



Queensland

# Rural and Regional Adjustment Amendment Regulation (No. 5) 2014

## Subordinate Legislation 2014 No. 169

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. 5) 2014*.

**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), ‘6’—

*omit, insert—*

7

**4 Amendment of sch 3 (Natural Disaster Relief (Small Business) Scheme)**

(1) Schedule 3, section 6(2), ‘Subject to subsection (1)(b)’—

*omit, insert—*

However

(2) Schedule 3, section 6(3), ‘Subject to subsection (1)(b)’—

*omit, insert—*

Also

**5 Insertion of new sch 7**

After schedule 6—

*insert—*

## **Schedule 7      Natural Disaster Relief (Essential Working Capital) 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 a significant loss of income as a result of an eligible disaster.

#### **2      Purpose of assistance**

- (1) The purpose of the assistance under the scheme is to provide an eligible entity with essential working capital, by way of a loan, to continue its farming, business or non-profit operations that have been affected by an eligible disaster.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered as a result of an eligible disaster.
- (3) Also, the scheme is not intended to provide assistance relating to direct damage suffered as a result of an eligible disaster.

#### **3      Definitions for sch 7**

In this schedule—

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

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

**defined disaster area**, for an eligible disaster, means an area—

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

*Editor's note—*

Defined disaster areas are published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

**eligible disaster** see section 4.

**eligible entity** means a person eligible under section 8 for assistance under the scheme.

**essential working capital** see section 6(2).

**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 2012 (version 1)' available on the Australian Government Disaster Assist website at <[www.disasterassist.gov.au](http://www.disasterassist.gov.au)>.

**non-profit organisation—**

- 1 A *non-profit organisation* is an incorporated charitable or other organisation that—

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- (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.

***primary producer*** means—

- (a) a sole trader who—
  - (i) spends the majority of his or her labour on a primary production enterprise; and
  - (ii) either—
    - (A) derives the majority of his or her income from the primary production enterprise; or
    - (B) in the opinion of the authority, based on the demonstrated production potential of the primary production enterprise, will eventually derive the majority

of his or her income from the primary production enterprise; or

- (b) a partnership, company or trust that carries on a primary production enterprise for which the partners, shareholders or beneficiaries—
  - (i) spend the majority of their labour on a primary production enterprise; and
  - (ii) either—
    - (A) derive the majority of their income from the primary production enterprise; or
    - (B) in the opinion of the authority, based on the demonstrated production potential of the primary production enterprise, will eventually 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 5.

***small business owner*** 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 small business; or

- (b) in relation to a partnership, private company or trust that carries on a small business, 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 small business.

#### **4 Meaning of *eligible disaster***

An *eligible disaster* means any of the following events—

- (a) a bushfire;
- (b) a cyclone;
- (c) an earthquake;
- (d) a flood;
- (e) a landslide;
- (f) a meteorite strike;
- (g) a storm, including any of, or any combination of, the following—
  - (i) hail;
  - (ii) rain;
  - (iii) wind;
- (h) a storm surge;
- (i) a terrorist event;
- (j) a tornado;
- (k) a tsunami.

#### **5 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; and
- (c) that is not operated by a public company.
- (2) 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.

- (3) In this section—

***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

### 6    Nature of assistance

- (1) The nature of the assistance that may be given under the scheme is the provision of a loan at a concessional interest rate for an amount to be used as essential working capital for a primary production enterprise, small business or non-profit activities of an eligible entity for up to 1 year.
- (2) *Essential working capital*, for a primary production enterprise, small business or non-profit activities, is money that is necessary to continue the normal operation of the primary production enterprise, small business or non-profit activities.

*Examples of uses of essential working capital—*

- paying salaries or wages
- paying creditors
- paying rent or rates
- buying goods, including, for example, fuel, essential to carrying on the primary production enterprise, small business or non-profit activities
- for a primary production enterprise, buying fodder or water for livestock or produce or transporting livestock or produce

### 7    Maximum loan amount

- (1) The amount of a loan to an applicant under the scheme for an eligible disaster—
  - (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 essential working capital the authority considers is reasonably required for the applicant's primary production enterprise, small business or non-profit activities for 1 year.
- (2) However, the amount of a loan to an applicant under the scheme for an eligible disaster must not be more than \$100,000.

## **8 Eligibility criteria**

- (1) An applicant is eligible for assistance for an eligible disaster under the scheme if the authority is satisfied—
  - (a) the applicant is a primary producer, small business owner or non-profit organisation; and
  - (b) before the eligible disaster, the applicant carried on a primary production enterprise, small business or non-profit activities (each the *relevant activity*) in the defined disaster area; and
  - (c) the applicant has suffered a significant loss of income as a result of the eligible disaster; and
  - (d) the applicant is continuing the relevant activity in the defined disaster area; and
  - (e) there are reasonable prospects for the long-term viability of the relevant activity if the assistance is provided; and
  - (f) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
  - (g) the applicant has no reasonable prospects of obtaining finance on ordinary commercial terms to carry on the relevant activity; and

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- (h) the applicant has not received another concessional loan for loss or damage that was related to the eligible disaster.
- (2) However, an applicant is not eligible for assistance for an eligible disaster under both—
  - (a) this scheme; and
  - (b) the scheme set out in schedule 2, 3 or 21.

## **9 Security**

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

## **10 Terms of repayment**

- (1) The maximum term of a loan under the scheme is 7 years.
- (2) However, the term of the loan may be increased to a maximum of 10 years if—
  - (a) the loan has been operating for at least 4 years; and
  - (b) the authority considers the increase in the term of the loan is appropriate in the circumstances.
- (3) A loan under the scheme may be given at a concessional interest rate decided by the authority and published on the authority's website.

*Editor's notes—*

- 1 At the commencement of this section, the concessional interest rate for a loan under the scheme was 1.7% a year.
  - 2 The address of the authority's website is <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.
- (4) However, the authority may—

- (a) review an applicant's financial situation annually to decide whether or not to increase the interest rate charged for the loan; and
  - (b) if the authority considers the applicant's financial situation has improved—increase the interest rate up to a commercial rate of interest.
- (5) The authority may allow payments under the loan to be accrued interest only for up to 2 years, if the principal and interest are repaid over the balance of the term of the loan.

## 11 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 appropriate evidence to the authority that all amounts drawn against a loan under the scheme have been used for essential working capital for the applicant's primary production enterprise, small business or non-profit activities.
- (3) If an applicant asks for the authority's consent to substitute a security for an existing security for a loan under the scheme and the authority consents to the substitution, the applicant must pay to the authority—
  - (a) the authority's reasonable fee for giving the consent; and
  - (b) any other reasonable costs of the authority relating to the substitution.
- (4) In this section—

***appropriate evidence*** means evidence in the form of tax invoices, official receipts for payment or

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bank statements showing full details of the goods or services acquired.

## 12 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) The authority may ask an applicant to provide further relevant information required to decide the application.

## 13 Deciding applications

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

## 6 Amendment of sch 21 (Natural Disaster Relief (Non-profit Organisations) Scheme)

Schedule 21, section 6(3), ‘Subject to subsection (2)(b)’—

*omit, insert—*

However

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### ENDNOTES

- 1 Made by the Governor in Council on 7 August 2014.
- 2 Notified on the Queensland legislation website on 8 August 2014.
- 3 The administering agency is the Department of Agriculture, Fisheries and Forestry.

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