without seeking a refund, for two consecutive years before they are entitled to receive benefits or services from the fund once again.
- The primary aim of the default mechanism is to ensure that only contributors that have paid and not withdrawn their funds are receiving benefits from the scheme.
- Feedback on the current two-year default period is sought to determine if this period is fulfilling the intent of the legislation and promoting a high level of engagement in the funds.

Review of the 5-year renewal period

- The Wine Industry Fund Regulations currently require the contribution rate for the funds to be established and set in regulations every 5 years, for a 5-year period.
- The contribution rates are reflected in the annual Management Plan for each fund, which is presented annually at a public meeting, and available online.
- If the rate is not set at the end of the 5-year period, the contribution rate reverts to \$0.
- Wine Industry Associations are required to consult with their contributors when setting the contribution rate, allowing for regular industry-wide consultation.
- Feedback is sought on the current arrangement and any alternative approaches you may wish considered.

Setting the contribution rate via the Government Gazette

- The Wine Industry Fund Regulations currently require the contribution rates for the wine industry funds to be set in the relevant regulations.
- Contribution rates are currently established every 5 years within the regulations, with extensive processes required to vary and amend regulations.
- An alternative model exists whereby contribution rates are set and varied through publication in the Government Gazette with the approval of the Minister.
- The ability to publish contribution rates in the Government Gazette would not replace the requirement to consult with contributors on the rate, however it is a more streamlined process allowing for a greater and more efficient decision making when establishing and changing contribution rates.
- Feedback is sought on the proposal to allow the contribution rate to be set and changed by publication in the Government Gazette.

Other changes

- PIRSA is interested in hearing your views on these matters and any other changes that would improve the operation of the Wine Industry Fund Regulations.

Which regulations are affected?

- This consultation affects the following regulations and the contributors to these associated funds:
 - *Primary Industry Funding Schemes (Adelaide Hills Wine Industry Fund) Regulations 2017*
 - *Primary Industry Funding Schemes (Barossa Wine Industry Fund) Regulations 2007*
 - *Primary Industry Funding Schemes (Clare Valley Wine Industry Fund) Regulations 2008*
 - *Primary Industry Funding Schemes (Langhorne Creek Wine Industry Fund) Regulations 2016*
 - *Primary Industry Funding Schemes (McLaren Vale Wine Industry Fund) Regulations 2017*
 - *Primary Industry Funding Schemes (Riverland Wine Industry Fund) Regulations 2016*

- *Primary Industry Funding Schemes (SA Grape Growers Industry Fund) Regulations 2007*

How to respond to this consultation

- Contributors to any of the Wine Industry Funds are asked to provide comments and feedback to the proposed changes via the [YourSAy consultation](#).
- General inquiries can be directed to PIRSA.AgFoodandWine@sa.gov.au.