

Rural and Regional Adjustment (Special Disaster Assistance Recovery Loans Scheme) Amendment Regulation 2020

Explanatory Notes for SL 2020 No. 214

made under the

Rural and Regional Adjustment Act 1994

General Outline

Short title

Rural and Regional Adjustment (Special Disaster Assistance Recovery Loans Scheme) Amendment Regulation 2020

Authorising law

Sections 10, 11 and 44 of the Rural and Regional Adjustment Act 1994 (the Act)

Policy objectives and the reasons for them

The Policy objectives of this regulatory amendment are to amend two financial assistance schemes administered by the Queensland Rural and Industry Development Authority (QRIDA) under the joint Commonwealth State Disaster Recovery Funding Arrangements (DRFA) to align them with Australian Government guidelines, namely:

- amending Schedule 24 Special Disaster Assistance Recovery Loans Scheme, a DRFA scheme providing concessional loans to primary producers, small business and not for profit organisations in response to the 2019 bushfires to expand eligible activities to include refinancing an eligible loan; and
- removing the primary producer off-farm income threshold of \$100,000 in Schedule 23 Special Disaster Assistance Recovery Grants Scheme, a scheme which provides clean up and recovery grants to eligible primary producers, small businesses and not for profit organisations in response to severe natural disasters.

The Act establishes QRIDA primarily to administer assistance schemes that foster the development of a more productive and sustainable rural and regional sector in Queensland. It may also administer approved assistance schemes to assist primary producers, small business and other sectors during periods of temporary difficulty, or to otherwise benefit the Queensland economy.

Section 10 of the Act provides that QRIDA may give financial assistance only under an approved scheme. Section 11 defines an approved assistance scheme and provides that a regulation approving a scheme must set out the scheme in detail. An approved assistance scheme may include conditions on which financial assistance must be given. Section 44 provides the power for the Governor in Council to make regulations under the Act.

Natural disaster assistance policy in Australia is delivered through DRFA which establishes a suite of pre-approved measures which can be activated by a State to assist with the response and recovery from natural disasters which can be cost shared by the Australian Government. These measures are grouped into categories A, B, C and D.

In response to the bushfire events of 2019-20, the Queensland and Australian governments have introduced a range of assistance measures to support those entities, including enhancements to existing concessional loans and clean up and recovery grants programs and the introduction of new assistance measures. These assistance measures are administered in Queensland by QRIDA and are set out in detail in schedules to the *Rural and Regional Adjustment Regulation 2011*.

The Australian Government approved the introduction of enhanced concessional loans for eligible small business, non-profits and primary producers affected by these events with a maximum loan amount of \$500,000. These loans are contained in Schedule 24 of the Regulation.

The loans are intended to be used for the purposes of restoring and/or replacing damaged assets and/or to meet working capital expenses. These concessional loans are up to a maximum of ten years with a repayment holiday for a period of up to two years, during which repayments will not be required and interest will not accrue. After the repayment holiday, repayments of principal and interest are required. Amounts cannot be redrawn. No fees will be charged to borrowers, such as establishment fees, account maintenance fees or fees for early repayment. The interest rate on these loans will be reset on 1 July of every year at 50 per cent of the 10-year Commonwealth bond rate averaged from 1 April to 30 June of the preceding financial year. For the 2019-20 financial year, the interest rate is 0.82 per cent.

After the introduction of this scheme, the Australian Government introduced changes to the guidelines for this scheme which necessitate regulatory amendment. These changes, among other things, have made refinancing an eligible commercial loan an eligible activity. Refinancing loans is not currently an eligible activity in the scheme as set out in the regulation. An eligible commercial loan will be a loan obtained from a financial institution, other than a loan of any of the following types-

- a) an off-balance sheet loan;
- b) a short-term credit facility;
- c) a loan established at a concessional rate under a Commonwealth or State government scheme; or
- d) an equipment finance loan.

The maximum amount of loan assistance that can be refinanced is 50 per cent of the total outstanding loan balance. The applicant must have suffered damage and had the loan before the disaster event and be unable to refinance the loan from his or her own resources and without assistance under the scheme.

The Australian Government has also made changes to the Category C clean up and recovery grants guidelines which are provided in Schedule 23 Special Disaster Assistance Recovery Grants Scheme of the Regulation. One of the changes to the Australian Government Guidelines for this scheme necessitates a regulatory amendment to align the Queensland scheme with the Australian Guidelines. This change relates to the removing by the Australian Government of the requirement that a primary producer applicant not have more than \$100,000 in off-farm income as part of the assessment to determine whether an applicant is a primary producer. This change has necessitated a change to the definition of primary producer in Schedule 23.

Achievement of policy objectives

The amendment regulation will achieve its objectives of supporting Queensland businesses (including primary producers) impacted by bushfires. It will do so by amending Schedules 23 and 24 to make their provisions consistent with Australian Government guidelines.

Consistency with policy objectives of authorising law

The amendment regulation is consistent with the policy objectives of the Act. The Act establishes QRIDA primarily to administer assistance schemes that foster the development of a more productive and sustainable rural and regional sector in Queensland including schemes offered by the Australian Government.

QRIDA may also administer approved assistance schemes to assist primary producers, small business and other sectors during periods of temporary difficulty, or to otherwise benefit the Queensland economy.

Inconsistency with policy objectives of other legislation

This amendment regulation is not inconsistent with the policy objectives of any other legislation.

Benefits and costs of implementation

These schemes will be equally cost shared between the Queensland and Australian Governments under DRFA.

Historically, refinancing has not been an eligible activity that would be attract assistance under a DRFA concessional loan, so the introduction of refinancing eligible loans might make taking out a DRFA concessional loan a more attractive option for potential applicants. At this stage, however, it is unknown what change in demand will occur as a consequence of this change.

The removal of the requirement that an applicant have not more than \$100,000 in off-farm income to determine eligibility to be classified as a primary producer for assistance under a Schedule 23 recovery grant will probably have minimal impact on eligibility for assistance as, operationally, QRIDA advice indicates potential applicants that have previously applied for assistance under the scheme have not exceeded this threshold. That is to say, the

existence of the \$100,000 threshold has not previously limited potential applications for assistance under the scheme.

Consistency with fundamental legislative principles

The amendment regulation has been drafted with regard to, and is consistent with, the fundamental legislative principles as defined in section 4 of the *Legislative Standards Act 1992*.

Consultation

When changes are made by the Australian Government to the guidelines for disaster assistance measures, Federal agencies with responsibility for DRFA and disaster response more generally, such as Emergency Management Australia and the National Bushfire Recovery Agency, consult with the states and territories to inform them of changes to disaster assistance.

The Office of Best Practice Regulation in the Queensland Productivity Commission advised that the amendment is excluded from further analysis under the *Queensland Government Guide to Better Regulation* on the basis 'it is reasonably clear there are no significant adverse impacts.'