



Queensland

*Rural and Regional Adjustment Act 1994*

# **Rural and Regional Adjustment Regulation 2011**

**Reprinted as in force on 19 August 2011**

**Reprint No. 1**

This reprint is prepared by  
the Office of the Queensland Parliamentary Counsel  
Warning—This reprint is not an authorised copy

# Information about this reprint

This regulation is reprinted as at 19 August 2011.

Minor editorial changes allowed under the provisions of the Reprints Act 1992 mentioned in the following list have also been made to—

- use different spelling consistent with current drafting practice (s 26(2))
- correct minor errors (s 44).

This page is specific to this reprint. A table of reprints is included in the endnotes.

**Also see endnotes for information about—**

- **when provisions commenced**
- **editorial changes made in the reprint, including table of corrected minor errors.**

## Spelling

The spelling of certain words or phrases may be inconsistent with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’).

## Dates shown on reprints

**Reprints dated at last amendment** All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

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Queensland

# Rural and Regional Adjustment Regulation 2011

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# Rural and Regional Adjustment Regulation 2011

[reprinted as in force on 19 August 2011]

## Part 1 Preliminary

### 1 Short title

This regulation may be cited as the *Rural and Regional Adjustment Regulation 2011*.

### 2 Definition

In this regulation—

*repealed regulation* means the repealed *Rural and Regional Adjustment Regulation 2000*.

## Part 2 Approved assistance schemes

### 3 Approval of schemes—Act, s 11

Each scheme set out in each of schedules 1 to 15 is approved.

[s 4]

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## **Part 3 Repeal**

### **4 Repeal of regulation**

The Rural and Regional Adjustment Regulation 2000, SL No. 124 is repealed.

## **Part 4 Savings and transitional provisions**

### **5 Saving of operation of particular schemes and other provisions under repealed regulation**

- (1) This section applies to the following provisions (each a *saved provision*) of the repealed regulation—
  - (a) part 5, divisions 2, 3 and 4;
  - (b) the schedule, parts 1, 2, 6, 9, 10, 13 to 17 and 19 to 27.
- (2) Each saved provision—
  - (a) is a law to which the *Acts Interpretation Act 1954*, section 20A applies; and
  - (b) continues to apply to the things mentioned in it as if the repealed regulation had not been repealed.

### **6 Continuation of particular schemes for particular purposes**

- (1) This section applies if—
  - (a) before the commencement, a person applied for assistance under an approved assistance scheme under any of parts 3, 4, 5, 7, 8, 11, 12, 18 or 28 to 34 of the repealed regulation; and
  - (b) immediately before the commencement, any of the following applied—

- (i) the application had not been decided;
  - (ii) the authority had approved assistance for the person under the scheme and the person had not been given all of the assistance;
  - (iii) the scheme had otherwise not been fully administered in relation to the person.
- (2) The scheme, as in force immediately before the commencement, continues to apply in relation to deciding the application, giving the assistance or otherwise administering the scheme, as if the repealed regulation had not been repealed.
- (3) In this section—

*commencement* means commencement of this section.

# Schedule 1      Primary Industry Productivity Enhancement Scheme

section 3

## Part 1              Preliminary

### 1      Objective of scheme

The objective of the scheme is to provide assistance that will—

- (a) strengthen the economy of Queensland regions; and
- (b) facilitate the development of sustainable primary production in Queensland.

### 2      Application of scheme

(1) The scheme consists of the following programs—

- (a) the first start program;
- (b) the sustainability program.

(2) An applicant may apply for assistance under more than 1 program.

### 3      Definitions for sch 1

In this schedule—

*approved application form*, for a program under the scheme, means the application form approved by the authority for the program.

*commercial wild-catch fishing* means the fishing and harvesting for commercial purposes of marine and freshwater species from a wild population that are caught in their natural environment.

***eligible activities*** means the eligible activities decided under section 5.

***first start program*** means the part of the scheme set out in parts 2 and 3.

***management plan***, of an applicant applying for assistance under the scheme, means a plan that—

- (a) includes details of the activity for which the applicant is applying for assistance; and
- (b) adopts a timely whole of business approach to sustainable primary production and includes components of sustainable management relevant to—
  - (i) viability; and
  - (ii) productivity; and
  - (iii) managing the impacts of the activity on the natural resource base where the activity is to be carried out and other ecosystems affected by the activity; and
  - (iv) managing business and climate risks; and
- (c) if the assistance is for on-farm activities—identifies and states the area of land affected by the application; and
- (d) complies with the guidelines for management plans under the scheme that are issued by the authority.

*Editor's note—*

A copy of the guidelines for management plans under the scheme may be obtained from the authority.

***mutual obligation condition*** see section 11(1).

***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





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- (a) decide the activities that are eligible activities for each program under the scheme; and
  - (b) notify the authority about the decision made under paragraph (a).
- (2) When deciding whether an activity is an eligible activity for a program, the chief executive must consult with relevant public sector entities.

## 6 Interest rate

- (1) The initial interest rate under the scheme for a loan to an applicant will be worked out when the applicant first draws down the loan or part of the loan.
- (2) The initial interest rate for the loan—
- (a) depends on whether the applicant decides to have the interest rate fixed for 1, 3 or 5 years when the applicant first draws down the loan or part of the loan; and
  - (b) is worked out by the authority based on the base lending rate for the relevant period.
- (3) The authority may, during the term of the loan, increase the interest rate from the interest rate mentioned in subsection (2) to a commercial rate.
- (4) If, under subsection (3), the authority decides to increase the interest rate because the applicant's financial capacity improves during the term of the loan, the authority may decide the extent to which the interest rate for the loan is to increase—
- (a) in an annual review of the loan; and
  - (b) based on the improvement.
- (5) The authority may decide the extent to which the interest rate is to increase under subsection (4) more than once in relation to the applicant.
- (6) In this section—

***base lending rate*** means the rate decided by the authority for each 6 month period in each year that is the 1, 3 or 5 year

lending rate, as appropriate, of the Queensland Treasury Corporation, plus 1%.

## **7 Terms of repayment**

- (1) Repayment of principal and interest on a loan granted to an applicant under the scheme will be—
  - (a) initially calculated using a period of up to the maximum term of the loan; and
  - (b) tailored to the applicant's individual requirements based on the applicant's income patterns.
- (2) An interest only period of not more than 2 years may be available.
- (3) The loan will have an initial interest rate that is fixed under section 6.

## **8 Security**

- (1) If an applicant is granted a loan under the scheme, the applicant must give security for the loan.
- (2) The security required is—
  - (a) a mortgage of land or other assets that is—
    - (i) satisfactory to the authority; and
    - (ii) commensurate with the amount of the loan; and
  - (b) any other security the authority considers necessary, including, for example, a bill of sale, crop lien or stock mortgage.

## **9 Applications**

An application for assistance under the scheme must be—

- (a) made on the approved application form for the program under which the applicant is applying; and

- (b) accompanied by the documents stated on the approved application form; and
- (c) given to the authority.

## **10 Deciding applications**

The authority must consider and decide to approve or refuse to approve each application for assistance.

## **11 Mutual obligation condition of loan—reporting outcomes**

- (1) It is a condition (*mutual obligation condition*) of a loan under the scheme that the applicant for the loan give the authority reports on the outcomes achieved with the funds loaned to the applicant.
- (2) The reports must be given to the authority in the form, and at the intervals, stated in the written offer of a loan given to the applicant by the authority.

# **Part 3 First start program**

## **12 Purpose of assistance under first start program**

- (1) The first start program is designed to provide finance to an applicant in the first years of establishment of the applicant's primary production enterprise.
- (2) The purpose of assistance under the first start program is to enable an applicant to become a primary producer by assisting the applicant—
  - (a) to acquire and operate a viable primary production enterprise; or
  - (b) to acquire and operate a primary production enterprise on a staged basis, as part of a longer term plan for the applicant to operate a viable primary production enterprise; or

- (c) to enter the existing primary production enterprise of the applicant's parents or other family member, as a part of a longer term plan for the applicant to operate a viable primary production enterprise in the applicant's own right; or
- (d) to enter into a leasing, sharefarming or sharefishing arrangement that will lead to the applicant operating a viable primary production enterprise; or
- (e) to upgrade, build up or develop the applicant's existing non-viable primary production enterprise that has not generated the majority of the applicant's income to one of an economically sustainable size.

### **13 Maximum loan amounts**

The maximum amount of a loan, or the total outstanding loan balance, under the first start program is \$650000.

### **14 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance under the first start program, the applicant must—
  - (a) have resided in Queensland for at least 6 months; and
  - (b) not own, or have disposed of, a viable primary production enterprise; and
  - (c) provide evidence of financial need for the assistance; and
  - (d) if the loan is to enter the existing primary production enterprise or buy the applicant's parents' or other family member's assets, be able to demonstrate—
    - (i) the parents or family member is not in a financial position to completely effect a transfer of the assets; and
    - (ii) the purchase is not merely a refinance arrangement; and

- 
- (e) demonstrate adequate experience or other qualifications to give the applicant a reasonable prospect of success in the particular industry the applicant wishes to enter; and
  - (f) be able to demonstrate—
    - (i) for buying a primary production enterprise—the applicant will have 50% equity in the enterprise; or
    - (ii) for a leasing, sharefarming or sharefishing arrangement—the applicant will pay 50% of the set-up costs of the enterprise; and
  - (g) demonstrate adequate funding for carry-on purposes; and
  - (h) demonstrate sound prospects for commercial viability in the long-term development of the primary production enterprise, in accordance with the planned progression, and the capacity to service proposed debt from the enterprise and other forms of income; and
  - (i) trade in the applicant's own right or satisfy the authority that the applicant's entry into the existing primary production enterprise of the applicant's parents or other family member is part of a longer term plan to ultimately trade in the applicant's own right; and
  - (j) give the authority a management plan that shows the stages of a planned progression towards a viable first primary production enterprise.
- (2) However, for subsection (1)(f), the authority may, in relevant circumstances, vary the amount of equity in the enterprise that the applicant is required to demonstrate.

*Examples of relevant circumstances—*

- 1 a joint lending proposal with a commercial lender
- 2 the applicant has stable off-farm or other income from land or other assets

## **15 Maximum term of loan**

The maximum term of a loan is 20 years.

## **Part 4 Sustainability program**

### **16 Purpose of assistance under sustainability program**

The purpose of assistance under the sustainability program is to enable a primary producer to implement systems and management practices that enhance sustainable primary production by—

- (a) increasing productivity and long-term viability; and
- (b) avoiding or minimising adverse impacts on—
  - (i) the natural resource base where the activity for which the assistance is received is performed; and
  - (ii) other ecosystems affected by the activity; and
- (c) adopting systems and practices to mitigate the effects of climate, drought and market risks.

### **17 Maximum loan amounts and outstanding loan balances**

- (1) The maximum amount of a loan under the sustainability program is \$650000.
- (2) The maximum combined outstanding loan balance under the sustainability program and any of the following is \$650000—
  - (a) the former development program;
  - (b) the former resource management program;
  - (c) the former development program and former resource management program.

*Examples—*

- 1 A person who has an outstanding loan balance of \$200000 under the former development program may obtain a loan of up to \$450000 under the sustainability program.
- 2 A person who has an outstanding loan balance of \$150000 under the former resource management program may obtain a loan of up to \$500000 under the sustainability program.
- 3 A person who has an outstanding loan balance of \$300000 under the former development program and \$100000 under the former

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resource management program may obtain a loan of up to \$250000 under the sustainability program.

- (3) The maximum amount of a loan under the sustainability program to buy livestock is \$200000.
- (4) The maximum amount of a loan under the sustainability program to do 1 or more of the following is \$200000—
  - (a) upgrade plant or machinery;
  - (b) buy plant or machinery;
  - (c) replace plant or machinery.
- (5) In this section—

*former development program* means the development program in force under the repealed regulation, schedule, part 3, divisions 2 and 4 immediately before 10 December 2010.

*former resource management program* means the resource management program in force under the repealed regulation, schedule, part 3, divisions 2 and 5 immediately before 10 December 2010.

## 18 Eligibility criteria

To be eligible to receive assistance under the sustainability program, the applicant must—

- (a) demonstrate to the satisfaction of the authority—
  - (i) that the applicant is a primary producer; and
  - (ii) that the applicant is working full-time and has worked full-time for at least 2 years in the applicant's primary production enterprise; and
  - (iii) sound prospects for commercial viability, and the ability to service the loan, in the long term; and
  - (iv) that the amount of non-enterprise or liquid assets owned by the applicant is not more than the amount needed for prudent risk management; and
  - (v) if the assistance is sought to rationalise a partnership—that the proposal for the

rationalisation is not merely a refinance arrangement; and

- (vi) if the assistance is sought to upgrade, buy or replace plant or machinery—the plant or machinery will be used predominantly for the enterprise; and
- (b) provide evidence of a financial need for the assistance; and
- (c) give the authority a management plan that outlines the intended outcomes associated with the activity for which the applicant is applying for assistance; and
- (d) if the assistance is sought for on-farm activities for which a licence, permit, approval or other authorisation under an Act is required before the activity can be conducted—give the authority a copy of the authorisation.

## **19 Maximum term of loan**

- (1) The maximum term of a loan for 1 or more of the following is 7 years—
  - (a) buying livestock;
  - (b) upgrading plant or machinery;
  - (c) buying plant or machinery;
  - (d) replacing plant or machinery.
- (2) However, the authority may extend the maximum term of the loan to not more than 20 years if—
  - (a) the activities mentioned in subsection (1) are a minor part of the activities for which the applicant is applying for loans under the sustainability program; or
  - (b) having a maximum term of 7 years for a loan would adversely affect the applicant's prospects for commercial viability and the ability to service the loan in the long term.



- (3) The maximum term of a loan, other than a loan mentioned in subsection (1), is 20 years.

## Schedule 2      Natural Disaster Relief (Primary Producers) Scheme

section 3

### Part 1                      Preliminary

#### 1            Definitions for sch 2

In this schedule—

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

**application** means an application for financial assistance under the scheme.

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

**carry-on requirements** see section 5(b).

**defined disaster area**, for an eligible natural disaster, means an area that the appropriate Minister has defined for the purpose of activating the natural disaster relief and recovery arrangements for the communities affected by the disaster.

*Editor's note—*

At the commencement of this section, defined disaster areas were published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

**development** see the *Sustainable Planning Act 2009*, section 7.

**eligible natural disaster** see section 2.

**IDSP certificate**, in relation to an applicant's primary production enterprise, means a certificate issued by the chief executive stating—

- (a) for an enterprise involving commercial wild-catch fishing—that in the chief executive's opinion, a boat or equipment used to carry on the enterprise has been lost

or damaged because of an eligible natural disaster that has significantly affected, or will significantly affect, the enterprise; or

- (b) otherwise—the property where the enterprise is carried on has sustained damage because of an eligible natural disaster that has significantly affected, or will significantly affect, the enterprise.

***individual disaster stricken enterprise*** see section 3.

***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 'Queensland Disaster Relief and Recovery Arrangements Guidelines 2009-2010', published by Emergency Management Queensland and available on the website at <[www.disaster.qld.gov.au](http://www.disaster.qld.gov.au)>.

***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.

***property***, of an applicant, means the land on which the applicant carries on a primary production enterprise other than commercial wild-catch fishing and in relation to which the applicant has applied for assistance under the scheme.

***scheme*** means the scheme set out in this schedule.

## **2 Meaning of *eligible natural disaster***

- (1) An ***eligible natural disaster*** means any of the following events—
  - (a) a bushfire;
  - (b) a cyclone;
  - (c) a flood;
  - (d) an earthquake;
  - (e) a storm, including any of, or any combination of, the following—
    - (i) hail;
    - (ii) rain;
    - (iii) wind;
  - (f) a storm surge;
  - (g) a landslide caused by an event mentioned in paragraphs (a) to (f).
- (2) However, an ***eligible natural disaster*** does not include an event under subsection (1) if the authority considers that development has significantly contributed to the event.

## **3 Meaning of *individual disaster stricken enterprise***

- (1) A primary production enterprise involving commercial wild-catch fishing is an ***individual disaster stricken enterprise*** if—
  - (a) the enterprise has been, or will be, significantly affected by the loss of, or damage to, a boat or equipment used in

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carrying on the enterprise because of an eligible natural disaster; and

- (b) either—
  - (i) there is no defined disaster area for the disaster; or
  - (ii) there is a defined disaster area for the disaster and the boat or equipment was not in the area when the disaster happened.
- (2) Another primary production enterprise is an *individual disaster stricken enterprise* if—
  - (a) the enterprise has been, or will be, significantly affected by damage to the property where the enterprise is carried on because of an eligible natural disaster; and
  - (b) either—
    - (i) there is no defined disaster area for the disaster; or
    - (ii) there is a defined disaster area for the disaster and the property is not in the area.

#### **4 Purpose of assistance**

- (1) The purpose of assistance under the scheme is to assist in meeting the needs of primary producers affected by an eligible natural disaster of substantial magnitude, to recover from the disaster.
- (2) However, assistance under the scheme is not intended to—
  - (a) compensate primary producers for losses suffered; or
  - (b) encourage primary producers in marginal production areas to increase risks in their farming operations.



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**7 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance under the scheme for an eligible natural disaster, the authority must be satisfied—
  - (a) the applicant is a primary producer; and
  - (b) if the applicant's primary production enterprise involves wild-catch fishing—
    - (i) a boat or equipment used in carrying on the enterprise has been lost or damaged as a direct result of the disaster; and
    - (ii) either—
      - (A) the boat or equipment was in the defined disaster area for the disaster when the disaster happened; or
      - (B) the enterprise is an individual disaster stricken enterprise as a result of the disaster; and
  - (c) if paragraph (b) does not apply to the primary production enterprise—
    - (i) the property where the enterprise is carried on has been damaged as a direct result of the disaster; and
    - (ii) either—
      - (A) the property is in the defined disaster area for the disaster; or
      - (B) the enterprise is an individual disaster stricken enterprise as a result of the disaster; and
  - (d) if the applicant claims the primary production enterprise is an individual disaster stricken enterprise, the applicant has given the authority an IDSP certificate or made reasonable efforts to obtain an IDSP certificate for the enterprise; and
  - (e) the applicant has taken reasonable precautions to avoid or minimise loss or damage from the disaster; and

*Example for paragraph (e)—*

The applicant had adequate insurance against loss or damage from the disaster.

- (f) the applicant has used all of the applicant's liquid assets and all normal credit sources up to normal credit limits; and
  - (g) the primary production enterprise will be viable with the assistance given; and
  - (h) the applicant has not taken excessive risks in carrying on the primary production enterprise.
- (2) For deciding whether or not a primary production enterprise is an individual disaster affected enterprise under subsection (1)(b)(ii)(B) or (1)(c)(ii)(B), the authority must have regard to—
- (a) the IDSP certificate, if any, issued for the enterprise; or
  - (b) if the chief executive has refused to issue an IDSP certificate for the enterprise—the reasons for the refusal.

## **8 Interest rates**

- (1) If an applicant's property is in a defined disaster area for the disaster to which the applicant's application relates, the applicant may be given a loan under the scheme at a concessional interest rate decided by the authority.
- (2) Subject to subsection (3), if an applicant's primary production enterprise is an individual disaster stricken enterprise, the applicant may only be given a loan under the scheme at a current commercial lending rate.
- (3) An applicant under subsection (2) may be given a loan at a concessional interest rate if the authority considers—
  - (a) the applicant's financial position is desperate but viable; and
  - (b) the applicant's circumstances are exceptional.



*Editor's note—*

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

**9 Security**

- (1) If an applicant is granted a loan under the scheme, the applicant must give security for the loan.
- (2) The security required is—
  - (a) a mortgage of land or other assets, commensurate with the amount of the loan; and
  - (b) other security, if any, the authority considers necessary, including, for example, a crop lien or stock mortgage.

**10 Terms of repayment**

- (1) Subject to subsection (5), the maximum term of a loan under the scheme is 7 years.
- (2) The amount payable under the loan is subject to any changes in the interest rate decided by the authority under subsection (3).
- (3) 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.
- (4) The authority may allow deferral of repayments of the principal under the loan for up to 2 years if the principal and interest are repaid over the balance of the term of the loan.
- (5) The term of a 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 authority considers the increase in the term of the loan is appropriate in the circumstances.

## **11 Review by authority**

Assistance given to a primary producer under the scheme is subject to an annual review by the authority.

## **12 Application**

- (1) An application must be—
  - (a) made on the application form approved by the authority; and
  - (b) accompanied by—
    - (i) the documentation stated on the application form; and
    - (ii) if an IDSP certificate has been issued for the primary production enterprise to which the application relates—the IDSP certificate.
- (2) An applicant must give the completed application form to the authority or the applicant's commercial lender for referral to the authority.

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## Schedule 3      Natural Disaster Relief (Small Business) Scheme

## section 3

### 1      Definitions for sch 3

In this schedule—

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

*development* see the *Sustainable Planning Act 2009*, section 7.

*eligible natural disaster* see section 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—Community recovery package guidelines 2011' published by the Commonwealth Attorney-General's Department and available on that department's website at <[www.ema.gov.au](http://www.ema.gov.au)>.

*scheme* means the scheme set out in this schedule.

*small business* see section 3.

*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, 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.

## **2 Meaning of *eligible natural disaster***

- (1) An *eligible natural disaster* means any of the following events—
  - (a) a bushfire;
  - (b) a cyclone;
  - (c) a flood;
  - (d) an earthquake;
  - (e) a storm, including any of, or any combination of, the following—
    - (i) hail;
    - (ii) rain;
    - (iii) wind;
  - (f) a storm surge;
  - (g) a landslide caused by an event mentioned in paragraphs (a) to (f).
- (2) However, an *eligible natural disaster* does not include an event under subsection (1) if the authority considers that development has significantly contributed to the event.

## **3 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.

#### 4 Purpose of assistance

(1) The purpose of assistance under the scheme is to provide concessional loans to small business owners—

(a) whose buildings, plant and equipment or stock have been significantly damaged by an eligible natural disaster; and

(b) who are unable to obtain finance on ordinary commercial terms but have sound prospects of long-term viability.

(2) However, assistance under the scheme is not intended to compensate business owners for losses suffered.

#### 5 Nature of assistance

The nature of the assistance under the scheme for a small business is the provision of concessional loans for re-establishing the viable operation of the business, including by doing any of the following—

(a) repairing or replacing damaged plant and equipment;

- (b) repairing or replacing buildings;
- (c) supplying stock for up to 1 month to replace lost stock and maintain liquidity of the business.

## **6 Maximum loan amounts**

- (1) The amount of loan assistance for an applicant under the scheme—
  - (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's business caused by the eligible natural disaster to which the applicant's application relates.
- (2) Subject to subsection (1)(b), the amount of loan assistance for an applicant under the scheme for an eligible natural disaster for which the natural disaster relief and recovery arrangements were activated before 13 January 2008 must not be more than—
  - (a) \$100000; or
  - (b) if there is more than 1 loan given to the applicant under the scheme—a cumulative total of \$150000.
- (3) Subject to subsection (1)(b), the total amount lent to an applicant under the scheme for any 1 eligible natural disaster for which the natural disaster relief and recovery arrangements were activated on or after 13 January 2008 must not be more than \$250000.

## **7 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance under the scheme—
  - (a) the applicant must be a small business owner; and
  - (b) the authority must be satisfied that—

- 
- (i) the applicant has sustained substantial damage to buildings, plant, equipment or stock as a result of an eligible natural disaster; and
  - (ii) the applicant has taken reasonable precautions to avoid or minimise loss or damage from the disaster; and

*Example for subparagraph (ii)—*

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

- (iii) the applicant is responsible for the cost of essential repairs or replacement of the damaged assets and as a result has had liquidity severely affected; and
  - (iv) the applicant can not repair or replace the damaged assets, or return to viable operations from the applicant's own resources, without assistance under the scheme; and
  - (v) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
  - (vi) with the assistance under the scheme, the applicant has reasonable prospects of re-establishing the applicant's business on a viable basis.
- (2) A public company, whether acting alone or with another company, is not eligible for assistance under the scheme.

## **8 Security**

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

## **9 Terms of repayment**

- (1) Subject to subsection (6), the maximum term of a loan to an applicant under the scheme is 7 years.
- (2) When a loan under the scheme is approved by the authority, the authority will work out the initial repayments of principal and interest on the full term of the loan.

*Editor's note—*

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

- (3) The amount payable under the loan is subject to any changes in the interest rate decided by the authority under subsection (4).
- (4) 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 deferral of repayments of the principal under the loan for up to 2 years, if the principal and interest are repaid over the balance of the approved term of the loan.
- (6) 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 authority considers the increase in the term of the loan is appropriate in the circumstances.

## **10 Application**

An application for assistance under the scheme must be—

- (a) made on the authority's application form; and
- (b) given to the authority or to the applicant's lender for referral to the authority.



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## Schedule 4      Drought Carry-on Finance Scheme

## section 3

### 1      Definitions for sch 4

In this schedule—

*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, forestry, grazing and horticultural industries; and
- (b) for which an entity holds an Australian Business Number.

### 2      Objective of scheme

The objective of the scheme is to assist primary producers who are carrying on primary production enterprises in areas notified by the Minister under section 5(2) to recover from the impact of drought to which the notification relates.

### 3      Nature of assistance

The nature of the assistance that may be given under the scheme is loans at concessional rates of interest.

#### **4 Maximum loan amounts**

The maximum amount of a loan, or total outstanding loan balance, under the scheme is \$100000.

#### **5 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance under the scheme—
  - (a) the applicant must—
    - (i) be a primary producer; and
    - (ii) own or occupy land, and carry on a primary production enterprise on the land, in an area of a local government that the Minister decides is severely drought affected; and
    - (iii) demonstrate that the current net value of the land is not greater than \$2m; and
  - (b) the authority must be satisfied that—
    - (i) the applicant's primary production enterprise has sound prospects for commercial viability, and the applicant has the ability to service the loan, in the long term; and
    - (ii) the amount of the applicant's non-enterprise or liquid assets, other than insurance bonds and superannuation, is not more than the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions; and

*Editor's note—*

At the commencement of this section, the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions was stated on Centrelink's website at <[www.centrelink.gov.au](http://www.centrelink.gov.au)>.

- (iii) the applicant has taken reasonable precautions to minimise the effects of drought; and
- (iv) the drought has impacted adversely on the applicant's primary production enterprise, causing a financial need for the assistance.

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- (2) The Minister must notify each decision made by the Minister under subsection (1)(a)(ii) on the authority's website.

*Editor's note—*

The address of the authority's website is <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

## **6 Maximum term of loan**

The maximum term of a loan is 7 years.

## **7 Terms of repayment**

- (1) Repayment of principal and interest on a loan will be initially calculated using a period of up to 7 years.
- (2) An interest only period of not more than 2 years may be available.
- (3) A loan will have an initial interest rate that is fixed under section 8.

## **8 Interest rate**

- (1) The initial interest rate under the scheme for a loan to an applicant will be worked out when the applicant first draws down the loan or part of the loan.
- (2) The initial interest rate for the loan—
- (a) depends on whether the applicant decides to have the interest rate fixed for 1, 3 or 5 years when the applicant first draws down the loan or part of the loan; and
  - (b) is worked out by the authority based on the base lending rate for the relevant period.
- (3) The authority may, during the term of the loan, increase the interest rate from the interest rate mentioned in subsection (2) to a commercial rate.
- (4) If, under subsection (3), the authority decides to increase the interest rate because the applicant's financial capacity improves during the term of the loan, the authority may decide

the extent to which the interest rate for the loan is to increase—

- (a) in an annual review of the loan; and
  - (b) based on the improvement.
- (5) The authority may decide the extent to which the interest rate is to increase under subsection (4) more than once in relation to the applicant.
- (6) In this section—

*base lending rate* means the rate decided by the authority for each 6 month period in each year that is the 1, 3 or 5 year lending rate, as appropriate, of the Queensland Treasury Corporation, plus 1%.

## 9 Security

- (1) If an applicant is granted a loan under the scheme, the applicant must give security for the loan.
- (2) The security required is—
- (a) a mortgage of land or other assets, commensurate with the amount of the loan; or
  - (b) any other security the authority considers necessary, including, for example, a crop lien or stock mortgage.

## 10 Applications

- (1) An application for assistance under the scheme must be—
- (a) made on the application form approved by the authority; and
  - (b) accompanied by the documents stated on the application form; and
  - (c) given to the authority.
- (2) Applications must be made no later than the day decided by the Minister.

- (3) The Minister must notify each decision made by the Minister under subsection (2) on the authority's website.

*Editor's note—*

The address of the authority's website is <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

## **11 Deciding applications**

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

## **Schedule 5      Drought Recovery Scheme**

section 3

### **1      Definitions for sch 5**

In this schedule—

*crop materials* see section 3(a).

*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, forestry, grazing and horticultural industries; and
- (b) for which an entity holds an Australian Business Number.

### **2      Objective of scheme**

The objective of the scheme is to assist primary producers who are carrying on primary production enterprises in areas notified by the Minister under section 6(2) to recover from the impact of drought to which the notification relates.

### **3      Purpose of assistance**

The purpose of assistance under the scheme is to enable applicants—

- (a) to plant or invigorate crops by assisting them to buy chemicals, fertiliser, fuel, seed or seedlings (*crop materials*); and
- (b) to restock by assisting them to buy stock.

#### **4 Nature of assistance**

The nature of the assistance that may be given under the scheme is loans at concessional rates of interest.

#### **5 Maximum loan amounts**

- (1) The maximum amount of a loan, or total outstanding loan balance, under the scheme is \$200000.
- (2) If a loan is to assist with planting or invigorating crops—
  - (a) the maximum loan amount to buy crop materials is \$60000; and
  - (b) the loan will be limited to the cost of planting or invigorating a crop for an area that is the average of the areas planted for the previous 3 crops.
- (3) If the loan is for restocking, the maximum amount of a loan is—
  - (a) for buying breeding stock—\$200000; or
  - (b) for buying stock other than breeding stock—\$100000.

#### **6 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance under the scheme—
  - (a) the applicant must—
    - (i) be a primary producer; and
    - (ii) own or occupy land, and carry on a primary production enterprise on the land, in an area of a local government that the Minister decides is severely drought affected; and

- (iii) demonstrate that the current net value of the land is not greater than \$2m; and
  - (b) the authority must be satisfied that—
    - (i) the applicant's primary production enterprise has sound prospects for commercial viability, and the applicant has the ability to service the loan, in the long term; and
    - (ii) the applicant has exhausted all liquid assets and lines of credit the authority considers suitable; and
    - (iii) there is a financial need for the assistance.
- (2) The Minister must notify each decision made by the Minister under subsection (1)(a)(ii) on the authority's website.

*Editor's note—*

The address of the authority's website is <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

## **7 Maximum term of loan**

The maximum term of a loan is—

- (a) for buying crop materials—5 years; or
- (b) for buying stock—7 years.

## **8 Terms of repayment**

- (1) Repayment of principal and interest on a loan to a primary producer will be initially worked out—
  - (a) for buying crop materials—using a period of up to 5 years; or
  - (b) for buying stock—using a period of up to 7 years.
- (2) However, repayment of principal and interest on the loan will be tailored to the primary producer's individual requirements based on the producer's income patterns.
- (3) If a loan is to buy crop materials for planting or invigorating a crop, repayment of the loan must be made from proceeds of the sale of the crop and, if the authority decides, from proceeds of the sale of any subsequent crop.



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- (4) A loan will have an initial interest rate that is fixed under section 9.

## 9 Interest rate

- (1) The initial interest rate under the scheme for a loan to an applicant will be worked out when the applicant first draws down the loan or part of the loan.
- (2) The initial interest rate for the loan—
- (a) depends on whether the applicant decides to have the interest rate fixed for 1, 3 or 5 years when the applicant first draws down the loan or part of the loan; and
  - (b) is worked out by the authority based on the base lending rate for the relevant period.
- (3) The authority may, during the term of the loan, increase the interest rate from the interest rate mentioned in subsection (2) to a commercial rate.
- (4) If, under subsection (3), the authority decides to increase the interest rate because the applicant's financial capacity improves during the term of the loan, the authority may decide the extent to which the interest rate for the loan is to increase—
- (a) in an annual review of the loan; and
  - (b) based on the improvement.
- (5) The authority may decide the extent to which the interest rate is to increase under subsection (4) more than once in relation to the applicant.
- (6) In this section—
- base lending rate*** means the rate decided by the authority for each 6 month period in each year that is the 1, 3 or 5 year lending rate, as appropriate, of the Queensland Treasury Corporation, plus 1%.

## **10 Security**

- (1) If an applicant is granted a loan under the scheme, the applicant must give security for the loan.
- (2) The security required is—
  - (a) a mortgage of land or other assets, commensurate with the amount of the loan; or
  - (b) any other security the authority considers necessary, including, for example, a crop lien or stock mortgage.

## **11 Applications**

- (1) An application for assistance under the scheme must be—
  - (a) made on the application form approved by the authority; and
  - (b) accompanied by the documents stated on the application form; and
  - (c) given to the authority.
- (2) Applications must be made no later than the day decided by the Minister.
- (3) The Minister must notify each decision made by the Minister under subsection (2) on the authority's website.

*Editor's note—*

The address of the authority's website is <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

## **12 Deciding applications**

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

## **13 Payment**

- (1) This section applies to the authority making payments to—
  - (a) a primary producer who is receiving assistance under the scheme; or

- (b) a person from whom the producer has bought crop materials or stock.
- (2) Payment may be made only if the primary producer gives the authority an invoice or receipt as evidence for the amounts to be paid.

## Schedule 6      **Small Business Emergency Assistance Scheme**

section 3

### 1      **Definitions for sch 6**

In this schedule—

*Commonwealth Act* means the *Rural Adjustment Act 1992* (Cwlth).

*EC declaration* means a declaration under the Commonwealth Act of an area as an area undergoing exceptional circumstances.

*Editor's note*—

At the commencement of this section, information about the declaration and declared area was available on the Australian Government Department of Agriculture, Fisheries and Forestry website at <[www.daff.gov.au](http://www.daff.gov.au)>.

*small business* see section 2.

### 2      **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) 100 full-time employees of the business; or
    - (ii) if the business has employees other than full-time employees—100 equivalent full-time employees of the business.
- (2) For subsection (1)(b), the number of equivalent full-time employees of a business must be 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.

### 3 Objective of scheme

(1) The objective of the scheme is to assist small business owners to meet operating and other essential costs if the business enterprise is—

- (a) located in, adjacent to or dependent on, an EC area; or
- (b) affected by another significant event decided by the Minister.

(2) In this section—

*EC area* means an area declared under an EC declaration.

### 4 Nature of assistance

The nature of the assistance that may be given under the scheme is an interest subsidy for new or existing commercial loans.

### 5 Maximum subsidy amount

(1) Subject to subsection (5), the maximum interest subsidy that may be given for a loan is \$10000 a year for each EC period.

- (2) The interest subsidy will be not more than 50% of the interest payable on new or existing loans for the period of the assistance, if the lender's rate is competitive for the loan being subsidised.
- (3) Payment of the interest subsidy will be made in advance to the commercial lender for not more than 1 year and then be subject to a second year review.
- (4) If under the EC declaration, assistance may be given for more than 2 EC periods, an interest subsidy may be applied for and given for each additional EC period.
- (5) Any subsidies already given under the small business drought assistance scheme must be deducted from the amount mentioned in subsection (1).

- (6) In this section—

*EC period* means a period, that is 1 year or less, for which an EC declaration applies and for which assistance may be given under the scheme.

*small business drought assistance scheme* means the scheme set out in schedule 8.

## 6 Eligibility criteria

For an applicant to be eligible to receive assistance—

- (a) the applicant must—
  - (i) own (whether as sole owner, in partnership or as a private company) and operate a small business; and
  - (ii) demonstrate that the applicant has owned and operated the business for at least 2 years; and
  - (iii) ordinarily obtain the applicant's major source of income from the business enterprise; and
  - (iv) demonstrate a need for the assistance; and
  - (v) provide evidence that the need for the assistance is related to the effect of the exceptional circumstances or other significant event decided under section 3(1)(b); and

- (b) the authority must be satisfied that the business enterprise has sound prospects of commercial viability given normal conditions.

## **7 Applications**

- (1) An application for assistance must be—
  - (a) made on the application form approved by the authority; and
  - (b) accompanied by the documents stated on the application form; and
  - (c) given to the authority.
- (2) If drought is the main cause of the need for assistance—
  - (a) the application must be made not later than 6 months after the EC declaration is revoked under the Commonwealth Act; and
  - (b) if the application is made within 6 months after the revocation, assistance may be given for up to 1 year.

## **8 Deciding applications**

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

## Schedule 7      Exceptional Circumstances Scheme

### section 3

#### 1      Definitions for sch 7

In this schedule—

***carry-on finance*** means an amount used for the day to day operating expenses of a primary producer's business, other than for acquisition of capital for the business.

***Commonwealth Act*** means the *Rural Adjustment Act 1992* (Cwlth).

***EC area*** means an area declared under an EC declaration.

*Editor's note—*

At the commencement of this section, information about the declaration and declared area was available on the Australian Government Department of Agriculture, Fisheries and Forestry website at <[www.daff.gov.au](http://www.daff.gov.au)>.

***EC declaration*** means a declaration under the Commonwealth Act of an area as an area undergoing exceptional circumstances.

***EC period*** means a period, that is 1 year or less, for which an EC declaration applies and for which assistance may be given under a rural adjustment scheme.

***exceptional circumstances*** means circumstances that have detrimentally affected a primary producer's income, leading to financial difficulty.

***Newstart Allowance*** means the Newstart Allowance administered by Centrelink.

*Editor's note—*

At the commencement of this section, information about the allowance was stated on Centrelink's website at <[www.centrelink.gov.au](http://www.centrelink.gov.au)>.



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*primary production enterprise* means a business that involves primary production, including the agricultural, apicultural, aquacultural, forestry, grazing and horticultural industries.

*rural adjustment scheme* means a Rural Adjustment Scheme within the meaning of the Commonwealth Act.

## 2 Objectives of scheme

- (1) The objectives of the scheme are—
  - (a) to assist affected primary producers if, had exceptional circumstances not happened, the primary production enterprises carried on by the producers would have long-term prospects of profitability and sustainability; and
  - (b) to assist affected primary producers to recover from the effects of exceptional circumstances.
- (2) In this section—

*affected primary producer* means a primary producer who is carrying on a primary production enterprise in an EC area.

## 3 Purpose of assistance

The purpose of assistance under this scheme is to facilitate 1 or more of the following strategies—

- (a) improvements in productivity, including for recovery purposes;
- (b) the provision of carry-on finance;
- (c) debt restructuring.

## 4 Nature of assistance

The nature of the assistance that may be given is an interest subsidy for new or existing loans for primary production enterprises.

## **5 Level of assistance**

- (1) The level of assistance to be given to a primary producer must be decided by the extent of assistance needed for the strategies mentioned in section 3.
- (2) The interest subsidy given to a primary producer in the first EC period must be not more than 50% of the eligible interest.
- (3) The interest subsidy given to a primary producer in the second or a subsequent EC period must be not more than 80% of the eligible interest.
- (4) The level of assistance to be given to a primary producer must be decided from—
  - (a) the budgets from the producer's enterprise that allow for financial demands on the enterprise appropriate to the exceptional circumstances; and
  - (b) an assessment of the living expenses for the primary producer's household against the Newstart Allowance rate relevant to the applicant.
- (5) In deciding the amount of subsidy to be given to a primary producer, the authority must take into account the level of assistance the producer has already received under a rural adjustment scheme.
- (6) The amount of interest subsidy payable to a primary producer must not result in the producer receiving, under a rural adjustment scheme, more than—
  - (a) \$100000 in any 1 year period; or
  - (b) a cumulative total of \$500000 in the previous 5 year period.
- (7) If a primary producer has purchased additional farming property during the exceptional circumstances, the authority, in deciding the level of loans to be supported for an initial interest subsidy, must deduct the full cost of the purchase from the balance of the existing loans unless the purchase was made more than 1 year before the producer lodged an application for assistance.

- 
- (8) Any loans or associated costs already subsidised under any other Commonwealth scheme must not be considered for support.
- (9) In this section—
- eligible interest* means the interest payable on, and associated costs of, the loans for which an interest subsidy is sought.

## **6 Period of assistance**

- (1) The period for which an interest subsidy is given is to be decided in each case by the authority.
- (2) The period will be not more than 1 year for each application.

## **7 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance, the applicant must satisfy the criteria stated in subsection (2) and the authority must be satisfied of the matters stated in subsection (3).
- (2) The applicant must—
- (a) be a primary producer to whom an EC declaration applies; and
  - (b) own or occupy land, and carry on a primary production enterprise on the land, in the EC area or the buffer zone declared under the EC declaration; and
  - (c) demonstrate that, under normal circumstances, the applicant occupies the land and—
    - (i) spends at least 75% of the applicant's labour on the enterprise; and
    - (ii) obtains at least 50% of the applicant's income from the enterprise; and
  - (d) demonstrate that the applicant has been a primary producer for at least 2 years; and
  - (e) demonstrate that the enterprise is in financial difficulty because of the exceptional circumstances; and

- (f) for the applicant to be eligible to receive a cumulative total of \$300000 or more—demonstrate that the enterprise is viable by having a business assessment of the enterprise carried out by a suitably qualified assessor who—
  - (i) does not have a financial interest in the enterprise; and
  - (ii) has not had professional dealings with the enterprise in the 5 years immediately before the assessment is carried out.
- (3) The authority must be satisfied that—
  - (a) the primary production enterprise is in financial difficulty because of the exceptional circumstances; and
  - (b) the assistance is necessary to achieve 1 or more of the strategies mentioned in section 3; and
  - (c) without the assistance, the enterprise would not have the capacity to achieve or maintain commercial viability; and
  - (d) the applicant has—
    - (i) on commercial terms, disposed of—
      - (A) all non-essential farm assets; and
      - (B) off-farm assets, so that the net value of off-farm assets is not more than the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions; and

*Editor's note—*

At the commencement of this section, the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions was stated on Centrelink's website at <[www.centrelink.gov.au](http://www.centrelink.gov.au)>.

- (ii) applied the proceeds to the enterprise (unless this would result in extreme hardship to the applicant); and

- 
- (e) each loan for which the interest subsidy is sought is given—
    - (i) on commercial terms at arm's length; and
    - (ii) at an interest rate that is competitive with the rate generally applicable to loans of the same type; and
  - (f) for the applicant to be eligible to receive a cumulative total of \$300000 or more—the enterprise is viable.
- (4) In deciding whether the primary production enterprise is in financial difficulty, the authority—
- (a) must consider each of the following—
    - (i) the total amount of interest payable each year;
    - (ii) the estimated surplus over the medium term;
    - (iii) the applicant's equity in the enterprise in relation to the amount of current and future indebtedness, together with both farm and off-farm assets and income; and
  - (b) must disregard the applicant's ability to purchase additional farming property during the exceptional circumstances.
- (5) In assessing the likelihood of the primary production enterprise being profitable in the long term, the authority must take account of each of the following—
- (a) the expected future capacity of the enterprise to operate profitably (without assistance under the rural adjustment scheme) as measured by its ability to meet, from estimated surpluses, its future financial commitments for each of the following—
    - (i) its operating costs;
    - (ii) living costs of the farm family;
    - (iii) servicing of the enterprise debts;
    - (iv) future capital requirements for plant and improvements;

- (v) investment requirements to return the enterprise to profitability;
  - (b) the long-term economic trends impacting on the enterprise;
  - (c) the applicant's demonstrated technical, financial and business management performance;
  - (d) the provision of financial support for the enterprise by lenders during and after the exceptional circumstances.
- (6) In assessing whether the enterprise is viable, the authority must consider the results and the circumstances of the business assessment carried out by the suitably qualified assessor.
- (7) A primary producer not receiving assistance in a particular EC period may be eligible for assistance in a subsequent EC period.
- (8) In this section—
- suitably qualified assessor***, to carry out a business assessment of an applicant's enterprise—
- (a) generally, means a person who—
    - (i) has financial qualifications that enable the person to carry out the business assessment; and
    - (ii) is a member of a professional association whose members normally provide financial advice; and
  - (b) for an applicant for whom it is not reasonably practical to engage a person mentioned in paragraph (a) because the applicant's residence is not located near a populated area, means 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.

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## 8 Applications

- (1) An application for assistance must be—
  - (a) made on the application form approved by the authority; and
  - (b) accompanied by the documents stated on the application form; and
  - (c) given to the authority.
- (2) Applications must be made no later than 28 days after the EC period for which the assistance is sought ends.
- (3) If a primary producer has received an interest subsidy (the *first subsidy*), the primary producer may apply for a further interest subsidy no earlier than 3 months before the period for which the first subsidy was given ends.
- (4) If a primary producer has received an interest subsidy (also the *first subsidy*) in an EC period, the primary producer may make a further application for assistance in the EC period only if—
  - (a) the application relates to debt incurred in relation to carry-on finance provided to the primary producer after the primary producer received the first subsidy; and
  - (b) the application is made on a pro rata basis taking into account the amount of interest subsidy already paid to the primary producer in the EC period and the proportion of the EC period remaining.
- (5) Subsection (3) does not apply to an application mentioned in subsection (4).

## 9 Deciding applications

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

## 10 Terms and conditions

- (1) The giving of assistance in a particular EC period does not guarantee assistance in a subsequent EC period.

Schedule 7

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- (2) Payment of an interest subsidy for a loan will be made—
  - (a) to the lender on behalf of the primary producer receiving the assistance; or
  - (b) directly to the primary producer, after the authority has secured agreement from the producer as to the use of the assistance.
- (3) Any subsidies already given by the Commonwealth, or under a state assistance scheme, on loans or associated costs must be deducted from the amounts mentioned in section 5(6).



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# Schedule 8      Small Business Drought Assistance Scheme

section 3

## Part 1                      Preliminary

### 1            Definitions for sch 8

In this schedule—

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

***application*** means an application for financial assistance under the scheme.

***business turnover*** see section 2.

***EC area*** means an area declared under an EC declaration.

*Editor's note—*

At the commencement of this section, information about the declaration and declared area was available on the Australian Government Department of Agriculture, Fisheries and Forestry website at <[www.daff.gov.au](http://www.daff.gov.au)>.

***EC declaration*** means a declaration under the *Rural Adjustment Act 1992* (Cwlth) of an area as an area undergoing exceptional circumstances.

***EC period*** means a period, that is 1 year or less, for which an EC declaration applies and for which assistance may be given under a rural adjustment scheme.

***exceptional circumstances*** means unusual climatic conditions or another event that—

- (a) causes a rare and severe decrease in a farm entity's income for at least 1 year, leading to financial difficulty; and
- (b) can not be anticipated or managed as part of the farm entity's normal risk management strategies; and

- (c) is a discrete event and not part of long-term restructuring of businesses or of normal fluctuations in the price of goods.

*Example of unusual climatic conditions—*

extended severe drought conditions

***farm entity*** means an entity solely or mainly engaged in a farming enterprise.

***farming enterprise*** means a farming business that involves primary production, including, for example, the agricultural, apicultural, aquacultural, horticultural or pastoral industries.

***owner***, of a small business, includes a lessee or operator of the small business.

***relevant town*** means a town in the State that—

- (a) has a population of less than 10000; and
- (b) is located in an EC area; and
- (c) the authority is satisfied substantially relies on farming enterprises to support its economy.

***rural adjustment scheme*** means a Rural Adjustment Scheme within the meaning of the *Rural Adjustment Act 1992* (Cwlth).

***scheme*** means the scheme set out in this schedule.

***scheme strategy*** see section 5.

***small business*** see section 3.

## 2 Meaning of ***business turnover***

- (1) The ***business turnover*** for a business is the amount of goods and services the business supplies, or is likely to supply, for the year ending on the last day of the month in which the owner of the business applies for financial assistance under the scheme.
- (2) The following amounts are not to be included for working out the amount of goods and services supplied, or likely to be supplied—
  - (a) GST charged on the goods or services;

- (b) any goods or services supplied that are not connected with the business;

*Example—*

the sale by the owner of a small business of personally owned goods

- (c) amounts obtained from the transfer of capital assets, including, for example, the sale of assets owned by the business.
- (3) The business activity statements prepared for a business for the period mentioned in subsection (1) may be used to work out the amount of goods and services the business supplied in the period.
- (4) However, if the authority decides a different method is appropriate for working out the gross sales for a business in the period, the amount worked out by the authority is the ***business turnover*** for the business.

### 3 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) 100 full-time employees of the business; or
- (ii) if the business has employees other than full-time employees—100 equivalent full-time employees of the business.
- (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.

## Part 2                      General provisions for scheme

### 4                      Objective of scheme

The objective of the scheme is to assist owners of small businesses if—

- (a) the businesses are dependent on farming enterprises; and
- (b) the business turnover for the businesses has been detrimentally affected by exceptional circumstances; and
- (c) the businesses would have had long-term prospects of viability had exceptional circumstances not happened.

### 5                      Purpose of assistance

The purpose of assistance under the scheme is to facilitate 1 or more of the following strategies (each a *scheme strategy*)—

- (a) improvements in business viability;
- (b) business continuity;
- (c) debt restructuring.

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**6 Nature of assistance**

The nature of the assistance that may be given under the scheme is an interest subsidy for new or existing commercial loans.

**7 Level of assistance**

- (1) The level of assistance to be given to the owner of a small business must be decided—
  - (a) by the extent of assistance needed for the scheme strategies; and
  - (b) from the budgets for the small business that allow for financial demands on the business appropriate to the exceptional circumstances.
- (2) The total interest subsidy given under the scheme to the owner of a small business must not be more than 80% of the interest payable on, and associated costs of, the loans for which the subsidy is sought.
- (3) The interest subsidy given under the scheme to the owner of a small business for the first EC period, in relation to an EC area declared after 6 November 2006, must not be more than 50% of the interest payable on, and associated costs of, loans for which the subsidy is sought in the period.
- (4) The interest subsidy given under the scheme to the owner of a small business for the second or subsequent EC period must not be more than 80% of the interest payable on, and associated costs of, the loans for which the subsidy is sought in the period.
- (5) In deciding the level of loans to be supported for an initial interest subsidy given under the scheme to the owner of a small business, the authority may deduct the full cost of a capital purchase from the balance of the existing loans if—
  - (a) for a small business that derives 70% or more of its business turnover from providing goods or services to farming enterprises in an EC area or part of an EC area—the capital purchase was made after 6 November 2006; or

- (b) for a small business in a relevant town, other than a small business mentioned in paragraph (a)—the capital purchase was made after 24 September 2007.
- (6) Subject to subsection (8), the amount of interest subsidy payable to an applicant who has 1 or more small businesses must not result in the applicant receiving under the scheme a total of more than—
  - (a) \$100000 in any 1 year period; or
  - (b) if an EC period is less than 1 year—the proportion of \$100000 that is equivalent to the proportion of the EC period.
- (7) Any subsidies already given by the Commonwealth, or under the small business emergency assistance scheme or the exceptional circumstances scheme, on loans or associated costs must be deducted from the amounts mentioned in subsection (6).
- (8) Assistance under the scheme is not payable in relation to any loans or associated costs for which the Commonwealth has given, or is giving, any other subsidy.
- (9) In this section—
  - exceptional circumstances scheme* means the scheme set out in schedule 7.
  - small business emergency assistance scheme* means the scheme set out in schedule 6.

## **8 Period of assistance**

- (1) The period for which an interest subsidy is given is not more than 1 year for each application.
- (2) A maximum of 2 tranches of interest subsidy (1 in the first EC period and 1 in the second EC period) may be given.

## **9 Eligibility criteria**

- (1) For an applicant to be eligible to receive assistance, the applicant must satisfy the criteria stated in subsection (2) and

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the authority must be satisfied of the matters stated in subsection (3).

- (2) The applicant must—
- (a) own (whether as sole owner, in partnership or as a private company) and operate a small business; and
  - (b) demonstrate that the applicant has owned the small business for at least 2 years; and
  - (c) demonstrate that—
    - (i) the small business derives 70% or more of its business turnover from providing goods or services to farming enterprises in an EC area or part of an EC area; or
    - (ii) the small business is located in a relevant town and is dependant on farming enterprises for all or part of its business turnover; and
  - (d) demonstrate that, under normal circumstances—
    - (i) the applicant or, for a private company, its shareholders, spend at least 75% of their labour on the small business or, if the applicant is also an owner of a farming enterprise, spend at least 75% of their labour on the small business and the farming enterprise; and
    - (ii) the applicant obtains at least 50% of the applicant's total business turnover from the small business; and
  - (e) demonstrate that the small business is in financial difficulty because of the impact of exceptional circumstances on farming enterprises in an EC area.
- (3) The authority must be satisfied that—
- (a) the assistance is necessary to achieve 1 or more of the scheme strategies; and
  - (b) without the assistance, the small business would not have the capacity to achieve or maintain long-term viability; and

- (c) the applicant has—
    - (i) on commercial terms, disposed of—
      - (A) all non-essential business assets; and
      - (B) non-business assets, so that the net value of non-business assets is not more than the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions; and
    - Editor's note—*

At the commencement of this section, the assets test limit for homeowners—couple (combined) for all Centrelink allowances and full pensions was stated on Centrelink's website at <[www.centrelink.gov.au](http://www.centrelink.gov.au)>.
    - (ii) applied the proceeds to the small business (unless this would result in extreme hardship to the applicant); and
  - (d) each loan for which the interest subsidy is sought is given—
    - (i) on commercial terms at arm's length; and
    - (ii) at an interest rate that is competitive with the rate generally applicable to loans of the same type; and
  - (e) under normal circumstances the applicant obtains at least 50% of the applicant's total business turnover from the small business.
- (4) In deciding whether the small business is in financial difficulty, the authority must consider each of the following—
    - (a) the total amount of interest payable each year;
    - (b) the estimated surplus over the medium term;
    - (c) the applicant's equity in the small business in relation to the amount of current and future indebtedness, together with both business and non-business assets and income.
  - (5) In assessing the likelihood of the small business being viable in the long term, the authority must take account of each of the following—



- 
- (a) the expected future capacity of the small business to operate profitably (without assistance under a rural adjustment scheme) as measured by its ability to meet, from estimated surpluses, its future financial commitments for each of the following—
    - (i) its operating costs;
    - (ii) living costs of the applicant's family;
    - (iii) servicing of the small business's debts;
    - (iv) future capital requirements for plant and improvements;
    - (v) investment requirements to make the small business viable;
  - (b) the long-term economic trends impacting on the small business;
  - (c) the applicant's demonstrated technical, financial and business management performance;
  - (d) the provision of financial support for the small business by lenders during and after the exceptional circumstances.
- (6) The owner of a small business not receiving assistance in a particular EC period may be eligible for assistance in a subsequent EC period.

## 10 Terms

- (1) The giving of assistance in a particular EC period does not guarantee assistance in a subsequent EC period.
- (2) Payment of an interest subsidy for a loan will be made—
  - (a) after the authority has secured agreement from the owner of the small business receiving the assistance that the assistance will be used only for the purpose of a scheme strategy; and
  - (b) after the owner of the small business and the lender have agreed to the terms of the assistance under the scheme; and

- (c) subject to any other terms decided by the authority.
- (3) An interest subsidy for a loan will be paid—
  - (a) to the lender on behalf of the owner; or
  - (b) directly to the owner.
- (4) An owner of a small business receiving assistance under the scheme may continue to receive assistance only if the owner complies with the terms of the assistance.

## 11 Applications

- (1) An application for assistance must be—
  - (a) made on the application form approved by the authority; and

*Editor's note—*

At the commencement of this section, a copy of the application form was available on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

  - (b) accompanied by the documents stated on the application form; and
  - (c) given to the authority.
- (2) Applications must be made no later than 28 days after the EC period for which the assistance is sought ends.
- (3) If an owner of a small business has received an interest subsidy (the ***first subsidy***), the owner of a small business may apply for a further interest subsidy no earlier than 3 months before the period for which the first subsidy was given ends.
- (4) If the owner of a small business has received an interest subsidy (also the ***first subsidy***) under the scheme in an EC period, the owner may make a further application for assistance in the EC period only if—
  - (a) the application relates to debt incurred in relation to carry-on finance provided to the owner after the owner received the first subsidy; and
  - (b) the application is made on a pro rata basis taking into account the amount of interest subsidy already paid to

the owner in the EC period and the proportion of the EC period remaining.

- (5) Subsection (3) does not apply to an application mentioned in subsection (4).
- (6) In this section—

*carry-on finance* means an amount used for the day to day operating expenses of a small business, other than for the acquisition of capital for the business.

## **12 Deciding applications**

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

## **Schedule 9      Special Disaster Flood Assistance (November 2010 to January 2011) Scheme**

section 3

### **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 3 January 2011, assistance to eligible business 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 business 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 business entities for loss of income suffered because of the flood event.

#### **3                      Definitions for sch 9**

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 business entity* means a primary producer or small business eligible for assistance under the scheme.

*flood event* means the floods, caused by heavy rains in Queensland between November 2010 and January 2011, that

have affected the prescribed (November 2010 to January 2011) flood 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.ema.gov.au](http://www.ema.gov.au)>.

***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 (November 2010 to January 2011) flood 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 (November 2010 to January 2011) flood disaster area is published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

***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 under 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 eligible business entities clean and restore their small businesses or primary production enterprises that have suffered direct damage caused by the flood event.

Schedule 9

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- (2) In particular, assistance may be provided under the scheme to help an eligible business entity 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 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 entity, if the payment is more than the wages that would ordinarily have been paid to the employee.

## **6 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 applicant's primary production enterprise is located in the prescribed (November 2010 to January 2011) flood 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 (November 2010 to January 2011) flood disaster area; and
- (f) the authority is satisfied the applicant intends to re-establish the primary production enterprise.

## **7 Eligibility criteria—small business**

An applicant is eligible for assistance under the scheme if—

- (a) the applicant owns (whether as sole owner, in partnership or as a private company) a small business; and
- (b) the applicant's small business has suffered direct damage as a result of the flood event; and
- (c) the small business is located in the prescribed (November 2010 to January 2011) flood 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 (November 2010 to January 2011) flood disaster area; and
- (f) the authority is satisfied the applicant intends to re-establish the small business.

## **8 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 9 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 small business or primary production enterprise.
- (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 hardship, is necessary for cleaning and restoring the small business.

## **9 Financial hardship**

- (1) To demonstrate financial hardship for section 8(1)(b), an application for assistance must be accompanied by—

- 
- (a) evidence that the applicant is the holder of a health care card under the *Social Security Act 1991* (Cwlth); or
  - (b) 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 continuation of the applicant's primary production enterprise or small business 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)(b); and
  - (ii) is a member of a professional association whose members normally provide financial advice; 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.

## 10 Amount of assistance

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

*Note—*

See section 12 for special circumstances in which an applicant may be given more than the stated maximum amount.

## **11 Conditions**

- (1) An applicant may apply for assistance under the scheme in the applicant's capacity as a primary producer or a small business, but not both.
- (2) Payment of assistance under the scheme is subject to the following conditions—
  - (a) an applicant must, until 31 January 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 or small business 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 applicant under the scheme have been used in accordance with the claim for assistance.
- (3) Payment of assistance under the scheme is subject to any other conditions decided by the authority, including, for example, conditions requiring the applicant to give to the authority the following—
  - (a) evidence of the direct damage in relation to which an application is made;

- 
- (b) evidence that the majority of the applicant's income is derived from the applicant's primary production enterprise or small business.

## 12 Special provision for particular applications

- (1) This section applies if—
  - (a) an eligible business entity operates more than 1 business or primary production enterprise (each a *separate business*) at separate locations; and
  - (b) the authority is satisfied a separate business is a commercial entity that would be a commercially viable and autonomous business (an *eligible separate business*) if other businesses operated by the eligible business entity ceased to operate.
- (2) The eligible business 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 10, the maximum amount of assistance that may be given for each eligible separate business 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 business;
  - (b) whether the business has its own plant, equipment or stock;
  - (c) the accounting and insurance arrangements of the business;
  - (d) whether the business operates under its own trading name.
- (5) Subsection (4) does not limit the matters to which the authority may have regard.

### **13 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 a primary production enterprise or small business 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 or small business.

### **14 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 31 January 2012.

### **15 Deciding applications**

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

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# Schedule 10      **Special Disaster Floods (November 2010 to January 2011) Non-profit Organisations Assistance Scheme**

section 3

## 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 16 February 2011, 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 10

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

***flood event*** means the floods, caused by heavy rains in Queensland between November 2010 and January 2011, that have affected the prescribed (November 2010 to January 2011) flood 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.ema.gov.au](http://www.ema.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 (November 2010 to January 2011) flood 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 (November 2010 to January 2011) disaster area is published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

*scheme* means the scheme set out in this schedule.

## Part 2                      General provisions for scheme

### 4                      Nature of assistance

- (1) The nature of the assistance under the scheme is the provision of a grant to help an eligible entity clean and restore its 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 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;

- (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.

## **5 Applicant must not have applied for assistance under sch 9 or repealed regulation, pt 29**

An applicant can not apply for assistance under the scheme if the applicant has applied for assistance under schedule 9 or the repealed regulation, part 29.

## **6 Eligibility criteria**

- (1) 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 (November 2010 to January 2011) flood 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 part of the prescribed (November 2010 to January 2011) flood 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.
- (2) However, an applicant is not eligible for assistance under the scheme—
    - (a) for loss of income as a result of the flood event; or
    - (b) 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.
  - (3) 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.

## 7 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 8 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 means for conducting its operations.
- (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 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 hardship, is necessary for cleaning and restoring the applicant's means for conducting its operations.

## **8 Financial hardship**

- (1) To demonstrate financial hardship for section 7(1)(b), an application for assistance must be accompanied by 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 ability to conduct non-profit activities 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.

## **9 Amount of assistance**

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

*Note—*

See section 11 for special circumstances in which an applicant may be given more than the stated maximum amount.

## **10 Conditions**

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

- (a) an applicant must, until 31 January 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 means for conducting its operations 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 applicant under the scheme have been used in accordance with the claim for assistance.

## 11 Special provision for particular applications

- (1) This section applies if—
  - (a) an eligible entity 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 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 9, 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;
  - (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.

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**12 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 a means for conducting its operations 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 non-profit organisation.

**13 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 31 January 2012.
- (3) The authority may request that an applicant provide further relevant information required to decide the application.

**14 Deciding applications**

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

# **Schedule 11      Floods (November 2010 to January 2011) and Tropical Cyclone Yasi Non-profit Organisations Assistance Scheme**

section 3

## **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 16 February 2011, assistance to eligible entities that have suffered direct damage caused by the disaster 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 disaster event.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered as a result of the disaster event.

### **3                      Definitions for sch 11**

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*.

*disaster event* means—



- (a) the floods, caused by heavy rains in Queensland between November 2010 and January 2011, that have affected the prescribed disaster area; or
- (b) Tropical Cyclone Yasi.

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

***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.ema.gov.au](http://www.ema.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 disaster event; and
- (b) described in documents held by the authority and available for inspection by members of the public.

*Editor's note—*

The documents describing the prescribed disaster area are 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—

- 
- (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 disaster 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 disaster 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 disaster 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 disaster event; and

*Example—*

The applicant has adequate insurance against loss or damage from the disaster 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—

- (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 31 January 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.

## **Schedule 12      Floods (November 2010 to January 2011) and Tropical Cyclone Yasi (Extreme Damage) Assistance Scheme**

section 3

### **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 16 February 2011, assistance to an eligible entity to pay the costs of re-establishing its normal operations arising out of direct extreme damage caused by the disaster event if the eligible entity is—

- (a) a primary producer whose primary production enterprise is essential to economic supply chains or regional employment; or
- (b) a business owner whose business is essential to economic supply chains or regional employment; or
- (c) a non-profit organisation.

#### **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 extreme damage caused by the disaster event.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered because of the disaster event.

### 3 Definitions for sch 12

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*.

***business*** means a business—

- (a) that is operating commercially in other than a primary production industry; and
- (b) for which an entity holds an Australian Business Number; and
- (c) for which an entity is registered under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth); and
- (d) that is not operated by a public company.

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

***disaster event*** means—

- (a) the floods, caused by heavy rains in Queensland between November 2010 and January 2011, that have affected the prescribed disaster area; or
- (b) Tropical Cyclone Yasi.

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

- (a) a primary producer;
- (b) a business owner;

- (c) a non-profit organisation.

***extreme damage*** means damage to the assets of an entity to an extent that any prescribed assistance available or made available to the entity is inadequate to provide reasonable prospects of the entity re-establishing viability or normal operations.

***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.ema.gov.au](http://www.ema.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) plays a significant role in supporting the local 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 assistance** means assistance available or made available to an entity under—

- (a) schedule 2, 3, 9, 10, 11 or 13 or the repealed regulation, schedule, part 11, 12, 29, 30, 31 or 33 (each a **relevant provision**); or
- (b) if the assistance is available or made available to the entity under more than 1 relevant provision—each relevant provision under which the assistance is available or made available to the entity.

**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 disaster event; and
- (b) described in documents held by the authority and available for inspection by members of the public.

*Editor's note—*

The documents describing the prescribed disaster area are published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

**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 (within the ordinary meaning of the term)—

- (a) that involves primary production, including, for example, the agricultural, aquacultural, horticultural or pastoral industries; and

- (b) for which an entity holds an Australian Business Number; and
- (c) for which an entity is registered under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

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

**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 to an eligible entity is the provision of a concessional loan and a grant for—

- (a) repairing or replacing damaged plant and equipment; or
- (b) repairing or replacing buildings; or
- (c) supplying stock for up to 1 month to replace lost stock and maintain liquidity of the primary production enterprise, business or non-profit organisation; or
- (d) purchasing livestock to replace livestock lost in the disaster event; or
- (e) meeting requirements for carrying on production, including—
  - (i) replanting, restoring or re-establishing areas affected by the disaster event; or
  - (ii) sustenance; or
  - (iii) essential property operations; or
  - (iv) paying rent or rates.

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**5 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) business owner;
- (c) non-profit organisation.

**6 Eligibility criteria—primary producer and business owner**

An applicant is eligible for assistance under the scheme if—

- (a) the applicant is a primary producer or business owner; and
- (b) the applicant has suffered direct extreme damage to a property, buildings, plant, equipment or stock as a result of the disaster event; and
- (c) the applicant's primary production enterprise or business is located in the prescribed disaster area; and
- (d) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
- (e) the applicant has taken reasonable precautions to avoid or minimise loss or damage from the disaster; and

*Example—*

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

- (f) with assistance under the scheme, the applicant has reasonable prospects of re-establishing the applicant's primary production enterprise or business on a viable basis; and
- (g) the primary production enterprise or business is essential to economic supply chains or regional employment.

**7 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 has suffered direct extreme damage to a property, buildings, plant, equipment or stock as a result of the disaster event; and
- (c) the property, buildings, plant, equipment and stock were located in the prescribed disaster area at the time of the disaster event; and
- (d) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
- (e) the applicant has taken reasonable precautions to avoid or minimise loss or damage from the disaster; and

*Example—*

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

- (f) the applicant is responsible for the cost of repairing or replacing the property, buildings, plant, equipment or stock; and
- (g) the applicant demonstrates the ability to repay the loan applied for.

## **8 Restriction on eligibility**

A public company, whether acting alone or with another company, is not eligible for assistance under the scheme.

## **9 Maximum loan and grants amounts**

- (1) Assistance under the scheme is by way of both a loan and a grant.
- (2) The maximum amount of assistance that may be given to an applicant under the scheme as a loan and grant for a disaster event is \$650000 inclusive of any amount received, or approved for receipt, by the applicant in relation to the disaster event under any of the following provisions—
  - (a) schedule 2, 3 or 11; or
  - (b) the repealed regulation, schedule, part 11, 12 or 31.

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- (3) However, the maximum amount of the grant is the lesser of the following—
- (a) 25% of the total amount of the loan and grant;
  - (b) \$50000.

## 10 Security

A loan under the scheme must be secured by—

- (a) a mortgage over land or other assets satisfactory to the authority; and
- (b) any other security the authority considers necessary, including, for example, a bill of sale, crop lien, livestock mortgage or a fixed and floating charge.

## 11 Terms of repayment

- (1) The maximum term of a loan to an applicant under the scheme is 10 years.
- (2) 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.

- (3) For the first 2 years of the loan, no interest is charged on the loan and no loan principal repayments are required.
- (4) Subject to subsection (5), principal and interest amounts to repay the loan within its approved term will be calculated from the start of the third year of the loan.
- (5) The authority may grant to the applicant an interest only period of up to 2 years for the loan if the applicant satisfies the authority that the period is required.

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

### **13 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 31 January 2012.
- (3) The authority may request that an applicant provide further relevant information required to decide the application.

### **14 Deciding applications**

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

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# Schedule 13      **Special Disaster Tropical Cyclone Yasi Assistance Scheme**

section 3

## 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 16 February 2011, assistance to eligible entities that have suffered direct damage caused by Tropical Cyclone Yasi.

### 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 Tropical Cyclone Yasi.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered because of Tropical Cyclone Yasi.

### 3                      **Definitions for sch 13**

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;

- (c) a non-profit organisation.

***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.ema.gov.au](http://www.ema.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 Tropical Cyclone Yasi 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 Tropical Cyclone Yasi; 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 Tropical Cyclone Yasi disaster area is published on the authority's website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

***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; and
- (c) for which an entity is registered under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth).

***scheme*** means the scheme under 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.

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*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 or small business—clean and restore its primary production enterprise or small business that has suffered direct damage caused by Tropical Cyclone Yasi; or
  - (b) 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 Tropical Cyclone Yasi.
- (2) In particular, assistance may be provided under the scheme to help an eligible entity that is a primary producer or small business 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;
- (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;
- (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 Tropical Cyclone Yasi; and
- (c) the applicant's primary production enterprise is located in the prescribed Tropical Cyclone Yasi 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 Tropical Cyclone Yasi disaster area; and
- (f) the authority is satisfied the applicant intends to re-establish the primary production enterprise.

## **8 Eligibility criteria—small business**

An applicant is eligible for assistance under the scheme if—

- (a) the applicant owns (whether as sole owner, in partnership or as a private company) a small business; and
- (b) the applicant's small business has suffered direct damage as a result of Tropical Cyclone Yasi; and
- (c) the small business is located in the prescribed Tropical Cyclone Yasi 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 Tropical Cyclone Yasi 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 Tropical Cyclone Yasi; and
- (c) the applicant is located in the prescribed Tropical Cyclone Yasi 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 part of the prescribed Tropical Cyclone Yasi 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 Tropical Cyclone Yasi 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 Tropical Cyclone Yasi; 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.
- (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 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—
- (i) if 1 or more of the operators of the small business is an individual—evidence that the operator or at least 1 of the operators 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 small business is in doubt because the applicant 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 31 January 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 means for conducting its operations 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 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**

- (1) This section applies if—
  - (a) an eligible entity is a primary producer or small business; and
  - (b) the eligible entity operates more than 1 business or primary production enterprise (each a *separate business*) at separate locations; and
  - (c) the authority is satisfied a separate business is a commercial entity that would be a commercially viable and autonomous business (an *eligible separate business*) if other businesses operated by the eligible entity 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 business has its own plant, equipment or stock;

- (c) the accounting and insurance arrangements of the business;
  - (d) whether the 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 organisations**

- (1) This section applies if—
- (a) an eligible entity 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 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;
  - (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 Tropical Cyclone Yasi.
- (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 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 31 January 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 14 Dawson Valley Irrigators Fixed Water Charges Rebate Scheme**

section 3

### **1 Definitions for sch 14**

In this schedule—

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

***Dawson Valley water supply scheme*** means the Dawson Valley water supply scheme under the *Water Act 2000*.

***disaster events*** means the floods or rain that, in each of the following periods, affected irrigators who are or were liable to pay fixed water charges, for the periods, for the Dawson Valley water supply scheme—

- (a) February or March 2010;
- (b) December 2010 or January 2011.

***eligible irrigator*** means an irrigator eligible for assistance under the scheme.

***fixed water charge*** means the part of a charge for water that is intended to recover the fixed costs of operating and maintaining water infrastructure, within the meaning of the *Water Act 2000*, in the Dawson Valley water supply scheme.

*Editor's note—*

Fixed water charges are also known as 'part A charges' or 'allocation charges'.

***irrigator*** means a rural water user who has paid, or is liable to pay, to SunWater a fixed water charge for taking water for primary production purposes, other than for stock purposes or domestic purposes within the meaning of the *Water Act 2000*, schedule 4.

***rebate package*** means the Dawson Valley Irrigators Fixed Water Charges Rebate Package established by the department in which the *Water Act 2000* is administered to provide assistance to eligible irrigators who have been affected by the disaster events.

*Editor's note—*

The rebate package is available for inspection on that department's website at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

***relevant chief executive*** means the chief executive of the department in which the *Water Act 2000* is administered.

***scheme*** means the scheme set out in this schedule.

***SunWater*** means SunWater Limited ACN 131 034 985.

## **2 Objective of scheme**

The objective of the scheme is to provide payments, and administer matters, for the rebate package.

## **3 Purpose of scheme**

The purpose of assistance under the scheme is to help eligible irrigators by rebating particular fixed water charges.

## **4 Nature of assistance**

The nature of the assistance under the scheme is a rebate for the payment of fixed water charges incurred for the period from 1 January 2011 to 30 June 2011.

## **5 Eligibility criteria**

For an applicant to be eligible to receive assistance—

- (a) the applicant must be an irrigator; and
- (b) the applicant must have paid to SunWater, or be liable to pay to SunWater, a fixed water charge incurred for the period from 1 January 2011 to 30 June 2011; and

- (c) the relevant chief executive must be satisfied the applicant meets the eligibility criteria for assistance under the rebate package; and
- (d) the authority must have advised the applicant of the relevant chief executive's decision under paragraph (c).

## **6 Payment of rebate**

- (1) Payment of a rebate for a fixed water charge that has been paid will be made to the successful applicant's bank account.
- (2) Payment of a rebate for a fixed water charge that has not been paid will be made directly to SunWater.

## **7 Applications**

- (1) An application for assistance must be—
  - (a) made on the application form approved by the relevant chief executive; and

*Editor's note—*

A copy of the application form is available on the website of the department in which the *Water Act 2000* is administered at <[www.derm.qld.gov.au](http://www.derm.qld.gov.au)>.

- (b) accompanied by the documents stated—
    - (i) on the application form; or
    - (ii) in the rebate package; and
  - (c) given to the department in which the *Water Act 2000* is administered.
- (2) An application for assistance under the scheme must be received by that department no later than 31 August 2011.

## **8 Administrative functions**

Particular administrative functions of the authority under the scheme include the following—

- (a) verifying and compiling relevant information about the amounts to be paid to successful applicants;



- (b) advising successful applicants of the relevant chief executive's decision about their eligibility under the rebate package;
- (c) providing payments to applicants whom the relevant chief executive considers eligible for assistance under the rebate package, and coordinating matters relevant to providing the payments.

## Schedule 15 Queensland Government Solar Hot Water Rebate Scheme

section 3

### 1 Objective of scheme

The objective of the scheme is to assist eligible applicants who have bought and arranged for installation of solar water heaters in their homes.

### 2 Nature of assistance

The nature of assistance that may be given under the scheme is a rebate for the payment of the purchase price of a solar water heater.

### 3 Definitions for sch 15

In this schedule—

*applicant* means an individual applying for financial assistance under section 8(1).

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

*buying*, a solar water heater, means buying and arranging for installation of the heater.

*concessional rebate* see section 7(b).

*customer sale arrangement* see the repealed *Community Ambulance Cover Act 2003*, section 10.

*disaster event* means—

- (a) the floods, caused by heavy rains in Queensland between November 2010 and January 2011, that have affected the prescribed disaster area; or
- (b) Tropical Cyclone Yasi.

***former assistance program*** means the program under the name ‘Queensland Solar Hot Water Program’ that was administered by the department to provide financial assistance for buying solar water heaters.

***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.ema.gov.au](http://www.ema.gov.au)>.

***prescribed disaster area*** means the local government areas—

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

*Editor’s note—*

The documents describing the prescribed disaster area and the prescribed personal hardship assistance scheme area are published on the authority’s website at <[www.qraa.qld.gov.au](http://www.qraa.qld.gov.au)>.

***prescribed personal hardship assistance scheme area*** means the local government areas—

- (a) defined by the appropriate Minister for the purpose of activating the personal hardship assistance scheme in relation to—
  - (i) Queensland flooding and Cyclones Tasha and Anthony, November 2010 to February 2011; or
  - (ii) Tropical Cyclone Yasi; and
- (b) described in documents held by the authority and available for inspection by members of the public.

***purchase price***, of a solar water heater, includes the cost of installation of the solar water heater.

***scheme*** means the scheme set out in this schedule.

***solar water heater*** means a device that heats water using solar energy and satisfies any conditions for the device or its installation under the *Renewable Energy (Electricity) Act 2000* (Cwlth).

#### **4 General eligibility criteria**

- (1) For an applicant to be eligible for assistance under the scheme, the authority must be satisfied of—
  - (b) the matters mentioned in subsection (2); or
  - (a) for a flood or cyclone damaged water heater to which section 5 applies—the matters mentioned in section 5(2).
- (2) The authority must be satisfied—
  - (a) the applicant is—
    - (i) an Australian citizen or permanent resident; and
    - (ii) at least 18 years; and
  - (b) a solar water heater has been installed at a residence owned or occupied by the applicant; and
  - (c) the residence—
    - (i) is a building within the meaning of the *Building Act 1975*; and
    - (ii) is in Queensland; and
    - (iii) is not owned by the Commonwealth, the State or a local government; and
    - (iv) is occupied by a person who has occupied, or is likely to occupy, the residence for at least 6 months; and
    - (v) is likely to continue to be occupied, or available for occupation, by persons who are each likely to occupy the residence for at least 6 months; and

- 
- (d) the solar water heater—
- (i) replaced an electric storage water heater (the *relevant replaced heater*); and
  - (ii) is new and in good working order and condition; and
  - (iii) subject to subparagraph (iv), is being, and is intended to be, used only for domestic purposes; and
  - (iv) is not used primarily, or intended to be used primarily, for heating water in or for a pool or spa; and
- (e) that, under the *Renewable Energy (Electricity) Act 2000* (Cwlth), the number of small-scale technology certificates that may be created for the installation of the solar water heater is at least 20; and

*Note—*

See the *Renewable Energy (Electricity) Regulations 2001* (Cwlth), section 19A.

- (f) the person who sold the solar water heater to the applicant has given—
- (i) a warranty for the heater's tank and collector of at least 5 years; and
  - (ii) a warranty for the heater's circulating pump or refrigeration equipment of at least 2 years; and
- (g) the person who installed the solar water heater, including plumbing work, gas work and electrical work for the installation, has given warranties for the installation and workmanship of at least 1 year; and
- (h) the applicant has either—
- (i) paid in full the purchase price for the solar water heater; or
  - (ii) entered into an agreement to pay the purchase price for the solar water heater and paid, under the agreement, an amount at least equal to the amount

of assistance for which the applicant is eligible under the scheme; and

- (i) the purchase price was not paid in full before 13 April 2010; and
- (j) the application was made within 6 months after the applicant bought the solar water heater; and
- (k) no person has applied for, or been given, assistance under this scheme, the former assistance program or otherwise by the State for buying the solar water heater; and
- (l) no person has been given assistance under this scheme, the former assistance program or otherwise by the State for buying a solar water heater that replaced an electric storage water heater for which electricity was supplied under the same customer sale arrangement as for the relevant replaced heater.

## **5 Alternative general eligibility criteria for particular flood or cyclone damaged water heaters**

- (1) Subsection (2) states alternative criteria to the criteria stated in section 4(2) for particular flood or cyclone damaged water heaters.
- (2) The criteria are that the authority must be satisfied—
  - (a) of the matters stated in section 4(2)(a) to (c); and
  - (b) the residence mentioned in section 4(2)(b) is located in—
    - (i) the prescribed disaster area; and
    - (ii) the prescribed personal hardship assistance scheme area; and
  - (c) a water heater (*former heater*) was installed in the residence and was damaged by the disaster event; and
  - (d) either—
    - (i) the residence has been rebuilt, or repaired, because of damage from the disaster event; or

- (ii) the solar water heater mentioned in section 4(2)(b) replaced the former heater; and
- (e) of the matters stated in section 4(2)(d)(ii) to (iv) and (e) to (l).

## 6 Additional eligibility criteria for concessional rebate

- (1) For an applicant to be eligible for the concessional rebate, the authority must also be satisfied the applicant is the holder of—
  - (a) a concession card under the *Social Security Act 1991* (Cwlth); or
  - (b) a blue pensioner concession card issued by the department of the Commonwealth in which the *Veterans' Entitlements Act 1986* (Cwlth) is administered.
- (2) However, an applicant may only receive—
  - (a) one concessional rebate under section 4; and
  - (b) one concessional rebate under section 5.

## 7 Amount of assistance

The amount of assistance that may be given to an applicant under the scheme is a rebate of—

- (a) \$600; or
- (b) for a person who is eligible under section 6 for the concessional rebate—\$1000 (the *concessional rebate*).

## 8 Applications

- (1) An application for assistance under the scheme must be—
  - (a) made on the application form approved by the authority; and
  - (b) accompanied by the documents mentioned in the application form.

- (2) The authority may request that an applicant provide further relevant information required to decide the application.
- (3) An application for assistance under the scheme must be received by the authority no later than 29 February 2012 if the applicant is seeking to satisfy the criteria stated in section 5(2).

## **9 Deciding applications**

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



# Endnotes

## 1 Index to endnotes

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## 2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). However, no amendments have commenced operation on or before that day. Future amendments of the Rural and Regional Adjustment Regulation 2011 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

## 3 Key

### Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

## 4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments included	Effective	Notes
1	none	19 August 2011	

## 5 List of legislation

### **Rural and Regional Adjustment Regulation 2011 SL No. 155**

made by the Governor in Council on 18 August 2011

notfd gaz 19 August 2011 pp 939–40

commenced on date of notification

exp 1 September 2021 (see SIA s 54)

Notes—(1) The expiry date may have changed since this reprint was published. See the latest reprint of the SIR for any change.

(2) An explanatory note was prepared.

## 6 Table of corrected minor errors

under the Reprints Act 1992 s 44

Provision	Description
sch 9, 5(2)(h)	om ‘ <i>Examples—</i> ’ ins ‘ <i>Example—</i> ’

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