



Queensland

# Rural and Regional Adjustment Amendment Regulation (No. 1) 2008

## Subordinate Legislation 2008 No. 15

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) 2008*.

**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—*

‘(v) the Special Disaster Flood Assistance Scheme set out in the schedule, part 22.’.

**4 Amendment of schedule (Approved assistance schemes)**

Schedule—

*insert—*

**‘Part 22 Special Disaster Flood Assistance Scheme**

**‘Division 1 Preliminary**

**‘216 Objective of scheme**

‘The objective of the scheme is to provide, under an agreement between the Commonwealth and the State of 24 January 2008, assistance to eligible business entities that have suffered direct damage caused by the flood event.

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## **‘217 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 losses suffered because of the flood event.

## **‘218 Definitions for pt 22**

‘In this part—

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

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

***closing day***, for a prescribed disaster area, means the earlier of the following days to happen—

- (a) the day that is 6 months after the day the area was defined for the purpose of activating the natural disaster relief and recovery arrangements for the area in relation to the flood event;
- (b) 31 July 2008.

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

***flood event*** means the floods, caused by monsoonal rains in regional Queensland in January 2008, that have affected the prescribed disaster areas.

***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 definition, the funding arrangements were described in the document called ‘Natural Disaster Relief and Recovery Arrangements Community Recovery Package Guidelines 2007’

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published by the Commonwealth Attorney-General's Department and available on that department's website at <www.ema.gov.au>.

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

*Editor's note—*

At the commencement of this definition, the prescribed disaster areas, by reference to the areas of stated local governments, were published on the authority's website at <www.qraa.qld.gov.au>.

***primary producer*** means an individual who spends the majority of the individual's labours on, and derives the majority of the individual's income from, a primary production enterprise.

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

***scheme*** means the scheme under this part.

***small business*** see section 219.

## **'219 Meaning of *small business***

- '(1) A ***small business*** is a business that—
- (a) holds an Australian Business Number; and
  - (b) employs not more 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) A business is not a ***small business*** if the business—
- (a) is 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.

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- ‘(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—

$$E = F + P / 35$$

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.

- ‘(5) In this section—

*charitable business* means a business that does not operate to make a profit.

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

## ‘Division 2                    General provisions for scheme

### ‘220    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.
- ‘(2) In particular, assistance is to be provided under the scheme to help an eligible business entity to cover the costs of the following—

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- (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) clearing or disposing of debris, damaged goods or injured or dead livestock;
  - (c) repairing buildings other than houses, and repairing or replacing fencing on a property;
  - (d) repairing or reconditioning essential plant or equipment;
  - (e) leasing temporary premises for the purpose of resuming trading;
  - (f) engaging a person—
    - (i) to conduct a safety inspection of premises; or
    - (ii) to check the health of livestock or poultry;
  - (g) purchasing fodder, or saving crops or feed for stock;
  - (h) paying wages to an employee of the entity, if the payment is more than the wages ordinarily paid to the employee.

## **‘221 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 is located in a prescribed disaster area; and
- (c) the applicant is primarily responsible for meeting the costs claimed in the application; and
- (d) the applicant was engaged in the primary production enterprise when the area in which the enterprise is located became a prescribed disaster area; and
- (e) the authority is satisfied the applicant intends to re-establish the primary production enterprise.

## **‘222 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 small business is located in a prescribed disaster area; and
- (c) the applicant is primarily responsible for meeting the costs claimed in the application; and
- (d) the applicant was engaged in conducting the business when the area in which the business is located became a prescribed disaster area; and
- (e) the authority is satisfied the applicant intends to re-establish the small business.

## **‘223 Amount of assistance**

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

*Editor’s note—*

See section 226 for special circumstances in which an applicant may be given more than the stated maximum amount.

## **‘224 Special requirement for particular assistance**

- ‘(1) An applicant is eligible for assistance of more than \$10000 under the scheme only if the applicant provides evidence to the authority, in the form of receipts for payment or tax invoices, that all amounts claimed by the applicant under the scheme have been paid or incurred by the applicant.
- ‘(2) Subsection (1) applies to an applicant even if the applicant makes more than 1 application under the scheme.

*Example—*

An applicant might make a claim under the scheme for \$10000 and then make a second claim for \$5000. The applicant is not eligible for the further assistance of \$5000 unless the applicant provides evidence to the

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authority, in the form of receipts for payment or tax invoices, that the total amount of \$15000 claimed has been paid or incurred by the applicant.

## **'225 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 July 2009, keep all receipts, invoices or other evidence of amounts paid or costs incurred in relation to which the applicant has received assistance under the scheme;
  - (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 for the purpose of allowing the authority to verify, in relation to the applicant being granted more than \$10000 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 receipts, invoices or other evidence mentioned in paragraph (a) for the purpose of allowing 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 evidence to show the direct damage in relation to which an application is made.

## **'226 Special provision for particular applications**

- '(1) This section applies if—

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- (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 223, 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.

## ‘227 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

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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 \$10000 an applicant receives under the scheme for the primary production enterprise or small business.

## **‘228 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 the closing day for the prescribed disaster area in which the primary production enterprise or other small business to which the application relates is located.

## **‘229 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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### ENDNOTES

- 1 Made by the Governor in Council on 31 January 2008.
- 2 Notified in the gazette on 1 February 2008.
- 3 Laid before the Legislative Assembly on . . .
- 4 The administering agency is the Department of Primary Industries and Fisheries.