



## **Regional Investment Corporation (Water Infrastructure Project Agreements) Rule 2018**

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We, David Littleproud, Minister for Agriculture and Water Resources, and Mathias Cormann, Minister for Finance, make the following rule.

Dated 13 June 2018

The Hon David Littleproud MP  
Minister for Agriculture and Water Resources

Senator the Hon Mathias Cormann  
Minister for Finance

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## 1 Name

This instrument is the *Regional Investment Corporation (Water Infrastructure Project Agreements) Rule 2018*.

## 2 Commencement

This instrument commences the day after it is registered.

## 3 Authority

This instrument is made under section 54 of the *Regional Investment Corporation Act 2018*.

## 4 Definitions

In this instrument:

*Act* means the *Regional Investment Corporation Act 2018*.

*agreement* means an agreement entered into by the Corporation, on behalf of the Commonwealth, under the Act for the grant of financial assistance to a particular State or Territory in relation to a particular water infrastructure project.

*Corporation* means the Regional Investment Corporation established by section 7 of the Act.

## 5 Terms and conditions that may be included in an agreement

- (1) For the purposes of paragraph 12(5)(a) of the Act, this section prescribes the kinds of terms and conditions that may be included in an agreement.
- (2) An agreement may include terms and conditions that do any of the following:
  - (a) describe the water infrastructure project for which financial assistance is to be provided under the agreement, and the objective to be achieved by the project;
  - (b) specify the financial assistance to be provided to the State or Territory under the agreement, including the amounts of financial assistance that will be paid, and when and in what circumstances they will be paid;
  - (c) limit the purposes for which the financial assistance provided under the agreement may be used;
  - (d) impose performance requirements and requirements relating to the management of the water infrastructure project, including (but not limited to) requirements relating to any of the following matters:
    - (i) arrangements that may be entered into with persons that have an economic interest in the project, contractors or any other persons that perform work in relation to the project;
    - (ii) handling confidential information;

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- (iii) how the agreement and the water infrastructure project may be publicised;
  - (e) require compliance with any relevant laws;
  - (f) specify the circumstances in which the State or Territory will be in default of the agreement, and the consequences of default;
  - (g) specify whether any of the financial assistance provided under the agreement must be repaid to the Commonwealth and, if so, whether any interest will be payable and how the interest will be calculated and reviewed;
  - (h) specify any representations, warranties, indemnities or waivers to be given by the State or Territory;
  - (i) specify reporting, notification, monitoring and audit requirements in relation to the agreement;
  - (j) permit the Commonwealth, with or without the agreement of the State or Territory, to change the terms on which financial assistance is provided under the agreement (including the terms applying to any financial assistance already provided under the agreement) in order to reflect any relevant change in Commonwealth water infrastructure policy;
  - (k) permit the Commonwealth and the State or Territory to agree to vary the terms of the agreement;
  - (l) impose requirements in relation to the use and ownership of any water infrastructure built or developed using financial assistance provided under the agreement, including (but not limited to) requirements that:
    - (i) prevent the privatisation of the water infrastructure;
    - (ii) relate to the terms and conditions relating to any charges or costs associated with accessing the water infrastructure.
- (3) An agreement may also include terms and conditions:
- (a) that are required to be included in the agreement by any Commonwealth or State or Territory law; or
  - (b) that are incidental to the other terms and conditions that are included in the agreement.

## **6 Matters to be considered by the Corporation**

- (1) For the purposes of paragraph 12(5)(b) of the Act, this section prescribes the matters the Corporation must consider in specifying terms and conditions to be included in an agreement.
- (2) The Corporation must consider the following matters
  - (a) the need to ensure the efficient use of the financial assistance to be provided under the agreement;
  - (b) the need to ensure appropriate oversight of the project;
  - (c) allowing appropriate flexibility for the State or Territory to manage the project; and
  - (d) whether risk is appropriately allocated.