



Rural and Regional Adjustment (Exceptional Damage Loans Scheme) Amendment  
Regulation 2019

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**1 Short title**

This regulation may be cited as the *Rural and Regional Adjustment (Exceptional Damage Loans Scheme) Amendment Regulation 2019*.

**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), ‘23 and 25’—

*omit, insert—*

23, 25 and 30

**4 Insertion of new sch 8**

After schedule 7—

*insert—*

**Schedule 8 January–February 2019  
Flood Disaster  
(Exceptional Damage)  
Loans Scheme**

section 3(1)

**Part 1 Preliminary**

**1 Objective of scheme**

The objective of the scheme is to provide, under an agreement entered into between the Commonwealth and the State on 31 March 2019,

assistance to eligible entities that have sustained exceptional damage as a direct result of the eligible disaster.

## 2 Purpose of assistance

- (1) The purpose of assistance under the scheme is to help an eligible entity pay for costs arising out of exceptional damage caused by the eligible disaster.
- (2) However, assistance under the scheme is not intended to compensate eligible entities for loss of income suffered because of the eligible disaster.

## 3 Definitions for schedule

In this schedule—

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

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

***business owner*** means—

- (a) a sole trader who spends the majority of his or her labour on, and derives the majority of his or her income from, a relevant business; or
- (b) in relation to a partnership, company or trust that carries on a relevant business—the partners in the partnership, shareholders in the company or beneficiaries of the trust who spend the majority of their labour on, and derive the majority of their income from, the relevant business.

***defined disaster area***, for the eligible disaster, means an area—

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- (a) defined by the appropriate Minister for the purpose of activating the disaster recovery funding arrangements for providing assistance mentioned in the scheme for communities affected by the eligible disaster; and
  - (b) described in a document held by the authority and available for inspection by members of the public.

*Editor's note—*

Defined disaster areas are published on the authority's website.

***disaster recovery funding arrangements*** means the funding arrangements for providing financial assistance to communities affected by a natural 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*** means the disaster defined by the appropriate Minister on 8 February 2019, for the purpose of activating the disaster recovery funding arrangements, as 'North and Far North Queensland Monsoon Trough, 25 January - 10 February 2019'.

***eligible entity*** means a primary producer or business owner who is eligible for assistance under the scheme.

***exceptional damage*** see section 4.

***primary producer*** means—

- (a) a sole trader who spends the majority of his or her labour on, and derives the majority of

his or her income from, a primary production enterprise; or

- (b) in relation to a partnership, company or trust that carries on a primary production enterprise—the partners in the partnership, shareholders in the company, or beneficiaries of the trust who spend the majority of their labour on, and derive the majority of their income from, the primary production enterprise.

***primary production enterprise*** means a business—

- (a) that involves primary production, including the agricultural, apicultural, aquacultural, commercial wild-catch fishing, forestry, grazing and horticultural industries; and
- (b) that is registered under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth); and
- (c) for which an entity holds an Australian Business Number; and
- (d) that is not operated by a public company.

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

***relevant business*** means a business, other than a primary production enterprise—

- (a) that is registered under the *A New Tax System (Goods and Services Tax) Act 1999* (Cwlth); and
- (b) for which an entity holds an Australian Business Number; and
- (c) that is not operated by a public company.

***scheme***, unless otherwise provided, means the scheme set out in this schedule.

#### **4 Meaning of *exceptional damage***

An entity's primary production enterprise or relevant business sustains *exceptional damage* as a direct result of the eligible disaster to the extent—

- (a) assets used in carrying on the enterprise or business are damaged as a direct result of the eligible disaster; and
- (b) the authority considers that the total amount of any assistance available to the entity under the schemes set out in schedules 2, 3 and 23 is inadequate to give the entity reasonable prospects of re-establishing the viable operation of the enterprise or business.

#### **5 References to entity's primary production enterprise or relevant business**

- (1) A reference in this schedule to an entity's primary production enterprise is a reference to a primary production enterprise in relation to which the entity is a primary producer.
- (2) A reference in this schedule to an entity's relevant business is a reference to a relevant business in relation to which the entity is a business owner.

## **Part 2                      General provisions for scheme**

#### **6 Nature of assistance**

The nature of the assistance that may be given under the scheme to an eligible entity is a concessional loan for any of the following—

- (a) repairing or replacing damaged plant or equipment used in the entity's primary production enterprise or relevant business;
- (b) repairing or replacing buildings used for carrying on the entity's primary production enterprise or relevant business;
- (c) meeting requirements for carrying on the entity's primary production enterprise or relevant business, including, for example—
  - (i) buying goods necessary to carry on the activities of the enterprise or relevant business; and
  - (ii) paying rates, rent or wages; and
  - (iii) paying creditors;
- (d) for a primary production enterprise—meeting requirements for carrying on the enterprise, including, for example—
  - (i) replanting, restoring or re-establishing areas affected by the eligible disaster; and
  - (ii) buying livestock to replace livestock lost because of the eligible disaster; and
  - (iii) sustaining livestock; and
  - (iv) carrying on essential property operations;
- (e) for a relevant business—supplying stock for a period of not more than 1 month to replace stock lost as a direct result of the eligible disaster and maintain the liquidity of the relevant business.

## **7 Application may be made in 1 capacity only**

A person may apply for assistance under the

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scheme in only 1 of the following capacities—

- (a) a primary producer;
- (b) a business owner.

## **8 Eligibility criteria**

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

- (a) the applicant is a primary producer or business owner; and
- (b) immediately before the eligible disaster, the applicant carried on a primary production enterprise or relevant business in the defined disaster area; and
- (c) the primary production enterprise or relevant business has sustained exceptional damage as a direct result of the eligible disaster; and
- (d) the applicant has used all the applicant's liquid assets and normal credit sources up to normal credit limits; and
- (e) the applicant has not taken excessive risks in carrying on the primary production enterprise or relevant business; and

*Example—*

The authority is satisfied the applicant's capital expenditure for the primary production enterprise or relevant business has not been excessive.

- (f) the applicant has taken reasonable precautions to avoid or minimise loss from the eligible disaster; and

*Example—*

The applicant has adequate insurance against loss or damage from the eligible disaster.

- (g) with the assistance under the scheme, the applicant has reasonable prospects of

carrying on or re-establishing the applicant's primary production enterprise or relevant business on a viable basis; and

- (h) for an applicant who is a business owner of a relevant business—
  - (i) the business has a critical supply chain relationship with another entity whose business activities have been adversely affected by the eligible disaster, whether or not the other entity's business is carried on in the defined disaster area; and
  - (ii) the applicant will continue to carry on or re-establish the business at the same place or elsewhere in the local government area in which the business was carried on before the eligible disaster.

## 9 Maximum amount of assistance

- (1) The maximum amount of a loan that may be given to an applicant under the scheme is \$1,000,000.
- (2) However, if the applicant has received, or has been approved to receive, relevant assistance, the maximum amount of a loan that may be given to the applicant under the scheme is \$1,000,000 less the total amount of the relevant assistance.
- (3) In this section—

*relevant assistance* means assistance, under the scheme set out in schedule 2 or 3, in relation to the eligible disaster.

## 10 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) However, the authority may—
  - (a) review an applicant's financial situation annually to decide whether or not to increase the interest rate charged for the loan; and
  - (b) if the authority considers the applicant's financial situation has improved, increase the interest rate to a rate not more than a commercial rate of interest.

## **11 Security**

- (1) If an applicant is given a loan under the scheme, the applicant must give security for the loan.
- (2) The security required is—
  - (a) a mortgage of land or other assets commensurate with the amount of the loan; and
  - (b) any other security the authority considers necessary, including, for example, a crop lien or stock mortgage.

## **12 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, the authority must defer repayments of principal and interest under the loan.
- (3) From the start of the third year of the loan, the amounts of the repayments of principal and interest under the loan are the amounts decided by the authority.
- (4) Despite subsection (3), the authority may grant the applicant an interest-only period for the loan of not more than 2 years.

### **13 Requirements for applications**

- (1) An application for assistance under the scheme must—
  - (a) be made to the authority on the application form approved by the authority; and
  - (b) be accompanied by the documents mentioned in the application form; and
  - (c) be received by the authority no later than 30 June 2021.
- (2) The authority may ask an applicant to give further relevant information required to decide the application.

### **14 Deciding applications**

The authority must consider, and decide to approve or refuse to approve, each application for assistance under the scheme.

ENDNOTES

- 1 Made by the Governor in Council on 27 June 2019.
- 2 Notified on the Queensland legislation website on 28 June 2019.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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