



Queensland

Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment Regulation 2022

Subordinate Legislation 2022 No. 105

made under the

Rural and Regional Adjustment Act 1994

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Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment
Regulation 2022

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1 Short title

This regulation may be cited as the *Rural and Regional Adjustment (Resilient Homes Assistance Scheme) Amendment Regulation 2022*.

2 Commencement

This regulation commences on 15 August 2022.

3 Regulation amended

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

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

Section 3(1), ‘43’—

omit, insert—

44

5 Insertion of new sch 44

After schedule 43—

insert—

**Schedule 44 Resilient Homes
Assistance Scheme**

section 3(1)

Part 1 Preliminary

1 Objective of scheme

The objective of the scheme is to help Queensland communities impacted by recent flooding events

to recover quickly from flooding and to become more resilient to future flooding.

2 Purpose of assistance

The purpose of financial assistance under the scheme is to help owners of eligible homes—

- (a) to repair or retrofit an eligible home to incorporate flood resilient design and materials to make the home more resilient to damage caused by flooding; or
- (b) to raise an eligible home to make the home more resilient to flooding.

3 Definitions for schedule

In this schedule—

applicant means an entity applying for financial assistance under the scheme.

contribution threshold see section 5(5).

department of energy and public works means the department in which the *Building Act 1975* is administered.

eligible home see section 4.

eligible works means works to—

- (a) repair or retrofit an eligible home to incorporate flood resilient design and materials in the home; or

Examples—

- 1 replacing cavity walls with non-cavity walls
 - 2 raising general power outlets, switchboards, air conditioning units and hot water systems above recognised flood levels
- (b) raise all or part of an eligible home so that the habitable floor level of the home is at or

above the flood hazard level that applies to the home.

flood hazard level, that applies to a home, means the minimum habitable floor level of residential buildings as determined by the local government for the local government area in which the home is located.

granny flat—

- (a) means a small building that—
 - (i) is capable of providing self-contained accommodation; and
 - (ii) is attached to land; and
 - (iii) is detached from the main building on the land used for residential purposes; and
- (b) does not include a house, townhouse, unit or manufactured home.

habitable floor level, of a home or residential building, means the level of the floors of the habitable rooms of the home or building.

habitable room means a habitable room within the meaning of the National Construction Code.

hardship certificate means a certificate issued by the department of energy and public works stating that the chief executive of that department is satisfied that, due to exceptional circumstances, a stated person is unable to contribute to the cost of carrying out eligible works to the person's home.

house means a single detached dwelling on a lot within the meaning of the *Land Title Act 1994*.

licensed contractor—

- (a) means a person who holds—
 - (i) an electrical licence under the *Electrical Safety Act 2002*; or

- (ii) a licence under the *Plumbing and Drainage Act 2018*; or
 - (iii) a licence under the *Queensland Building and Construction Commission Act 1991*; and
- (b) does not include the holder of an owner-builder permit under the *Queensland Building and Construction Commission Act 1991*, section 43E.

manufactured home means—

- (a) a manufactured home under the *Manufactured Homes (Residential Parks) Act 2003*, section 10; or
- (b) a caravan that has been modified so that it may not be moved from its position using the means ordinarily used to transport the caravan.

National Construction Code means the document called ‘National Construction Code’ published by the Australian Building Codes Board.

owner, of a home, means—

- (a) for a house—
 - (i) the registered owner, of the lot on which the house is located, under the *Land Title Act 1994*; or
 - (ii) the lessee, for the land on which the house is located, under the *Land Act 1994* if the lease allows for the residential occupation of a home on the land; or
 - (iii) the lessee, for a home ownership lease over the land on which the house is located, under the *Aboriginal Land Act 1991* or the *Torres Strait Islander Land Act 1991*; or

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- (b) for a townhouse or unit—
- (i) the registered owner of the lot, that is the townhouse or unit, under the *Body Corporate and Community Management Act 1997*; or
 - (ii) the proprietor of the lot, that is the townhouse or unit, under the *Building Units and Group Titles Act 1980*; or
- (c) for a granny flat—
- (i) the registered owner, of the lot on which the flat is located, under the *Land Title Act 1994*; or
 - (ii) the person who, under any arrangement, resides at the flat and has responsibility for making significant repairs or modifications to the flat; or
- (d) for a manufactured home—the home owner for the manufactured home under the *Manufactured Homes (Residential Parks) Act 2003*, section 10; or
- (e) for another home—the person the authority is satisfied owns the home on the basis of an arrangement or document evidencing that the person is the owner or is treated as the owner by the entity that owns the land on which the home is located.

scheme means the scheme set out in this schedule.

townhouse means 1 or more attached dwellings that are separated by a common wall.

unit means a dwelling that is a lot under—

- (a) the *Body Corporate and Community Management Act 1997*; or
- (b) the *Building Units and Group Titles Act 1980*.

value for money certificate means a certificate

issued by the department of energy and public works stating that the eligible works carried out, or to be carried out, to a particular eligible home represent value for money.

4 What is an *eligible home*

- (1) A home is an *eligible home* if—
- (a) the home is a house, townhouse, unit, granny flat or manufactured home; and
 - (b) the home is used primarily as a residence; and
 - (c) the home is located in a local government area identified as a DRFA activated area in any of the following documents published by the Queensland Reconstruction Authority on its website—
 - (i) ‘Disaster Recovery Funding Arrangements event Central, Southern and Western Queensland Rainfall and Flooding, 10 November–3 December 2021’;
 - (ii) ‘Disaster Recovery Funding Arrangements event Ex-Tropical Cyclone Seth, 29 December 2021–10 January 2022’;
 - (iii) ‘Disaster Recovery Funding Arrangements event South East Queensland Rainfall and Flooding, 22 February 2022–5 April 2022’;
 - (iv) ‘Disaster Recovery Funding Arrangements event Southern Queensland Flooding, 06–20 May 2022’; and
 - (d) parts of the home within the building envelope for the home were inundated by

floodwaters during a disaster event mentioned in paragraph (c).

(2) In this section—

building envelope, for a home, means the outermost sides of the aggregation of the components of the home that have the primary function of separating the internal part of the home from the external environment.

Part 2

General provisions for scheme

5 Nature and amount of assistance

- (1) The nature of the assistance available under the scheme is a grant of financial assistance to carry out eligible works to an eligible home.
- (2) However, financial assistance may be granted under the scheme only for 1 of the following types of eligible works for the eligible home—
 - (a) repair or retrofit works;
 - (b) home raising works.
- (3) The amount of financial assistance available under the scheme is the total of the amounts equivalent to—
 - (a) 100% of the cost of carrying out the eligible works, up to the contribution threshold; and
 - (b) 50% of the cost of carrying out the eligible works, to the extent the cost is more than the contribution threshold.
- (4) However, if the applicant is the stated person for a hardship certificate, the amount of financial assistance available under the scheme is 100% of the cost of carrying out the eligible works.

- (5) The **contribution threshold** is—
- (a) for repair or retrofit works—\$50,000; or
 - (b) for home raising works—\$100,000.
- (6) However, if there are 2 or more eligible homes on the same property, the contribution threshold—
- (a) applies for the cost of carrying out eligible works to all of the eligible homes on the property; and
 - (b) is to be divided between the grants of financial assistance relating to the homes in the following way—
 - (i) if the owners of all of the eligible homes apply for a grant of financial assistance at the same time and have agreed how the contribution threshold is to be divided—the agreed way;
 - (ii) otherwise—the way decided by the authority.

Example—

Houses 1 and 2 are eligible homes on the same property. The cost of repair or retrofit works to each house is \$100,000. The total of the contribution threshold for all repair or retrofit works to both houses is \$50,000.

- (7) Subsection (6)—
- (a) applies regardless of whether the eligible homes have different owners; and
 - (b) does not apply to an eligible home that is a manufactured home located in a residential park under a site agreement.
- (8) To remove any doubt, it is declared that if subsection (6) applies, the contribution threshold for the owner of 1 or more of the eligible homes may be zero.

Example—

Houses 1 and 2 are eligible homes on the same property. The cost of repair or retrofit works to each house is \$100,000. The owner of house 1 has been granted financial assistance of \$75,000 (the full contribution threshold of \$50,000 plus 50% of the cost of the repair or retrofit works that is more the contribution threshold).

After the assistance has been granted for house 1, the owner of house 2 applies for a grant of financial assistance. The contribution threshold for the owner of house 2 would be zero and the amount of financial assistance for house 2 would be \$50,000 (or \$100,000 if the owner had a hardship certificate).

- (9) For subsection (3), the cost of carrying out eligible works is exclusive of GST.
- (10) In this section—

home raising works means works to raise all or part of an eligible home so that the habitable floor level of the home is at or above the flood hazard level that applies to the home.

property means—

- (a) a lot within the meaning of the *Land Title Act 1994* but does not include a lot under the *Building Units and Group Titles Act 1980*; or
- (b) land subject to a lease held under the *Land Act 1994*.

repair or retrofit works means works to repair or retrofit an eligible home to incorporate flood resilient design and materials in the home.

residential park see the *Manufactured Homes (Residential Parks) Act 2003*, section 12.

site agreement see the *Manufactured Homes (Residential Parks) Act 2003*, section 14.

6 Eligibility for assistance

- (1) An applicant is eligible to receive a grant of

financial assistance under the scheme for carrying out works to a home if—

- (a) the applicant is the owner of the home; and
- (b) the works are eligible works; and
- (c) the home is an eligible home; and
- (d) an eligible home assessment has been completed for the home and—
 - (i) for works that have not been started—the report for the assessment identifies the works as eligible works suitable to be carried out to the home; or
 - (ii) for works that have been started or are completed—the report for the assessment confirms that the works—
 - (A) are eligible works; and
 - (B) are being, or were, carried out by a licensed contractor; and
 - (C) are being, or were, carried out because of inundation by floodwaters during a disaster event mentioned in section 4(1)(c); and
- (e) the applicant—
 - (i) has obtained a quote from a licensed contractor to carry out the works; or
 - (ii) has been given an invoice for carrying out the works from the licensed contractor who carried out the works; or
 - (iii) has a receipt for payment to a licensed contractor who carried out the works; or

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- (iv) has entered into a contract with a licensed contractor for the carrying out of the works; and
 - (f) the department of energy and public works has issued a value for money certificate for the eligible works; and
 - (g) for an amount of financial assistance that is more than the contribution threshold—
 - (i) the applicant is able to contribute 50% of the cost of carrying out the works, to the extent the cost is more than the contribution threshold; or
 - (ii) the applicant is the stated person for a hardship certificate.
 - (2) However, the applicant is only eligible for conditional approval of a grant of financial assistance under the scheme if the applicant—
 - (a) does not have a receipt for payment to the licensed contractor who carried out the works; or
 - (b) has not entered into a contract with a licensed contractor for the carrying out of the works.
 - (3) Despite subsection (1), an applicant is not eligible to receive financial assistance under the scheme for carrying out eligible works to a home if the applicant has received—
 - (a) a grant of financial assistance under the scheme for the home; or
 - (b) funding for the eligible works under another government scheme.
 - (4) This section applies subject to section 7.
 - (5) In this section—

eligible home assessment means an assessment of a home, undertaken by or for the department of

energy and public works, to identify the eligible works that may be suitable to be carried out to the home or to identify if works done to the home are eligible works.

government scheme means a scheme for providing financial assistance that is administered or funded by a local government, the State or the Commonwealth.

7 Effect of insurance

- (1) This section applies if—
 - (a) an applicant applies for a grant of financial assistance under the scheme for carrying out eligible works to an eligible home; and
 - (b) damage (**flood damage**) to the eligible home was caused by inundation by floodwaters during a disaster event mentioned in section 4(1)(c); and
 - (c) a policy of insurance over the eligible home may cover all or some of the flood damage (the **insurance**).
- (2) The applicant is not eligible to receive financial assistance under the scheme until—
 - (a) a claim is made under the policy of insurance for the flood damage; and
 - (b) the insurer either—
 - (i) accepts liability to pay an amount for the flood damage or to pay for repairing the flood damage; or
 - (ii) rejects the claim.
- (3) If the insurance covers the full cost of the eligible works, the applicant is not eligible to receive financial assistance under the scheme.
- (4) If the insurance covers part of the cost of the

eligible works, the financial assistance the applicant may receive under the scheme is limited to the extent to which the insurance does not cover the cost of the eligible works.

Example—

If the cost of the eligible works is \$40,000 and the insurer is to pay \$8,000 in relation to the eligible works, the amount of financial assistance the applicant may receive under the scheme for the eligible works is limited to \$32,000.

- (5) For subsections (3) and (4), the extent to which the insurance covers the cost of eligible works is the extent to which—
 - (a) the insurer accepts liability to pay for the eligible works; or
 - (b) under the policy of insurance, the insurer pays the policy holder an amount for the flood damage.
- (6) For subsection (5)(b), if the insurer gave the policy holder an itemised breakdown of what the payment relates to, the amount of the payment does not include that part of the payment that is for something other than the eligible works.

Example—

If the insurer pays the policy holder an amount of \$15,000 for the flood damage and, under the itemised breakdown of the payment, \$5,000 of the payment is for replacement of a damaged rain water tank and fence, the amount of the payment for subsection (5)(b) is \$10,000.

- (7) Subsections (4) to (6) do not apply to a grant of financial assistance under the scheme that is for home raising works.
- (8) In this section—

home raising works means works to raise all or part of an eligible home so that the habitable floor level of the home is at or above the flood hazard level that applies to the home.

insurer means the insurer under the policy of insurance mentioned in subsection (1)(c).

8 Requirement for applications

- (1) An application for a grant of financial assistance under the scheme must—
 - (a) be made in the approved form; and
 - (b) be accompanied by the documents stated in the approved form; and
 - (c) be given to the authority no later than 31 March 2024.
- (2) If the authority asks the applicant to provide further information to decide the application, the applicant must provide the information to the authority.
- (3) In this section—

approved form means a form approved by the authority.

9 Deciding applications

- (1) This section applies to each application for a grant of financial assistance under the scheme that complies with section 8.
- (2) The authority must consider, and decide to approve or refuse to approve, the application.
- (3) The authority may, with the agreement of the applicant, approve an amount of financial assistance that is less than the amount sought in the application.
- (4) The authority must refuse to approve the application if the authority's assistance funds for the scheme are not enough to pay for the amount of financial assistance applied for in the application.

- (5) If the authority refuses to approve the application, the authority must give the applicant written notice of the decision.

10 Priority of consideration for applications

The authority must consider applications in the order they are received by the authority.

11 Conditional approval

- (1) This section applies if—
 - (a) the authority approves an application for a grant of financial assistance for carrying out eligible works to an eligible home; and
 - (b) the applicant is only eligible for conditional approval of the grant under section 6(2).
- (2) The approval is subject to a condition requiring the applicant—
 - (a) to give the authority a copy of a receipt for payment to the licensed contractor who carried out the eligible works; or
 - (b) to—
 - (i) enter into a contract with a licensed contractor for the carrying out of the eligible works; and
 - (ii) give the authority a copy of the contract.
- (3) The condition mentioned in subsection (2)(b) is satisfied only if the authority is satisfied the contract is consistent with the quote or invoice the applicant gave the authority as part of the application.

12 Payment of financial assistance

- (1) This section applies if the authority approves an

application for a grant of financial assistance for carrying out eligible works to an eligible home.

- (2) However, if the applicant is only eligible for a conditional approval under section 6(2), this section does not apply unless the condition mentioned in section 11(2) has been satisfied.
- (3) The authority must pay the financial assistance directly to the following person—
 - (a) to the extent the applicant has paid for the eligible works—the applicant;
 - (b) otherwise—the licensed contractor who carried out the eligible works or is contracted to carry out the eligible works.
- (4) The authority may pay the financial assistance in a single payment or in instalments, at intervals decided by the authority.

Example—

The authority may pay the financial assistance in instalments consistent with the milestone payments under a contract for carrying out the eligible works.

- (5) For the purpose of a contract for carrying out the eligible works, a payment made under subsection (3)(b) is made on behalf of the entity that is liable to pay for the works under the contract.
- (6) This section applies subject to sections 7 and 13.

13 Conditions of financial assistance

- (1) This section applies if the authority approves an application for a grant of financial assistance under the scheme for carrying out eligible works to an eligible home.
- (2) The payment of financial assistance is subject to the following conditions—
 - (a) the applicant must enter into a written agreement with the authority setting out the

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- terms on which the financial assistance is provided (the *payment agreement*);
- (b) the applicant must comply with the terms of the payment agreement.
- (3) The applicant must repay all or part of the financial assistance if—
- (a) the applicant is unable to secure access to particular land for the purpose of carrying out the eligible works; or
 - (b) the eligible works can not be carried out to the home for any reason; or
 - (c) the cost of carrying out the eligible works is, on completion of the works, less than the amount of the financial assistance; or
 - (d) the authority is satisfied the application, or a document accompanying the application, includes information that is false or misleading in a material particular.
- (4) The authority may decide the amount to be repaid under subsection (3).
- (5) The authority may withhold payment of all or part of the financial assistance if satisfied—
- (a) the applicant has not complied with the terms of the payment agreement; or
 - (b) the application, or a document accompanying the application, includes information that is false or misleading in a material particular.

14 Changes affecting eligible works

- (1) This section applies if the authority made a grant of financial assistance under the scheme for carrying out eligible works to an eligible home and any of the following changes happen—

- (a) there is a change to the licensed contractor who is to carry out the eligible works;
 - (b) there is a change in the scope of the eligible works under the approved contract;
 - (c) there is a change in the costs of carrying out the eligible works under the approved contract.
- (2) The applicant must—
- (a) give the authority and the department of energy and public works written notice of the change; and
 - (b) request the department of energy and public works issue a new value for money certificate for the eligible works.
- (3) If the authority or department of energy and public works asks the applicant to provide further information about the change, the applicant must provide the information to the authority or department.
- (4) The authority may increase the amount of financial assistance paid under section 12 if the authority is satisfied—
- (a) the change has caused an increase in the cost of carrying out the eligible works; and
 - (b) the department of energy and public works has issued a new value for money certificate for the eligible works.
- (5) The authority may withhold any outstanding payment of financial assistance if satisfied the applicant has not complied with subsection (2) or (3).
- (6) In this section—
- approved contract***, in relation to eligible works and a grant of financial assistance under the scheme, means the contract to carry out the

eligible works that formed the basis of the applicant's eligibility for the assistance.

ENDNOTES

- 1 Made by the Governor in Council on 11 August 2022.
- 2 Notified on the Queensland legislation website on 12 August 2022.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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