



Queensland

Rural and Regional Adjustment (Extension of Funding and New Scheme for 2019–2020 Extraordinary Bushfires Disaster) Amendment Regulation 2020

Subordinate Legislation 2020 No. 29

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 (Extension of Funding and New Scheme for 2019–2020 Extraordinary Bushfires Disaster) Amendment Regulation 2020*.

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, 25’—
omit, insert—
23 to 25

4 Amendment of sch 23, s 7 (Nature of assistance under scheme)

- (1) Schedule 23, section 7(2), ‘section 8(2)(a) to (h) or 9(2)(a) to (o)’—
omit, insert—
section 8(2) or 9(2)
- (2) Schedule 23, section 7(3)—
insert—
(ca) if the grant is for an eligible entity that is a small business owner or non-profit organisation for a 2019–2020 extraordinary bushfire disaster—\$50,000; or
- (3) Schedule 23, section 7(3)(ca) and (d)—
renumber as schedule 23, section 7(3)(d) and (e).

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5 Amendment of sch 23, s 8 (Assistance under standard or exceptional circumstances grant generally)

- (1) Schedule 23, section 8(1), from ‘for an eligible’—
omit, insert—

, other than an exceptional circumstances grant to which section 9 applies.
- (2) Schedule 23, section 8(2)(e) and (f), ‘the primary’—
omit, insert—

a primary
- (3) Schedule 23, section 8(4)—
omit.
- (4) Schedule 23, section 8(5)—
renumber as schedule 23, section 8(4).

6 Amendment of sch 23, s 9 (Assistance under exceptional circumstances grant for 2019–2020 extraordinary bushfire disaster)

- (1) Schedule 23, section 9(1), ‘an eligible entity’s primary production enterprise if the grant is for’—
omit.
- (2) Schedule 23, section 9(2) and (3)—
omit, insert—
 - (2) The exceptional circumstances grant may cover a cost that has been incurred for any of the following things because of direct damage caused by the eligible disaster—
 - (a) engaging a tradesperson to conduct a safety inspection of damage to a property, premises or equipment;
 - (b) purchasing, hiring or leasing equipment or materials to clean a property, premises or equipment;

- (c) employing a person to clean a property, premises or equipment if—
 - (i) the cost would not ordinarily have been incurred in the absence of the eligible disaster; or
 - (ii) the cost exceeds the cost of employing a person to clean the property, premises or equipment that would ordinarily have been incurred in the absence of the eligible disaster;
- (d) removing or disposing of damaged goods, including any associated costs;
- (e) for a primary production enterprise, any of the following—
 - (i) purchasing, hiring or leasing equipment that is essential for immediately resuming operation of the primary production enterprise;
 - (ii) repairing a building or repairing or replacing fittings in a building, if the repair or replacement is essential for resuming operation of the primary production enterprise;
 - (iii) repairing, reconditioning or replacing essential plant or equipment, including, for example, water tanks, water reticulation systems, forestry equipment and aquaculture and fishing equipment;
 - (iv) removing silt from a dam;
 - (v) repairing or replacing fencing or horticultural netting on a property, other than to the extent the cost may be recovered under other assistance from the Commonwealth or State;

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- (vi) purchasing fodder, grain or other feed for livestock;
 - (vii) agisting livestock, including any associated transport costs, other than to the extent the costs may be recovered under other assistance from the Commonwealth or State;
 - (viii) assessing, treating or maintaining the health of livestock or aquaculture species;
 - (ix) salvaging, but not replacing, crops, grain, feed, fertiliser or timber;
 - (x) replacing essential water that has been used for fire fighting;
 - (xi) carting water.
- (3) For subsection (2), a reference to a building does not include a reference to a building used as a dwelling, unless—
- (a) the dwelling is used for carrying on the primary production enterprise or a small business or non-profit organisation; or
Example of a dwelling for paragraph (a)—
a dwelling used for temporary accommodation for workers for a primary production enterprise
 - (b) for a small business or non-profit organisation—the dwelling is an asset of the small business or non-profit organisation.
Example of a dwelling for paragraph (b)—
a dwelling that is let by a small business whose main activity involves letting dwellings

7 Amendment of sch 23, s 11 (Eligibility criteria—primary producer)

Schedule 23, section 11(1)(e), ‘9(2)(m)’—

omit, insert—

9(2)(e)(ix)

8 Amendment of sch 23, s 12 (Eligibility criteria—small business owner)

Schedule 23, section 12—

insert—

- (3) Subsection (1)(d) does not apply to an applicant if—
 - (a) the applicant’s application for assistance is for a 2019–2020 extraordinary bushfire disaster; and
 - (b) the assistance establishment notice for the disaster states that this subsection applies to the applicant.

9 Amendment of sch 23, s 13 (Eligibility criteria—non-profit organisation)

Schedule 23, section 13—

insert—

- (3) Subsection (1)(d) does not apply to an applicant if—
 - (a) the applicant’s application for assistance is for a 2019–2020 extraordinary bushfire disaster; and
 - (b) the assistance establishment notice for the disaster states that this subsection applies to the applicant.

10 Amendment of sch 23, s 16 (Eligibility for exceptional circumstances grant)

Schedule 23, section 16(1A), ‘section 9(2)(a) to (o)’—

[s 11]

omit, insert—

section 9(2)

11 Amendment of sch 23, s 17 (Effect of insurance on eligibility for exceptional circumstances grant)

Schedule 23, section 17(3), definition *relevant cost*, ‘section 8(2)(a) to (h) or 9(2)(a) to (o)’—

omit, insert—

section 8(2) or 9(2)

12 Amendment of sch 23, s 23 (Requirements for applications)

(1) Schedule 23, section 23(4)(b)(i), ‘section 9(2)(a) to (o)’—

omit, insert—

section 9(2)

(2) Schedule 23, section 23(4)(b)(ii), ‘\$75,000’—

omit, insert—

the maximum amount for the applicant under section 7(3)

13 Insertion of new sch 24

After schedule 23—

insert—

Schedule 24 Special Disaster Assistance 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 eligible entities that are directly affected by an eligible disaster.

2 Purpose of assistance

- (1) The purpose of assistance under the scheme is to provide concessional loans to an eligible entity—
 - (a) to pay for costs of repairing or replacing assets lost or damaged because of an eligible disaster; and
 - (b) to provide the eligible entity with working capital.
- (2) For subsection (1)(a), repairing or replacing assets includes, for example, the following—
 - (a) repairing or replacing damaged plant, equipment or buildings;
 - (b) purchasing replacement stock or livestock;
 - (c) restoring, re-planting or establishing an area of land to replace damaged crops.
- (3) 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—

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

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

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

- (a) defined by the appropriate Minister for the purpose of activating the disaster recovery funding arrangements 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.

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 means a natural disaster or terrorist act.

eligible entity means any of the following, eligible under part 2 for assistance under the scheme—

- (a) a primary producer;
- (b) a small business owner;
- (c) a non-profit organisation.

livestock includes poultry.

loss of income, for an applicant, see section

4.

natural disaster see section 5.

non-profit organisation means a charity or other not-for-profit entity that is—

- (a) incorporated under a law of the Commonwealth or a State; and
- (b) either—
 - (i) registered under the *Australian Charities and Not-for-profits Commission Act 2012* (Cwlth) or the *Collections Act 1966*; or
 - (ii) registered or otherwise authorised to raise funds under a law of another State.

primary producer means—

- (a) a sole trader who spends the majority of the sole trader's labour on, and derives the majority of the sole trader's income from, a primary production enterprise; or
- (b) for 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

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fishing, forestry, grazing and horticultural industries; and

- (b) for which an entity holds an Australian Business Number.

scheme means the scheme set out in this schedule.

small business see section 6.

small business owner means—

- (a) a sole trader who spends the majority of the sole trader’s labour on, and derives the majority of the sole trader’s income from, a small business; or
- (b) for a partnership, company or trust that carries on a small 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 small business.

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

working capital, for an eligible entity, means money used to continue the normal operation of the entity’s primary production enterprise, small business or non-profit activities, including, for example, the following—

- (a) paying salaries or wages;
- (b) paying creditors;
- (c) paying rent and rates;
- (d) buying goods, including fuel, for the purpose of carrying on the primary production enterprise, small business or non-profit activities;

- (e) for a primary production enterprise—
buying fodder or water for livestock or
produce, and transporting livestock or
produce.

4 Meaning of *loss of income*

- (1) An applicant's *loss of income* is the net income that would have been earned in a period (the *relevant period*) if the operation of the applicant's primary production enterprise, small business or non-profit organisation had not been interrupted by the eligible disaster.
- (2) The loss of income is assessed on the basis of the financial performance of the applicant's primary production enterprise, small business or non-profit organisation in previous periods in which the circumstances, other than the effect of the eligible disaster, were similar to the circumstances in the relevant period.

5 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;

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- (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

6 Meaning of *small business*

- (1) A *small business* is a business—
- (a) for which an entity holds an Australian Business Number; and
 - (b) in which are employed fewer than—
 - (i) 20 full-time employees; or
 - (ii) if the business has employees other than full-time employees—20 equivalent full-time employees; and
 - (c) that is not operated by a public company.
- (2) However, a *small business* does not include a body corporate under the *Body Corporate and Community Management Act 1997*.
- (3) For subsection (1)(b), the number of equivalent full-time employees of a business is worked out using the formula—

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- (a) is based on the authority’s assessment of the applicant’s financial position, including any amount recovered by the applicant under an insurance policy; and
 - (b) must not be more than the amount of the net loss to the applicant caused by the eligible disaster.
- (2) However, the amount of a loan to an applicant under the scheme for an eligible disaster must not be more than \$500,000.

9 Eligibility criteria

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

- (a) the applicant is a primary producer, small business owner or non-profit organisation; and
- (b) immediately before the eligible disaster—
 - (i) the applicant carried on a primary production enterprise, small business or non-profit activities (each a *relevant activity*) in the defined disaster area; or
 - (ii) the applicant had been carrying on a relevant activity in the defined disaster area on a regular basis; or
 - (iii) assets used by the applicant to carry on a relevant activity were situated in the defined disaster area; and
- (c) the applicant has suffered—
 - (i) damage to the assets used for carrying on the relevant activity; or
 - (ii) a significant loss of income as a direct result of the eligible disaster; and

- (d) there are reasonable prospects for the long-term viability of the relevant activity if the assistance is provided; and
- (e) the applicant has used all liquid assets and normal credit sources up to normal credit limits; and
- (f) the applicant can not, from the applicant's own resources and without assistance under the scheme—
 - (i) repair or replace assets directly damaged as a result of the eligible disaster; or
 - (ii) return to operations at a similar level as before the eligible disaster; and
- (g) the applicant has not received another concessional loan for loss or damage that was related to the eligible disaster; and
- (h) the applicant demonstrates the ability to repay the loan applied for.

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) The authority may include a condition varying the interest rate during the term of the loan.

11 Security

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

12 Terms of repayment

- (1) The term of a loan under the scheme is the term

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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.

13 Review by authority

Assistance given to an eligible entity under the scheme is subject to an annual review by the authority.

ENDNOTES

- 1 Made by the Governor in Council on 12 March 2020.
- 2 Notified on the Queensland legislation website on 13 March 2020.
- 3 The administering agency is the Department of Agriculture and Fisheries.

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