



Queensland

Rural and Regional Adjustment (COVID-19 Business Support Grants Scheme (August 2021)) Amendment Regulation 2021

Subordinate Legislation 2021 No. 109

made under the

Rural and Regional Adjustment Act 1994

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1 Short title

This regulation may be cited as the *Rural and Regional Adjustment (COVID-19 Business Support Grants Scheme (August 2021)) Amendment Regulation 2021*.

2 Regulation amended

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

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

Section 3(1), ‘36’—

omit, insert—

37

4 Insertion of new sch 37

After schedule 36—

insert—

Schedule 37 COVID-19 business support grants scheme (August 2021)

section 3(1)

Part 1 Preliminary

1 Objective of scheme

The objective of the scheme is to provide assistance to the following businesses and non-profit organisations affected by a lock down event—

- (a) small and medium-sized businesses and non-profit organisations;
- (b) large tourism and hospitality businesses and non-profit organisations.

2 Purpose of assistance

- (1) The purpose of assistance under the scheme is to provide relief and support for eligible entities in relation to a lock down event.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered as a result of a lock down event.

3 Definitions for schedule

In this schedule—

ANZSIC means the document called ‘Australian and New Zealand Standard Industrial Classification (ANZSIC)’ published by the Australian Bureau of Statistics.

Note—

ANZSIC is available on the Australian Bureau of Statistics’ website.

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

COVID-19 lock down direction means—

- (a) the revoked public health direction called ‘Restrictions for Locked Down Areas (South-East Queensland) Direction’ made on 31 July 2021; or
- (b) the revoked public health direction called ‘Restrictions for Locked Down Areas (South-East Queensland) Direction (No. 2)’ made on 1 August 2021; or

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- (c) the public health direction called ‘Restrictions for Locked Down Areas (Cairns and Yarrabah) Direction’ made on 8 August 2021; or
- (d) another public health direction that—
 - (i) takes effect in August 2021; and
 - (ii) restricts the reasons for which people may leave their homes.

eligible business see section 5.

eligible entity means—

- (a) an eligible business; or
- (b) an eligible non-profit organisation.

eligible non-profit organisation see section 6.

employee, of a business or non-profit organisation, see section 4.

government entity means—

- (a) a government entity within the meaning of the *Public Service Act 2008*, section 24; or
- (b) a local government; or
- (c) a government owned corporation; or
- (d) an Australian government agency or sovereign entity within the meaning of the *Income Tax Assessment Act 1997* (Cwlth); or
- (e) an entity that is wholly owned by an entity mentioned in any of paragraphs (a) to (d).

insolvent under administration see the Corporations Act, section 9.

lock down event means the imposition of restrictions under a COVID-19 lock down direction.

non-profit organisation means a charity or other non-profit entity that is incorporated under a law of the Commonwealth or a State.

owner, of an eligible business, means a sole trader, partnership, private company, public company or trust that carries on the business.

public health direction see the *Public Health Act 2005*, section 362B(1).

relevant financial year means any of the following financial years—

- (a) 2018–2019;
- (b) 2019–2020;
- (c) 2020–2021.

scheme means the scheme set out in this schedule.

tourism and hospitality activity means any of the following activities listed in ANZSIC—

- (a) accommodation;
- (b) cafes and restaurants, takeaway food and catering services, pubs, taverns and bars, and clubs (hospitality);
- (c) museum operation;
- (d) zoological and botanic garden operation and nature reserves and conversation park operation;
- (e) performing arts operation, performing arts venue operation, and amusement parks and centres operation;
- (f) casino operation and other gambling activities;
- (g) scenic and sightseeing transport and water passenger transport;
- (h) travel agency and tour arrangement services.

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wages see the *Industrial Relations Act 2016*, schedule 5.

4 Meaning of *employee*

- (1) An individual who is employed, or ordinarily employed, by a business or non-profit organisation is an *employee* of the business or organisation.
- (2) To remove any doubt, it is declared that none of the following persons is an employee of a business—
 - (a) if the owner of the business is a sole trader—the owner;
 - (b) if the owner of the business is a partnership, private company, public company or trust—the partners in the partnership, directors of the company or trustees of the trust.
- (3) Also, a person who performs work under a contract for services with a business or non-profit organisation, including, for example, a subcontractor, is not an employee of the business or non-profit organisation.

5 Meaning of *eligible business*

- (1) A business is an *eligible business* if—
 - (a) an entity—
 - (i) holds an Australian Business Number for the business; and
 - (ii) has continuously held the same Australian Business Number for the business since 30 June 2021; and
 - (b) the business is registered for GST; and

- (c) the business has its headquarters in Queensland and was trading in Queensland on 31 July 2021; and
- (d) the business has at least 1 employee; and
- (e) either—
 - (i) the annual turnover of the business for any of the relevant financial years was more than \$75,000; or
 - (ii) both of the following apply—
 - (A) the business has been operating for a period of less than 1 financial year;
 - (B) according to its financial records, the turnover of the business for the 2021–2022 financial year can reasonably be expected to be more than \$75,000; and
- (f) for a business that paid wages and superannuation to its employees during any relevant financial year totalling more than \$10,000,000—the primary activity of the business is a tourism and hospitality activity; and
- (g) none of the following entities is an insolvent under administration or is in administration, receivership or liquidation—
 - (i) the business;
 - (ii) if the owner of the business is a sole trader—the owner;
 - (iii) if the owner of the business is a partnership, private company, public company or trust—the partners in the partnership, directors of the company or trustees of the trust.

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- (2) However, a business is not an *eligible business* if—
- (a) the business is a government entity; or
 - (b) the business's only source of income is 1 or more of the following—
 - (i) earnings from rental properties;
 - (ii) interest earned on investments;
 - (iii) dividends; or
 - (c) the owner of the business is a sole trader who has received, or is eligible to receive, a COVID-19 disaster payment (Cwlth) in relation to a lock down event.

- (3) In this section—

COVID-19 disaster payment (Cwlth) means a payment covered by the *Financial Framework (Supplementary Powers) Regulations 1997* (Cwlth), schedule 1AB, part 4, item 492.

6 Meaning of *eligible non-profit organisation*

- (1) A non-profit organisation is an *eligible non-profit organisation* if—
- (a) the organisation—
 - (i) holds an Australian Business Number; and
 - (ii) has continuously held the same Australian Business Number since 30 June 2021; and
 - (b) the organisation is registered for GST; and
 - (c) the organisation has its headquarters in Queensland and was trading in Queensland on 31 July 2021; and
 - (d) the organisation has at least 1 employee; and

-
- (e) either—
- (i) the annual turnover of the organisation for any of the relevant financial years was more than \$75,000; or
 - (ii) both of the following apply—
 - (A) the organisation has been operating for a period of less than 1 financial year;
 - (B) according to its financial records, the turnover of the organisation for the 2021–2022 financial year can reasonably be expected to be more than \$75,000; and
- (f) for an organisation that paid wages and superannuation to its employees during any relevant financial year totalling more than \$10,000,000—the primary activity of the organisation is a tourism and hospitality activity; and
- (g) neither the organisation, nor a member of the organisation’s governing body, is an insolvent under administration or is in administration, receivership or liquidation.

Examples of members of the organisation’s governing body—

- a director of the organisation
 - a member of the organisation’s management committee
 - a trustee of the organisation
- (2) However, a non-profit organisation is not an ***eligible non-profit organisation*** if—
- (a) the organisation is a government entity; or
 - (b) the organisation’s only source of income is 1 or more of the following—

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- (i) earnings from rental properties;
- (ii) interest earned on investments;
- (iii) dividends.

Part 2 General provisions of scheme

7 Nature and amount of assistance

- (1) The nature of the assistance available to an applicant under the scheme is the grant of financial assistance for an eligible entity.
- (2) The amount of assistance payable under the scheme is \$5,000.

8 Eligibility criteria

- (1) For an applicant to be eligible to receive assistance under the scheme for an eligible entity, the applicant must—
 - (a) be—
 - (i) if the entity is an eligible business—an owner of the business; or
 - (ii) the eligible non-profit organisation; and
 - (b) demonstrate the matters mentioned in subsection (2) to the satisfaction of the authority.
- (2) For subsection (1)(b), the matters are—
 - (a) during a nominated 7-day period, the eligible entity has—

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- (i) been required to stop operating or limit its operations because of a lock down event; or
- (ii) otherwise been affected by a lock down event; and
- (b) the turnover of the eligible entity for the nominated 7-day period is at least 30% less than the entity's turnover for the comparison period.
- (3) However, an applicant is not eligible to receive assistance under the scheme for an eligible entity for which the applicant or any other person has received assistance under the scheme in relation to the same, or any other, lock down event.

(4) In this section—

comparison period, in relation to a nominated 7-day period, means—

- (a) the period in 2019 comprising the same days as the nominated 7-day period; or

Example for paragraph (a)—

If the nominated 7-day period is 31 July to 6 August 2021, the comparison period would be 31 July to 6 August 2019.

- (b) if the authority considers the period mentioned in paragraph (a) is not indicative of the eligible entity's typical weekly turnover unaffected by a lock down event—another period of 7 consecutive days the authority considers is comparable to the nominated 7-day period.

Examples of circumstances in which paragraph (b) may apply—

- the eligible entity was not operating during the period mentioned in paragraph (a)

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- the eligible entity's turnover during the period mentioned in paragraph (a) was affected by a significant event

nominated 7-day period means a period of any 7 consecutive days—

- (a) that is nominated by the applicant; and
- (b) at least 1 full day of which is included in the period of a lock down event.

9 Requirements for applications

- (1) An application for assistance under the scheme must be—
 - (a) made on the form approved by the authority not later than the closing day for applications stated by the authority on its website; and
 - (b) accompanied by the documents stated in the application form; and
 - (c) given to the authority.
- (2) If the authority asks the applicant to provide further information to support the application, the applicant must provide the information.

10 Deciding applications

- (1) The authority must consider, and decide to approve or refuse to approve, each application for assistance under the scheme that complies with section 9(1).
- (2) The authority must consider applications in the order they are received by the authority.
- (3) The authority must refuse an application for assistance if the authority's assistance funds for the scheme are not enough to pay for the assistance.

ENDNOTES

- 1 Made by the Governor in Council on 12 August 2021.
- 2 Notified on the Queensland legislation website on 13 August 2021.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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