



Queensland

Rural and Regional Adjustment (Natural Disaster-related Assistance Schemes) Amendment Regulation 2022

Subordinate Legislation 2022 No. 138

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 (Natural Disaster-related Assistance Schemes) Amendment Regulation 2022*.

2 Commencement

This regulation commences immediately after the commencement of the *Rural and Regional Adjustment and Other Legislation (Brisbane River Tourism Berthing Assistance Scheme and Other Matters) Amendment Regulation 2022*.

3 Regulation amended

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

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

Section 3(1), ‘45’—

omit, insert—

47

5 Insertion of new pt 4, div 16

Part 4—

insert—

Division 16

**Transitional provisions for
Rural and Regional
Adjustment (Natural
Disaster-related
Assistance Schemes)
Amendment Regulation
2022**

23 Existing applications for assistance—sch 39

- (1) This section applies if an application for assistance under the scheme set out in schedule 39 was made but not decided before the commencement.
- (2) Schedule 39, as amended by the *Rural and Regional Adjustment (Natural Disaster-related Assistance Schemes) Amendment Regulation 2022*, applies to the application.

24 Existing applications for assistance—sch 40

- (1) This section applies if an application for assistance under the scheme set out in schedule 40 was made but not decided before the commencement.
- (2) Schedule 40, as amended by the *Rural and Regional Adjustment (Natural Disaster-related Assistance Schemes) Amendment Regulation 2022*, applies to the application.

6 Amendment of sch 39 (Drought preparedness grant scheme)

Schedule 39, section 4—

insert—

- (2) In this section—
commence, an eligible project—
 - (a) includes purchase items, or engage a contractor or other person, for the construction or installation of an eligible project or part of the project; but
 - (b) does not include the payment of a deposit for a purchase or engagement mentioned in paragraph (a).

7 Amendment of sch 40 (Drought ready and recovery finance loan scheme)

Schedule 40, section 4—

insert—

(2) In this section—

commence, an eligible project—

- (a) includes purchase items, or engage a contractor or other person, for the construction or installation of an eligible project or part of the project; but
- (b) does not include the payment of a deposit for a purchase or engagement mentioned in paragraph (a).

8 Insertion of new schs 46 and 47

After schedule 45—

insert—

Schedule 46 Medium to large business recovery loans scheme

section 3(1)

Part 1 Preliminary

1 Objective of scheme

The objective of the scheme is to provide assistance, under agreements entered into from time to time between the Commonwealth and the State, to medium to large businesses that are directly affected by an eligible disaster.

2 Purpose of scheme

The purpose of assistance under the scheme is to assist medium to large businesses affected by an eligible disaster to pay for—

- (a) eligible recovery activities; or
- (b) improving the businesses' resilience to natural disasters.

3 Definitions for schedule

In this schedule—

2021-2022 storm-flooding event see section 4(1).

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

defined disaster area, for an eligible disaster, see section 5.

disaster activation document see section 4(2).

disaster recovery funding arrangements means the funding arrangements for providing financial assistance to communities affected by an eligible disaster, as agreed between the Commonwealth and the State, and as described in a document, however called, published by the Commonwealth.

Editor's note—

The disaster recovery funding arrangements can be viewed on the Australian Government Disaster Assist website.

eligible disaster see section 6.

eligible recovery activity see section 7.

livestock includes poultry.

medium to large business see section 8.

natural disaster see section 9.

primary production enterprise means a business

that involves primary production, including the agricultural, apicultural, aquacultural, commercial wild-catch fishing, forestry, grazing and horticultural industries.

Queensland Reconstruction Authority means the authority established under the *Queensland Reconstruction Authority Act 2011*, section 7.

scheme means the scheme set out in this schedule.

4 Meaning of 2021-2022 storm-flooding event and disaster activation document

- (1) A **2021-2022 storm-flooding event** is an event identified in a disaster activation document as a disaster for which financial assistance has been activated.
- (2) Each of the following documents published on the Queensland Reconstruction Authority’s website is a **disaster activation document**—
 - (a) ‘Disaster Recovery Funding Arrangements event—Central, Southern and Western Queensland Rainfall and Flooding, 10 November – 3 December 2021’;
 - (b) ‘Disaster Recovery Funding Arrangements event—Ex-Tropical Cyclone Seth, 29 December 2021 – 10 January 2022’;
 - (c) ‘Disaster Recovery Funding Arrangements event—South East Queensland Rainfall and Flooding, 22 February - 5 April 2022’;
 - (d) ‘Disaster Recovery Funding Arrangements event—Southern Queensland Flooding, 06 – 20 May 2022’.

5 Meaning of defined disaster area

- (1) A **defined disaster area** for a 2021-2022 storm-flooding event is a local government area

identified in a disaster activation document as—

- (a) a DRFA Activated Area; and
 - (b) an area eligible for exceptional assistance measures DRFA Category C or D.
- (2) A ***defined disaster area*** for an eligible disaster, other than a 2021-2022 storm-flooding event, is an area—
- (a) defined by the Minister responsible for administering the *Disaster Management Act 2003* for the purpose of activating the disaster recovery funding arrangements for a community affected by the eligible disaster; and
 - (b) identified in a document published on the Queensland Reconstruction Authority’s website.

6 Meaning of *eligible disaster*

- (1) An ***eligible disaster*** is any of the following—
- (a) a 2021-2022 storm-flooding event;
 - (b) a natural disaster, other than a 2021-2022 storm-flooding event;
 - (c) a terrorist act.
- (2) In this section—
- terrorist act*** see the *Police Powers and Responsibilities Act 2000*, section 211.

7 Meaning of *eligible recovery activity*

An ***eligible recovery activity***, for a medium to large business, includes any of the following activities undertaken by or for the business because of an eligible disaster—

- (a) repairing or replacing damaged plant or equipment;
- (b) repairing or replacing a building—
 - (i) to the standard existing before the eligible disaster; or
 - (ii) in a way that makes the building more resilient to a natural disaster;
- (c) repairing the primary access to, and exit from, the business;
- (d) relocating the business, or critical infrastructure of the business, to another area in the local government area in which the business is located or in an adjacent local government area, if the authority is satisfied the relocation—
 - (i) is to mitigate the effect of any potential future natural disaster; and
 - (ii) does not include making substantive improvements to the production capacity of the business;
- (e) carrying out works for flood mitigation;
- (f) purchasing livestock to replace livestock lost in the disaster;
- (g) purchasing 1 month's supply of stock—
 - (i) to replace stock lost in the disaster; and
 - (ii) to enable the business to carry on its operations and maintain its liquidity;
- (h) carrying out works or other acts that enable the business to carry on its operations, including—
 - (i) replanting, restoring or re-establishing areas of the business affected by the eligible disaster; or
 - (ii) paying rent and rates.

8 Meaning of *medium to large business*

- (1) A *medium to large business* is a business—
- (a) that is—
 - (i) a primary production enterprise; or
 - (ii) an agricultural supply chain business; or
 - (iii) a non-agricultural supply chain business; and
 - (b) that is carried on by a sole trader, partnership, proprietary company or trust; and
 - (c) for which an entity holds an Australian Business Number; and
 - (d) that is registered for GST; and
 - (e) that is not operated by a public company within the meaning of the Corporations Act.
- (2) In this section—

agricultural supply chain business means a business that distributes, processes or transports livestock or other goods associated with a primary production enterprise.

Examples—

abattoir, livestock or produce freight company, cannery

non-agricultural supply chain business means a business that manufactures, repairs, supplies or transports equipment or machinery for use by a primary production enterprise or agricultural supply chain business.

Examples—

an excavation or earthmoving company, a mechanical repair business

9 Meaning of *natural disaster*

- (1) A *natural disaster* is any of the following events—
- (a) a bushfire;
 - (b) a cyclone;
 - (c) an earthquake;
 - (d) a flood;
 - (e) a landslide;
 - (f) a meteorite strike;
 - (g) a storm, including any, or any combination, of the following—
 - (i) hail;
 - (ii) rain;
 - (iii) wind;
 - (h) a storm surge;
 - (i) a tornado;
 - (j) a tsunami.
- (2) However, an event, other than an event mentioned in subsection (1)(a), is not a *natural disaster* if the authority considers human activity significantly contributed to the event or to loss or damage suffered because of the event.

Examples of human activity for subsection (2)—

- a deliberate act
- an accident
- development

Part 2 General provisions for scheme

10 Nature of assistance

- (1) The nature of the assistance available under the scheme is a loan, at a concessional rate of interest, to be used to pay for the eligible cost of an eligible recovery activity.
- (2) A loan under the scheme is not available to pay for—
 - (a) lost income; or
 - (b) the cost of direct damage caused by the eligible disaster for which the applicant receives, or is entitled to receive, an amount under an insurance policy; or
 - (c) a cost, including a legal cost, associated with—
 - (i) an application under the scheme; or
 - (ii) an application under a disaster recovery funding arrangement; or
 - (d) a cost incurred before the eligible disaster occurred; or
 - (e) a cost to reinstate an asset to a higher standard than the asset was before the eligible disaster, unless the cost is to improve the asset's resilience to a natural disaster.
- (3) In this section—

eligible cost, of an eligible recovery activity, includes the cost of the following—

 - (a) contractors or hire equipment associated with the eligible recovery activity;
 - (b) materials, goods, feed or livestock;
 - (c) consumables, including fuel, associated with the eligible recovery activity.

11 Amount of assistance

- (1) The minimum amount of assistance under the scheme for a medium to large business for an eligible recovery activity is a loan of \$250,000.
- (2) The maximum amount of assistance under the scheme for a medium to large business for an eligible recovery activity is a loan of \$5,000,000.

12 Eligibility criteria

An applicant is eligible to receive assistance under the scheme if the authority is satisfied—

- (a) the applicant is a medium to large business; and
- (b) assets (*damaged assets*) used by the applicant were—
 - (i) located in the defined disaster area for the disaster immediately before the eligible disaster; and
 - (ii) damaged as a direct result of the eligible disaster; and
- (c) the applicant can not repair or replace damaged assets from the applicant's own resources and without assistance under the scheme; and
- (d) the applicant is primarily responsible for meeting the costs of an eligible recovery activity claimed in the application; and
- (e) the applicant has not received a loan for loss or damage related to the eligible disaster under—
 - (i) the Disaster Assistance (Primary Producers) Loans Scheme, set out in schedule 2; or

- (ii) the Disaster Assistance (Small Business) Loans Scheme, set out in schedule 3; and
- (f) the applicant has the ability to repay the loan applied for; and
- (g) there are reasonable prospects for the long-term viability of the applicant if the assistance is provided.

13 Interest rates

- (1) The interest charged on a loan given under the scheme must be calculated at a concessional interest rate decided by the authority.
- (2) The authority may include a condition varying the interest rate during the term of the loan.

14 Security

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

15 Terms of repayment

- (1) The term of a loan under the scheme is the term decided by the authority up to a maximum of 10 years.
- (2) During the first 2 years of the loan term, the applicant must make the interest repayments decided by the authority.
- (3) From the start of the third year of the loan term, the applicant must make the principal and interest repayments decided by the authority.

16 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 documents stated on
the application form; and
 - (c) be given to the authority no later than the
closing day for applications stated on the
authority's website.
- (2) If the authority asks the applicant for further
information to decide the application, the
applicant must give the authority the information.

17 Deciding applications

- (1) The authority must consider each application for
assistance under the scheme that complies with
section 16 and decide to approve, or refuse to
approve, the application.
- (2) The authority must consider applications in the
order they are received by the authority.
- (3) In approving an application, the authority may,
with the agreement of the applicant, approve a
lesser amount of assistance than the amount
applied for in the application.
- (4) However, an amount agreed to under subsection
(3) must not be less than \$250,000.

Note—

A loan of \$250,000 is the minimum amount of
assistance under the scheme for an eligible recovery
activity. See section 11(1).

- (5) The authority must refuse to approve an
application if the authority's funds for assistance
for the scheme are not sufficient to pay for the
assistance applied for in the application.
- (6) If the authority refuses to approve an application,
the authority must give the applicant written
notice of the decision.

18 Review by authority

Assistance given to an applicant under the scheme may be subject to an annual review by the authority.

Schedule 47 Rural landholder recovery grants scheme

section 3(1)

Part 1 Preliminary

1 Objective of scheme

The objective of the scheme is to provide assistance, under agreements entered into from time to time between the Commonwealth and the State, to rural landholders that have suffered damage as a direct result of an eligible disaster.

2 Purpose of scheme

- (1) The purpose of assistance under the scheme is to help rural landholders offset the cost of eligible recovery activities.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered because of an eligible disaster.

3 Definitions for schedule

In this schedule—

2021-2022 storm-flooding event see section 4(1).

applicant means an entity applying for financial

assistance under the scheme.

assistance establishment notice see section 11(2).

closing day, for applications for assistance for an eligible disaster under the scheme, means—

- (a) the day stated in the assistance establishment notice for the eligible disaster as the day by which applications must be received by the authority; or
- (b) if the day is changed under section 11(4)—the day as changed.

defined disaster area, for an eligible disaster, see section 5.

disaster activation document see section 4(2).

disaster recovery funding arrangements means funding arrangements for providing financial assistance to communities affected by an eligible disaster, as agreed between the Commonwealth and the State, and as described in a document, however called, published by the Commonwealth.

Editor's note—

The disaster recovery funding arrangements can be viewed on the Australian Government's Disaster Assist website.

eligible disaster see section 6.

eligible recovery activity see section 7.

natural disaster see section 8.

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.

Queensland Reconstruction Authority means the authority established under the *Queensland Reconstruction Authority Act 2011*, section 7.

relevant land means land—

- (a) located in a defined disaster area; and
- (b) that has a total area of at least 10 hectares.

rural landholder see section 9.

scheme means the scheme set out in this schedule.

4 Meaning of *2021-2022 storm-flooding event* and *disaster activation document*

- (1) A ***2021-2022 storm-flooding event*** is an event identified in a disaster activation document as a disaster for which financial assistance has been activated.
- (2) Each of the following documents published on the Queensland Reconstruction Authority’s website is a ***disaster activation document***—
 - (a) ‘Disaster Recovery Funding Arrangements event—Central, Southern and Western Queensland Rainfall and Flooding, 10 November – 3 December 2021’;
 - (b) ‘Disaster Recovery Funding Arrangements event—Ex-Tropical Cyclone Seth, 29 December 2021 – 10 January 2022’;
 - (c) ‘Disaster Recovery Funding Arrangements event—South East Queensland Rainfall and Flooding, 22 February - 5 April 2022’;
 - (d) ‘Disaster Recovery Funding Arrangements event—Southern Queensland Flooding, 06 – 20 May 2022’.

5 Meaning of *defined disaster area*

- (1) A *defined disaster area* for a 2021-2022 storm-flooding event is a local government area identified in a disaster activation document as a DRFA Activated Area.
- (2) A *defined disaster area* for an eligible disaster, other than a 2021-2022 storm-flooding event, is an area—
 - (a) defined by the Minister responsible for administering the *Disaster Management Act 2003* for the purpose of activating the disaster recovery funding arrangements for communities affected by the eligible disaster; and
 - (b) identified in a document published on the Queensland Reconstruction Authority's website.

6 Meaning of *eligible disaster*

- (1) An *eligible disaster* is any of the following—
 - (a) a 2021-2022 storm-flooding event;
 - (b) a natural disaster, other than a 2021-2022 storm-flooding event;
 - (c) a terrorist act.
- (2) In this section—

terrorist act see the *Police Powers and Responsibilities Act 2000*, section 211.

7 Meaning of *eligible recovery activity*

- (1) An *eligible recovery activity* includes any of the following activities undertaken by or for a primary production enterprise carried out on relevant land because of an eligible disaster—
 - (a) removing and disposing of—

- (i) flood related debris; or
- (ii) damaged goods or materials; or
- (iii) dead livestock; or
- (iv) dangerous trees;
- (b) replacing dead livestock;
- (c) reinstating access to water for use in the enterprise;
- (d) engaging an appropriately qualified person to conduct a safety inspection of damage to fields, buildings or equipment;
- (e) employing a person to clean property, premises or equipment, if the cost of employing the person—
 - (i) would not ordinarily have been incurred if the eligible disaster had not happened; or
 - (ii) if a person would ordinarily be employed to clean the property, premises or equipment if the eligible disaster had not happened—exceeds the cost of ordinarily employing the person to clean the property, premises or equipment;
- (f) repairing or reinstating flood damaged buildings, water tanks, feed trays or fencing if the damage is not covered by insurance;
- (g) repairing a building, or repairing or replacing fittings in a building, if the repair or replacement is essential for reinstating the enterprise;
- (h) repairing or restoring fields;
- (i) repairing or reconditioning plant or equipment essential for reinstating the enterprise;

-
- (j) repairing the primary access to, and exit from, the land;
 - (k) salvaging crops, grain or feed damaged as a result of the eligible disaster;
 - (l) purchasing feed to replace stock lost as a result of the eligible disaster;
 - (m) purchasing, hiring or leasing equipment or materials to clean fields, a building or equipment;
 - (n) purchasing, hiring or leasing plant, equipment or materials for reinstating the enterprise.
- (2) In this section—

building does not include the rural landholder's principal place of residence.

employing includes engaging under a contract for services.

livestock includes poultry.

reinstating, a primary production enterprise carried out on relevant land, means carrying out activities necessary to help the rural landholder carrying out the primary production enterprise to continue or resume production or trading to a level that is similar to the level that existed before the eligible disaster.

8 Meaning of *natural disaster*

- (1) A ***natural disaster*** is any of the following events—
- (a) a bushfire;
 - (b) a cyclone;
 - (c) an earthquake;
 - (d) a flood;

- (e) a landslide;
 - (f) a meteorite strike;
 - (g) a storm, including any, or any combination, of the following—
 - (i) hail;
 - (ii) rain;
 - (iii) wind;
 - (h) a storm surge;
 - (i) a tornado;
 - (j) a tsunami.
- (2) However, an event, other than an event mentioned in subsection (1)(a), is not a *natural disaster* if the authority considers human activity significantly contributed to the event or to loss or damage suffered because of the event.

Examples of human activity for subsection (2)—

- a deliberate act
- an accident
- development

9 Meaning of *rural landholder*

A *rural landholder* is an entity that—

- (a) is the owner, or lessee under a long term lease, of relevant land on which the entity carries out a primary production enterprise; and
- (b) was carrying out the enterprise on the relevant land when an eligible disaster caused loss or damage to the enterprise; and
- (c) held an Australian Business Number for the enterprise when the eligible disaster caused the loss or damage.

Part 2 General provisions for scheme

10 Nature and maximum amount of assistance

- (1) The nature of the assistance that may be given to an applicant under the scheme is a rebate to offset the cost of an eligible recovery activity.
- (2) A rebate under the scheme is not available to pay for the cost of direct damage caused by the eligible disaster for which the applicant receives, or is entitled to receive, an amount under an insurance policy.
- (3) The maximum amount of assistance under the scheme for an eligible disaster is—
 - (a) \$10,000; or
 - (b) if another amount is stated in the assistance establishment notice—the stated amount.

11 Assistance establishment notice

- (1) This section applies if the Commonwealth and the State have agreed that assistance should be given under the disaster recovery funding arrangements to rural landholders for an eligible disaster.
- (2) The Minister may publish, on the authority's website, a notice (an *assistance establishment notice*) for the eligible disaster.
- (3) The assistance establishment notice must state—
 - (a) a description of the eligible disaster; and
 - (b) if the maximum amount of assistance that may be given to a rural landholder for the eligible disaster is an amount other than \$10,000—the maximum amount of assistance that may be given; and

- (c) the day (the *stated closing day*) by which an application for the assistance must be received by the authority.
- (4) The Minister may, on or before the stated closing day, amend the assistance establishment notice to change the stated closing day to a later day.

12 Eligibility criteria

An applicant is eligible to receive assistance under the scheme if the authority is satisfied the applicant—

- (a) is a rural landholder; and
- (b) in the financial year immediately before the eligible disaster—
 - (i) earned a minimum gross amount of \$20,000 per annum from the primary production enterprise carried out on the relevant land; and
 - (ii) earned a maximum gross amount of \$250,000 from other activities, regardless of whether the other activities were carried out on the relevant land or somewhere else; and
- (c) has not received assistance for the primary production enterprise as a result of the eligible disaster under—
 - (i) the Disaster Assistance (Primary Producers) Loans Scheme, set out in schedule 2, as a primary producer under that scheme; or
 - (ii) the Special Disaster Assistance Recovery Grants Scheme, set out in schedule 23, as a primary producer under that scheme; and

- (d) has received and paid a tax invoice in relation to carrying out an eligible recovery activity; and
- (e) is primarily responsible for meeting the costs of an eligible recovery activity claimed in the application.

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 documents stated on the application form; and
 - (c) be given to the authority before the end of the day on the closing day.
- (2) If the authority asks the applicant for further information to decide the application, the applicant must give the authority the information.
- (3) To remove any doubt, it is declared that an application under the scheme can be made by more than 1 rural landholder in relation to particular relevant land.

14 Conditions of assistance—keeping records for audit

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

- (a) the applicant must keep the tax invoices for amounts for which the applicant receives assistance under the scheme until the day that is 1 year after the closing day for applications under the scheme;
- (b) the applicant consents to the authority conducting an audit of the records

mentioned in paragraph (a) to verify that amounts given to the applicant under the scheme are used in accordance with the application for assistance.

15 Deciding applications

- (1) The authority must consider each application for assistance under the scheme that complies with section 13 and decide to approve, or refuse to approve, the application.
- (2) The authority must consider applications in the order they are received by the authority.
- (3) The authority must refuse to approve an application if the authority's funds for assistance for a round of the scheme are not sufficient to pay for the assistance applied for in the application.
- (4) If the authority refuses to approve an application, the authority must give the applicant written notice of the decision.

ENDNOTES

- 1 Made by the Governor in Council on 6 October 2022.
- 2 Notified on the Queensland legislation website on 7 October 2022.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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