



Queensland

Rural and Regional Adjustment Amendment Regulation (No. 2) 2012

Subordinate Legislation 2012 No. 44

made under the

Rural and Regional Adjustment Act 1994

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1 Short title

This regulation may be cited as the *Rural and Regional Adjustment Amendment Regulation (No. 2) 2012*.

2 Regulation amended

This regulation amends the *Rural and Regional Adjustment Regulation 2011*.

3 Amendment of s 3 (Approval of schemes—Act, s 11)

Section 3(1), after ‘to 15’—

insert—

‘, 17 and 18’.

4 Insertion of new schs 17 and 18

After schedule 16—

insert—

‘Schedule 17 Special Disaster Western Queensland Tropical Low 2012 Assistance Scheme

section 3(1)

‘Part 1 Preliminary

‘1 Objective of scheme

‘The objective of the scheme is to provide, under an agreement between the Commonwealth and the State of 7 February 2012, assistance to eligible entities that have suffered direct damage caused by the flood event.

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‘2 Purpose of assistance

- ‘(1) The purpose of the assistance under the scheme is to help an eligible entity pay for costs arising out of direct damage caused by the flood event.
- ‘(2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered because of the flood event.

‘3 Definitions for sch 17

‘In this schedule—

applicant means a person applying for assistance under the scheme.

appropriate Minister means the Minister responsible for administering the *Disaster Management Act 2003*.

eligible entity means any of the following eligible for assistance under the scheme—

- (a) a primary producer;
- (b) a small business owner;
- (c) a non-profit organisation.

flood event means the floods, in western Queensland in January or February 2012 caused by heavy rains, that have affected the prescribed Western Queensland Tropical Low 2012 disaster area.

natural disaster relief and recovery arrangements means the funding arrangements agreed between the Commonwealth and the State for providing financial assistance to communities affected by natural disasters.

Editor’s note—

At the commencement of this section, the funding arrangements were described in the document called ‘Natural disaster relief and recovery arrangements—Community recovery package guidelines 2011’ available on the Commonwealth Attorney-General’s Department website at <www.em.gov.au>.

non-profit organisation—

- 1 A non-profit organisation is an incorporated charitable or other organisation that—
 - (a) is not operating for the profit or gain, either direct or indirect, of its individual members; and
 - (b) provides a benefit to the community.
- 2 Paragraph 1(a) applies—
 - (a) while the organisation is operating; and
 - (b) when it winds up, as if it were still operating.
- 3 Also, any profit made by the organisation must go back into the operation of the organisation to carry out its purposes and not be distributed to any of its members.

official receipt means a receipt including—

- (a) the name and address of the entity that issued the receipt; and
- (b) if the entity has an Australian Business Number—the Australian Business Number; and
- (c) a description of each item to which the receipt relates.

prescribed Western Queensland Tropical Low 2012 disaster area means the area—

- (a) defined by the appropriate Minister for the purpose of activating the natural disaster relief and recovery arrangements for communities affected by the flood event; and
- (b) described in a document held by the authority and available for inspection by members of the public.

Editor's note—

The document describing the prescribed Western Queensland Tropical Low 2012 disaster area is published on the authority's website at <www.qraa.qld.gov.au>.

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primary producer means—

- (a) a sole trader who spends the majority of his or her labour on, and derives the majority of his or her income from, a primary production enterprise; or
- (b) in relation to a partnership, company or trust that carries on a primary production enterprise, the partners in the partnership, shareholders in the company or beneficiaries of the trust who spend the majority of their labour on, and derive the majority of their income from, the primary production enterprise.

primary production enterprise means a business—

- (a) that involves primary production, including the agricultural, apicultural, aquacultural, commercial wild-catch fishing, forestry, grazing and horticultural industries; and
- (b) for which an entity holds an Australian Business Number.

scheme means the scheme set out in this schedule.

small business see section 4.

‘4 Meaning of *small business*

‘(1) A ***small business*** is a business—

- (a) for which an entity holds an Australian Business Number; and
- (b) in which are employed fewer than—
 - (i) 20 full-time employees; or
 - (ii) if the business has employees other than full-time employees—20 equivalent full-time employees.

‘(2) However, a business is not a ***small business*** if the business—

- (a) is operated by a public company; or
- (b) is a charitable business that, under the natural disaster relief and recovery arrangements, is eligible to receive

assistance to clean and restore the business in relation to direct damage caused by the flood event.

- ‘(3) Also, a business is not a *small business* if—
- (a) the business is operated by a sole owner; and
 - (b) the business has no employees, other than the sole owner; and
 - (c) the sole owner does not derive the majority of the owner’s income from the business.
- ‘(4) For subsection (1)(b), the number of equivalent full-time employees of a business is worked out using the formula—

$$E = F + \frac{P}{35}$$

where—

E means the number of equivalent full-time employees of the business.

F means the number of full-time employees of the business.

P means the total number of hours worked each week by employees other than full-time employees.

- ‘(5) In this section—

charitable business means a business that does not operate to make a profit.

full-time employee, of a business, means an individual who ordinarily works for at least 35 hours each week for the business.

public company means a public company within the meaning of the Corporations Act.

‘Part 2 General provisions for scheme

‘5 Nature of assistance

- ‘(1) The nature of the assistance under the scheme is the provision of a grant to help an eligible entity—
 - (a) if the eligible entity is a primary producer—clean and restore its primary production enterprise that has suffered direct damage caused by the flood event; or
 - (b) if the eligible entity is a small business owner—clean and restore his or her small business that has suffered direct damage caused by the flood event; or
 - (c) if the eligible entity is a non-profit organisation—clean and restore the means for conducting its operations that have suffered direct damage caused by the flood event.

- ‘(2) In particular, assistance may be provided under the scheme to help an eligible entity that is a primary producer or small business owner to cover the costs of the following—
 - (a) purchasing, hiring or leasing plant, equipment or materials—
 - (i) to clean premises or a property; or
 - (ii) that are essential to the immediate resumption of farming or other business activities;
 - (b) engaging a person to clean premises or a property;
 - (c) clearing or disposing of debris, damaged goods or injured or dead livestock;
 - (d) repairing and restoring fields;
 - (e) repairing buildings other than houses;
 - (f) repairing or replacing fencing on a property;
 - (g) repairing or reconditioning essential plant or equipment;
 - (h) repairing or replacing fittings in buildings other than houses, if repairing or replacing the fittings is essential to the immediate resumption of farming or other business activities;

Example—

repairing electrical wiring or replacing floor coverings

- (i) repairing roads and infrastructure essential to the operation of the eligible entity's primary production enterprise or small business;
 - (j) leasing temporary premises for the purpose of resuming trading;
 - (k) purchasing fodder, or saving crops or feed for livestock;
 - (l) maintaining the health of livestock or poultry;
 - (m) replacing lost or damaged stock, other than livestock, if replacement of the stock is essential to the immediate resumption of farming or other business activities;
 - (n) engaging a person to conduct a safety inspection of premises;
 - (o) paying wages to an employee of the eligible entity, if the payment is more than the wages that would ordinarily have been paid to the employee.
- ‘(3) Also, in particular, assistance may be provided under the scheme to help an eligible entity that is a non-profit organisation to cover the costs of the following—
- (a) purchasing, hiring or leasing plant, equipment or materials—
 - (i) to clean premises or a property; or
 - (ii) that are essential to the immediate resumption of the eligible entity's operations;
 - (b) engaging a person to clean premises or a property;
 - (c) clearing or disposing of debris or damaged goods or materials;
 - (d) repairing or restoring essential premises, including grounds, amenities and infrastructure;
 - (e) repairing or reconditioning essential plant or equipment;

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- (f) repairing or replacing fittings in buildings if repairing or replacing the fittings is essential to the immediate resumption of the eligible entity's operations;

Example—

repairing electrical wiring or replacing floor coverings

- (g) leasing temporary premises for the purpose of resuming the eligible entity's operations;
- (h) engaging a person to conduct a safety inspection of premises;
- (i) paying wages to an employee of the eligible entity, if the payment is more than the wages that would ordinarily have been paid to the employee.

'6 Application may be made in 1 capacity only

'An applicant may apply for assistance under the scheme in only 1 of the following capacities—

- (a) primary producer;
- (b) small business owner;
- (c) non-profit organisation.

'7 Eligibility criteria—primary producer

'An applicant is eligible for assistance under the scheme if—

- (a) the applicant is a primary producer; and
- (b) the applicant's primary production enterprise has suffered direct damage as a result of the flood event; and
- (c) the primary production enterprise is located in the prescribed Western Queensland Tropical Low 2012 disaster area; and
- (d) the applicant is primarily responsible for meeting the costs claimed in the application; and
- (e) the applicant was engaged in the primary production enterprise when the area in which the enterprise is

located became part of the prescribed Western Queensland Tropical Low 2012 disaster area; and

- (f) the authority is satisfied the applicant intends to re-establish the primary production enterprise.

‘8 Eligibility criteria—small business owner

‘An applicant is eligible for assistance under the scheme if—

- (a) the applicant owns a small business (whether as a sole owner, in partnership or as a private company); and
- (b) the small business has suffered direct damage as a result of the flood event; and
- (c) the small business is located in the prescribed Western Queensland Tropical Low 2012 disaster area; and
- (d) the applicant is primarily responsible for meeting the costs claimed in the application; and
- (e) the applicant was engaged in conducting the business when the area in which the business is located became part of the prescribed Western Queensland Tropical Low 2012 disaster area; and
- (f) the authority is satisfied the applicant intends to re-establish the small business.

‘9 Eligibility criteria—non-profit organisation

‘An applicant is eligible for assistance under the scheme if—

- (a) the applicant is a non-profit organisation; and
- (b) the applicant’s means for conducting its operations have suffered direct damage as a result of the flood event; and
- (c) the applicant is located in the prescribed Western Queensland Tropical Low 2012 disaster area; and
- (d) the applicant is primarily responsible for meeting the costs claimed in the application; and
- (e) the applicant was engaged in conducting its operations when the area in which the applicant is located became

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part of the prescribed Western Queensland Tropical Low 2012 disaster area; and

- (f) the authority is satisfied the applicant intends to re-establish its operations; and
- (g) the applicant can not repair or replace assets directly damaged as a result of the flood event from the applicant's own resources without assistance under the scheme.

'10 Restrictions on eligibility

'(1) An applicant is not eligible for assistance under the scheme—

- (a) for loss of income as a result of the flood event; or
- (b) if the applicant is a non-profit organisation—for an item for which a claim is made in the application, if the applicant has received or been approved to receive financial assistance, other than partial assistance, under another scheme, whether or not of the Commonwealth government or another government.

'(2) In this section—

partial assistance, in relation to another scheme, means assistance under that scheme to fund part of the cost of the item for which a claim is made in the application.

'11 Special requirement for particular assistance

'(1) An applicant is eligible for assistance of more than \$5000 under the scheme only if—

- (a) the applicant provides evidence to the authority, in the form of tax invoices, official receipts for payment or bank statements, that all amounts claimed by the applicant under the scheme have been paid by the applicant; or
- (b) the applicant demonstrates financial hardship under section 12 and provides evidence to the authority, in the form of quotations for work, equipment or materials, that all amounts claimed by the applicant under the

scheme are needed for cleaning and restoring the applicant's primary production enterprise, small business or means for conducting its operations as a non-profit organisation.

- '(2) Subsection (1) applies to an applicant even if the applicant makes more than 1 application under the scheme.

Example—

An applicant makes a claim under the scheme for \$5000 for a small business and makes a second claim for \$4000. The applicant is not eligible for the further assistance of \$4000 unless the applicant provides the evidence to the authority as required under the scheme that the total amount of \$9000 claimed has either been paid by the applicant or, if the applicant has demonstrated financial hardship, is necessary for cleaning and restoring the small business.

'12 Financial hardship

- '(1) To demonstrate financial hardship for section 11(1)(b), an application for assistance must be accompanied by 1 of the following—
- (a) if the applicant is a primary producer—
 - (i) evidence that the applicant is the holder of a health care card under the *Social Security Act 1991* (Cwlth); or
 - (ii) a certificate from a suitably qualified person stating that—
 - (A) the applicant can not pay the amounts claimed in the application because of financial hardship; and
 - (B) the continuation of the applicant's primary production enterprise is in doubt because the applicant can not pay the amounts claimed;
 - (b) if the applicant is a small business owner—
 - (i) for a small business owned by 1 or more individuals—evidence that the owner or at least 1 of the owners is the holder of a health care card under the *Social Security Act 1991* (Cwlth); or

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- (ii) a certificate from a suitably qualified person stating that—
 - (A) the applicant can not pay the amounts claimed in the application because of financial hardship; and
 - (B) the continuation of the small business is in doubt because the owner can not pay the amounts claimed;
- (c) if the applicant is a non-profit organisation—a certificate from a suitably qualified person stating that—
 - (i) the applicant can not pay the amounts claimed in the application because of financial hardship; and
 - (ii) the applicant’s ability to continue to carry out its activities that are not for profit is in doubt because the applicant can not pay the amounts claimed.

‘(2) In this section—

suitably qualified person means—

- (a) generally, a person who—
 - (i) has financial qualifications that enable the person to give a certificate mentioned in subsection (1); and
 - (ii) is a member of a professional association whose members normally provide financial advice; and
 - (iii) is not an office holder in, or otherwise associated with, the applicant; or
- (b) for an applicant for whom it is not reasonably practical to engage a person mentioned in paragraph (a), including, for example, because the applicant’s residence is not located near a populated area, a person who—
 - (i) has experience in financial matters because of the person’s occupation, whether or not the person normally provides or provided financial advice; and

Examples—

accountant, bank manager, tax agent

- (ii) is a member of a relevant professional association; and
- (iii) is not an office holder in, or otherwise associated with, the applicant.

‘13 Amount of assistance

‘The maximum amount of assistance that may be given to an applicant under the scheme is \$25000.

Note—

See section 15 for special circumstances in which an applicant may be given more than the stated maximum amount.

‘14 Conditions

‘Payment of assistance under the scheme is subject to the following conditions—

- (a) an applicant must, until 30 July 2013, keep the following records for amounts for which the applicant has received assistance under the scheme—
 - (i) all tax invoices, official receipts, bank statements or other similar records of amounts paid;
 - (ii) all quotations or other similar records of amounts claimed;
- (b) an applicant must consent to the authority obtaining information or documents from an insurer of the applicant’s primary production enterprise, small business or non-profit organisation to allow the authority to verify, for a grant of more than \$5000 under the scheme, the applicant’s entitlements under an insurance policy taken out with the insurer;
- (c) an applicant must consent to the authority conducting an audit of the records mentioned in paragraph (a) to allow the authority to verify that amounts given to the

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applicant under the scheme have been used in accordance with the claim for assistance.

‘15 Special provision for particular applications—primary producer or small business owner

- ‘(1) This section applies if—
- (a) an eligible entity is a primary producer or small business owner; and
 - (b) either—
 - (i) for an eligible entity that is a primary producer—the primary producer operates more than 1 primary production enterprise (a *separate business*) at separate locations; or
 - (ii) for an eligible entity that is a small business owner—the small business owner operates more than 1 business (also a *separate business*) at separate locations; and
 - (c) the authority is satisfied the separate business would be a commercially viable and autonomous business (an *eligible separate business*) if other businesses operated by the primary producer or the small business owner ceased to operate.
- ‘(2) The eligible entity may apply for assistance under the scheme for each eligible separate business as if each business were a separate primary production enterprise or small business in relation to which the applicant is eligible for assistance under the scheme.
- ‘(3) Despite section 13, the maximum amount of assistance that may be given for each eligible separate business under the scheme is \$25000.
- ‘(4) For subsection (1)(c), the authority may have regard to the following—
- (a) the staffing arrangements of the separate business;
 - (b) whether the separate business has its own plant, equipment or stock;

-
- (c) the accounting and insurance arrangements of the separate business;
 - (d) whether the separate business operates under its own trading name.
- ‘(5) Subsection (4) does not limit the matters to which the authority may have regard.

‘16 Special provision for particular applications—non-profit organisation

- ‘(1) This section applies if—
- (a) an eligible entity is a non-profit organisation and operates more than 1 non-profit operation (each a *separate operation*); and
 - (b) the authority is satisfied each separate operation would be an operation that continues to run autonomously (an *eligible separate operation*) if other non-profit operations operated by the eligible entity ceased to operate.
- ‘(2) The eligible entity may apply for assistance under the scheme for each eligible separate operation as if each eligible separate operation were a separate non-profit organisation in relation to which the applicant is eligible for assistance under the scheme.
- ‘(3) Despite section 13, the maximum amount of assistance that may be given for each eligible separate operation under the scheme is \$25000.
- ‘(4) For subsection (1)(b), the authority may have regard to the following—
- (a) the staffing arrangements of the separate operation;
 - (b) the accounting and insurance arrangements of the separate operation;
 - (c) whether the separate operation operates under its own trading name;

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(d) the financial independence and autonomy of the separate operation.

‘(5) Subsection (4) does not limit the matters to which the authority may have regard.

‘17 **Special provision about insurance**

‘(1) This section applies if an applicant receives, or is entitled to receive, an amount (an *insurance amount*) under a policy of insurance relating to direct damage caused by the flood event.

‘(2) The applicant is not eligible to receive a grant under the scheme to cover particular costs of cleaning and restoring the applicant’s primary production enterprise, small business or means for conducting its operations as a non-profit organisation if the applicant receives, or is entitled to receive, an insurance amount to cover the costs.

‘(3) However, this section does not apply in relation to the first \$5000 an applicant receives under the scheme for the primary production enterprise, small business or non-profit organisation.

‘18 **Applications**

‘(1) An application for assistance under the scheme must—

(a) be made on the authority’s application form; and

(b) be accompanied by the documentation stated on the application; and

(c) be given to the authority.

‘(2) An application for assistance under the scheme must be received by the authority no later than 30 July 2012.

‘(3) The authority may request that an applicant provide further relevant information required to decide the application.

‘19 Deciding applications

The authority must consider, and decide to approve or refuse to approve, each application for assistance under the scheme.

**‘Schedule 18 Western Queensland Tropical
Low 2012
Non-profit Organisations
Assistance Scheme**

section 3(1)

‘Part 1 Preliminary

‘1 Objective of scheme

‘The objective of the scheme is to provide assistance to eligible entities that have suffered direct damage caused by the flood event.

‘2 Purpose of assistance

‘(1) The purpose of the assistance under the scheme is to help an eligible entity pay for costs arising out of direct damage caused by the flood event.

‘(2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered as a result of the flood event.

‘3 Definitions for sch 18

‘In this schedule—

applicant means a person applying for financial assistance under the scheme.

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appropriate Minister means the Minister responsible for administering the *Disaster Management Act 2003*.

eligible entity means a non-profit organisation eligible for assistance under the scheme.

flood event means the floods, in western Queensland in January or February 2012 caused by heavy rains, that have affected the prescribed disaster area.

natural disaster relief and recovery arrangements means the funding arrangements agreed between the Commonwealth and the State for providing financial assistance to communities affected by natural disasters.

Editor's note—

At the commencement of this section, the funding arrangements were described in the document called 'Natural disaster relief and recovery arrangements—determination 2011 (version 1)' available on the Commonwealth Attorney-General's Department website at <www.em.gov.au>.

non-profit organisation—

- 1 A non-profit organisation is an incorporated charitable or other organisation that—
 - (a) is not operating for the profit or gain, either direct or indirect, of its individual members; and
 - (b) provides a benefit to the community.
- 2 Paragraph 1(a) applies—
 - (a) while the organisation is operating; and
 - (b) when it winds up, as if it were still operating.
- 3 Also, any profit made by the organisation must go back into the operation of the organisation to carry out its purposes and not be distributed to any of its members.

official receipt means a receipt including—

- (a) the name and address of the entity that issued the receipt; and
- (b) if the entity has an Australian Business Number—the Australian Business Number; and

- (c) a description of each item to which the receipt relates.

prescribed disaster area means the area—

- (a) defined by the appropriate Minister for the purpose of activating the natural disaster relief and recovery arrangements for communities affected by the flood event; and
- (b) described in a document held by the authority and available for inspection by members of the public.

Editor's note—

The document describing the prescribed disaster area is published on the authority's website at <www.qraa.qld.gov.au>.

scheme means the scheme set out in this schedule.

'Part 2 General provisions for scheme

'4 Nature of assistance

'The nature of the assistance under the scheme is the provision of a concessional loan and a grant for re-establishing the normal operation of an eligible entity, including doing any of the following—

- (a) repairing or replacing damaged plant and equipment;
- (b) repairing or restoring essential premises, including grounds, amenities and infrastructure;
- (c) supplying stock for up to 1 month to replace lost stock and maintain liquidity of the eligible entity.

'5 Maximum loan and grant amounts

- '(1) Assistance under the scheme is by way of both a loan and a grant.
- '(2) The amount of loan and grant assistance for an applicant under the scheme—

[s 4]

- (a) is based on the authority's assessment of the applicant's financial position, including any amount recovered by the applicant under an insurance policy; and
 - (b) must not be more than the amount of the net loss to the applicant caused by the flood event.
- '(3) Subject to subsection (2)(b)—
- (a) the amount of loan assistance for an applicant under the scheme must not be more than \$100000; and
 - (b) the amount of grant assistance for an applicant under the scheme must not be more than \$5000.
- '(4) The first \$30000 or part of \$30000 of assistance under the scheme must be in the ratio of loan to grant of 5:1.

'6 Eligibility criteria

'An applicant is eligible for assistance under the scheme if—

- (a) the applicant is a non-profit organisation; and
- (b) the applicant has suffered direct damage as a result of the flood event; and
- (c) the applicant is located in the prescribed disaster area; and
- (d) the applicant can not repair or replace assets directly damaged as a result of the flood event, or return to the applicant's normal operations, from the applicant's own resources without assistance under the scheme; and
- (e) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
- (f) the applicant has taken reasonable precautions to avoid or minimise loss or damage from the flood event; and

Example—

The applicant has adequate insurance against loss or damage from the flood event.

- (g) the applicant is responsible for the cost of repairing or replacing the damaged assets; and

-
- (h) the applicant demonstrates the ability to repay the loan applied for.

‘7 Security

‘A loan under the scheme must be secured to the satisfaction of the authority.

‘8 Terms of repayment

- ‘(1) The maximum term of a loan to an applicant under the scheme is 7 years.
- ‘(2) However, the term of the loan may be increased to not more than 10 years if—
 - (a) the loan has been operative for at least 4 years; and
 - (b) the applicant demonstrates a financial need for the increase in the term of the loan.
- ‘(3) The applicant may be given a loan under the scheme at a concessional interest rate decided by the authority.

Editor’s note—

At the commencement of this section, the concessional interest rate for a loan under the scheme was 4% a year.

‘9 Conditions

- ‘(1) Payment of assistance under the scheme is subject to the conditions stated in subsections (2) and (3).
- ‘(2) The applicant must, if requested by the authority, from time to time provide evidence to the authority, in the form of tax invoices, official receipts for payment, or bank statements, showing full details of the goods or services acquired, that all amounts claimed by the applicant under the scheme have been paid by the applicant.
- ‘(3) If an applicant asks for the authority’s consent to substitute a security for an existing security for the loan and the authority consents to the substitution, the applicant must pay to the authority—

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- (a) the authority's reasonable fee for giving the consent; and
- (b) any other reasonable costs of the authority in relation to the substitution.

'10 Applications

- '(1) An application for assistance under the scheme must—
 - (a) be made on the authority's application form; and
 - (b) be accompanied by the documentation stated on the application; and
 - (c) be given to the authority.
- '(2) An application for assistance under the scheme must be received by the authority no later than 30 July 2012.
- '(3) The authority may request that an applicant provide further relevant information required to decide the application.

'11 Deciding applications

'The authority must consider, and decide to approve or refuse to approve, each application for assistance under the scheme.'

ENDNOTES

- 1 Made by the Governor in Council on 16 February 2012.
- 2 Notified in the gazette on 17 February 2012.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Employment, Economic Development and Innovation.

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