



Queensland

Rural and Regional Adjustment Amendment Regulation (No. 1) 2007

Subordinate Legislation 2007 No. 20

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 Amendment Regulation (No. 1) 2007*.

2 Regulation amended

This regulation amends the *Rural and Regional Adjustment Regulation 2000*.

3 Amendment of s 7 (Approval of schemes—Act, s 11)

Section 7—

insert—

‘(r) the Small Business Drought Assistance Scheme, set out in the schedule, part 18.’.

4 Amendment of schedule (Approved assistance schemes)

(1) Schedule, section 55(a)(v)—

omit.

(2) Schedule, section 85(1)—

omit, insert—

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

(3) Schedule, section 85—

insert—

‘(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 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 part 18.’.

- (4) Schedule, section 93(7)(b), ‘\$300000’—
omit, insert—
‘\$500000’.
- (5) Schedule, section 95(2)—
insert—
‘(ea) 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; and’.
- (6) Schedule, section 95(2)(ea) and (f)—
renumber as schedule, section 95(2)(f) and (g).
- (7) Schedule, section 95(3)—
insert—
‘(f) for the applicant to be eligible to receive a cumulative total of \$300000 or more—the enterprise is viable.’.
- (8) Schedule, section 95(5)(a)—
omit.
- (9) Schedule, section 95(5)(b) to (e)—
renumber as schedule, section 95(5)(a) to (d).

(10) Schedule, section 95—

insert—

‘(5A) 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.’.

(11) Schedule, section 95—

insert—

‘(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.’.

(12) Schedule—

insert—

‘Part 18 Small Business Drought Assistance Scheme

‘Division 1 Preliminary

‘177 Objective of scheme

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

- (a) are dependent on farming enterprises in an EC area; and
- (b) have been detrimentally affected by exceptional circumstances for which the area became an EC area; and
- (c) would have had long-term prospects of viability had exceptional circumstances not happened.

‘178 Purpose of assistance

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

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

‘179 Definitions for pt 18

‘In this part—

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 180.

EC area means an area declared under an EC declaration.

Editor's note—

At the commencement of this definition, 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>.

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 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) cannot 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 condition—

extended severe drought conditions

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

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

full-time employee, of a small business, means an individual who works for at least 35 hours each week for the small business.

Newstart Allowance means the Newstart Allowance administered by Centrelink.

Editor's note—

At the commencement of this definition, information about the allowance was available on Centrelink's website at <www.centrelink.gov.au>.

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 part.

scheme strategy see section 178.

small business see section 181.

'180 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.

‘181 Meaning of *small business*

- ‘(1) A *small business* is a business that—
- (a) holds an Australian Business Number; and
 - (b) employs fewer than—
 - (i) 20 full-time employees of the business; or
 - (ii) if the business has employees who do not work full-time for the business—20 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—

$$E = F + P / 35$$

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 who do not work full-time for the business.

‘Division 2 General provisions for scheme

‘182 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.

‘183 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, including an assessment of the living expenses for the owner's household at the relevant Newstart Allowance rate.
- ‘(2) The interest subsidy given to the owner of a small business in an EC period must be not more than 80% of the interest payable on, and associated costs of, the loans for which an interest subsidy is sought.
- ‘(3) In deciding the amount of subsidy to be given to the owner of a small business, the authority must take into account the level of assistance the owner has already received under a rural adjustment scheme.
- ‘(4) Subject to subsection (6), the amount of interest subsidy payable to the owner of 1 or more small businesses must not result in the owner 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.
- ‘(5) If the owner of a small business has made a capital purchase after 6 November 2006, the authority, in deciding the level of loans to be supported for an initial interest subsidy, may deduct the full cost of the purchase from the balance of the existing loans.
- ‘(6) Any subsidies already given by the Commonwealth, or under the small business emergency assistance scheme, on loans or associated costs must be deducted from the amounts mentioned in subsection (4).
- ‘(7) In this section—
- small business emergency assistance scheme*** means the scheme set out in part 7.

‘184 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.

‘185 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) 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 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; 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 it is dependent on farming enterprises in an EC area that have been adversely affected by the exceptional circumstances.

- ‘(3) The authority must be satisfied that—
- (a) the small business is in financial difficulty because it is dependent on farming enterprises in an EC area that have been adversely affected by the exceptional circumstances; and
 - (b) the assistance is necessary to achieve 1 or more of the scheme strategies; and
 - (c) without the assistance, the small business would not have the capacity to achieve or maintain long-term viability; and
 - (d) 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 double the Newstart Allowance assets test for homeowners (partnered); and
 - (ii) applied the proceeds to the small business (unless this would result in extreme hardship to the applicant); and
- Note—*
- Investments in bona fide insurance and superannuation funds are exempt from the non-business assets test mentioned in subparagraph (i)(B).
- (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.
- ‘(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.

'186 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.

‘187 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>.
- (b) accompanied by the documents stated on the application form; and
 - (c) lodged with the authority.
- ‘(2) Applications must be made not later than 28 days after the EC period for which the assistance is sought ends.
- ‘(3) The owner of a small business can not apply for a further interest subsidy until 9 months after the day the owner last makes a successful interest subsidy application.

‘188 Deciding applications

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

ENDNOTES

- 1 Made by the Governor in Council on 1 March 2007.
- 2 Notified in the gazette on 2 March 2007.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Primary Industries and Fisheries.