



Regional Investment Corporation (Agristarter Loans) Rule 2019

made under section 54 of the

Regional Investment Corporation Act 2018

Compilation No. 3

Compilation date:	1 April 2022
Includes amendments up to:	F2022L00437
Registered:	12 April 2022

Prepared by the Office of Parliamentary Counsel, Canberra

About this compilation

This compilation

This is a compilation of the *Regional Investment Corporation (Agristarter Loans) Rule 2019* that shows the text of the law as amended and in force on 1 April 2022 (the **compilation date**).

The notes at the end of this compilation (the **endnotes**) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register (www.legislation.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Editorial changes

For more information about any editorial changes made in this compilation, see the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Contents

Part 1—Preliminary	1
1 Name.....	1
3 Authority.....	1
4 Definitions	1
Part 2—Provision of Loans	3
5 Prescription of the program.....	3
6 Application for an agristarter loan	3
7 When a business is an eligible farm business.....	3
8 Grant of a succession loan	4
9 Grant of a first farmer loan	5
10 Terms of agristarter loans	6
Part 3—Administrative matters	8
11 Notice of decision to grant or refuse loan	8
12 Loan management.....	8
13 Internal review	8
14 Corporation must publish program guidelines	9
15 Corporation must report to responsible Ministers	9
16 Responsible Ministers may give written directions.....	9
Part 4—Financial matters	10
17 Corporation may charge transaction costs.....	10
18 Funding arrangements.....	10
Endnotes	11
Endnote 1—About the endnotes	11
Endnote 2—Abbreviation key	12
Endnote 3—Legislation history	13
Endnote 4—Amendment history	14

Part 1—Preliminary

1 Name

This instrument is the *Regional Investment Corporation (Agristarter Loans) Rule 2019*.

3 Authority

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

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) Board;
- (b) Corporation;
- (d) responsible Ministers;
- (e) constitutional trade or commerce.

In this instrument:

Act means the *Regional Investment Corporation Act 2018*.

agristarter loan means a first farmer loan or a succession loan.

farm asset successor means a person who holds the sole or a controlling interest in a farm business and:

- (a) has recently inherited or will inherit farm assets; or
- (b) has recently acquired or will acquire farm assets under a succession plan.

Note: Examples of farm assets include farm land, farm infrastructure and farm equipment.

farm business successor means a person who:

- (a) has recently inherited or will inherit an interest in a farm business; or
- (b) has recently acquired or will acquire an interest in a farm business under a succession plan.

first farmer means a person who is seeking to purchase, establish or develop a farm business in which the person holds or will hold the sole or a controlling interest.

first farmer loan means a loan made to a first farmer under section 9.

member of a farm business means, where the farm business is carried on by:

- (a) a sole trader—the sole trader; or
- (b) a partnership—a partner of the partnership; or
- (c) a trust—a beneficiary or unit-holder of the trust; or

Section 4

(d) a corporation (within the meaning of the *Corporations Act 2001*)—a member of the corporation.

principal business pursuit of a person means a business pursuit:

- (a) to which the person contributes or plans to contribute at least 50 per cent of their labour; and
- (b) from which the person derives or plans to derive at least 50 percent of their income.

program means the Agristarter Loans Program.

program guidelines has the meaning set out in subsection 14(1).

succession arrangements mean the succession planning process or activities identified in the succession planning process.

succession loan means a loan made to a farm business, a farm business successor or a farm asset successor under section 8.

Part 2—Provision of Loans

5 Prescription of the program

- (1) For the purposes of subsection 8(5) of the Act, the program is prescribed.

Purpose of program

- (2) The purpose of the program is to provide loans to assist:
 - (a) first farmers to purchase, establish or develop a farm business in which they hold or will hold the sole or a controlling interest; or
 - (b) farm businesses, farm business successors and farm asset successors with succession arrangements.

Specified constitutional basis of program

- (3) For the purposes of paragraph 8(5)(a) of the Act, the constitutional basis for the program is the power of the Parliament to make laws with respect to:
 - (a) trade and commerce with other countries, and among the States; and
 - (b) a Territory.

6 Application for an agristarter loan

- (1) To obtain an agristarter loan, a first farmer, farm business, farm business successor or farm asset successor must make an application to the Corporation.
- (3) The application must:
 - (a) be in writing; and
 - (b) include any information, and be accompanied by any documents, required by the Corporation.

7 When a business is an eligible farm business

- (1) Eligible farm businesses are those:
 - (a) where at least one member of the farm business is an Australian citizen or a permanent resident; and
 - (b) that are financially viable, or have sound prospects of becoming financially viable within the term of the loan; and
 - (c) that undertake all primary production aspects of the business wholly within Australia; and
 - (f) that are carried on by a sole trader, partnership, a trust, or corporation (within the meaning of the *Corporations Act 2001*); and
 - (g) where the entity carrying on the farm business is registered for tax purposes in Australia with an Australian Business Number, and is registered under the *A New Tax System (Goods and Services Tax) Act 1999*; and

Section 8

- (h) where the entity carrying on the farm business is not under external administration or bankrupt.

8 Grant of a succession loan

Eligibility requirements—succession loans

- (1) Subject to subsection (2), the Corporation may grant a loan to a farm business, a farm business successor or a farm asset successor (**recipient**) where the Corporation is satisfied that:
 - (a) the farm business is undertaking or has undertaken succession planning; and
 - (ab) the loan is to support succession arrangements; and
 - (b) the recipient has obtained or will obtain within a reasonable period a loan on commercial terms; and
 - (c) the recipient is in financial need of a concessional loan; and
 - (d) the recipient has the capacity to repay the loan; and
 - (e) in respect of a loan to support farm business succession, after the succession arrangements are carried out:
 - (i) at least one member of the farm business has experience operating a farm business or a demonstrated potential to operate a farm business; and
 - (ii) at least one member of the farm business intends to have the farm business as their principal business pursuit; and
 - (iii) the business will be an eligible farm business; and
 - (f) in respect of a loan to support farm asset succession, after the succession arrangements are carried out, the farm business in which the farm asset successor holds the sole or a controlling interest:
 - (i) will have at least one member who has experience operating a farm business or a demonstrated potential to operate a farm business; and
 - (ii) will have at least one member who intends to have the farm business as their principal business pursuit; and
 - (iii) will be an eligible farm business; and
 - (g) in respect of succession loans provided directly to a farm business, at least one member of the farm business has the farm business as their principal business pursuit.

When a succession loan must not be granted

- (2) The Corporation must not grant a loan under subsection (1) unless:
 - (a) it is satisfied of the matters set out in subsection (1); and
 - (b) the loan is made:
 - (i) to support farm business succession in respect of a farm business that is engaged solely or mainly in producing commodities for constitutional trade or commerce; or
 - (ia) to support farm asset succession in respect of a farm business in which a farm asset successor holds the sole or a controlling interest,

- and that is engaged solely or mainly in producing commodities for constitutional trade or commerce; or
- (ii) for the purpose of encouraging or promoting constitutional trade or commerce.

9 Grant of a first farmer loan

Eligibility requirements—first farmer loans

- (1) Subject to subsection (2), the Corporation may grant a loan to a first farmer where the Corporation is satisfied that:
- (aa) the loan is for one or more of the following purposes:
- (i) purchasing the sole or a controlling interest in a farm business;
 - (ii) establishing a farm business in which the first farmer will hold the sole or a controlling interest;
 - (iii) developing a farm business that the first farmer has recently acquired or will acquire, being a farm business in which the first farmer holds or will hold the sole or a controlling interest;
 - (iv) developing a farm business that the first farmer has recently established or will establish, being a farm business in which the first farmer holds or will hold the sole or a controlling interest;
 - (v) developing a farm business that involves share farming or farm leasing (or both), being a farm business in which the first farmer holds the sole or a controlling interest; and

Note 1: A first farmer loan may be granted for one or more of the above purposes. The loan can be used to, among other things, purchase an interest in a farm business, acquire farm assets (including land, infrastructure, equipment and stock), refinance loans associated with a farm business, and cover farm costs (including operating expenses, costs associated with purchasing an interest in a farm business and costs associated with acquiring farm assets).

Note 2: Where the loan is granted for the purpose of developing a farm business that involves share farming or farm leasing (or both), the loan can be used to develop the farm business even if this results in the farm business no longer involving share farming or farm leasing.

- (a) the first farmer has obtained or will obtain within a reasonable period a loan on commercial terms; and
- (b) the first farmer is in financial need of a concessional loan; and
- (c) the first farmer has the capacity to repay the loan; and
- (d) the farm business will be an eligible farm business; and
- (e) if subsection (1A) does not apply to the first farmer—the first farmer has not previously held the sole or a majority interest in a farm business other than a recently-acquired or recently-established farm business in respect of which the first farmer loan is sought; and
- (f) the first farmer has at least three years of relevant on-farm or equivalent experience; and
- (g) the first farmer intends to have the farm business as their principal business pursuit.

Section 10

- (1A) For the purposes of paragraph 9(1)(e), this subsection applies to a first farmer who is seeking a first farmer loan if the first farmer:
- (a) holds the sole or a majority interest in a farm business that involves share farming or farm leasing (or both); and
 - (b) has not previously held the sole or a majority interest in an estate in fee simple in land on which primary production aspects of a farm business were being undertaken.

When a first farmer loan must not be granted

- (2) The Corporation must not grant a loan under subsection (1) unless:
- (a) it is satisfied of the matters set out in subsection (1); and
 - (b) the loan is made:
 - (i) in respect of a farm business that is engaged solely or mainly in producing commodities for constitutional trade or commerce; or
 - (ii) for the purpose of encouraging or promoting constitutional trade or commerce.

10 Terms of agristarter loans

- (1) Subject to subsections (2) and (3), the Corporation may set the terms and conditions upon which an agristarter loan is made.

Offering agristarter loans

- (2) The maximum amount of an agristarter loan is the lesser of:
- (a) the amount that would result in the recipient having 50 per cent of its total debt in Commonwealth funded concessional loans; or
 - (b) \$2 million.
- (3) The Corporation has discretion to set the terms and conditions upon which an agristarter loan is made, provided that the agristarter loan:
- (aa) is, pursuant to its terms, to be applied:
 - (i) in the case of a succession loan—to support succession arrangements in respect of a farm business that is or will be an eligible farm business; and
 - (ii) in the case of a first farmer loan—to support the purchase, establishment or development of a farm business that is or will be an eligible farm business; and
 - (a) has an initial loan term of ten years; and
 - (b) has an initial interest-only period of five years; and
 - (c) interest is payable at the rate mentioned in subsection (4); and
 - (d) allows full or partial early repayment (of principal, interest or both, at the recipient's discretion) at any time without penalty; and
 - (e) is backed by sufficient security.
- (4) For the purposes of paragraph (3)(c)—the Corporation must set a variable interest rate, and notify loan recipients of changes to that rate, in accordance with
-

section 8 of the *Regional Investment Corporation Operating Mandate Direction 2018*.

Types of security the Corporation must consider

- (5) For the purposes of paragraph (3)(e)—the Corporation must consider requiring security, including in the form of:
- (a) a registered mortgage over land; or
 - (b) a registered mortgage over livestock; or
 - (c) a registered security interest in water rights.

Meaning of total debt

- (6) For the purposes of paragraph (2)(a)—**total debt** means the total debt owed by the recipient in respect of the farm business, including:
- (a) debt established on commercial terms, at commercial interest rates; and
 - (b) debt established under Commonwealth funded concessional loans,
- but excluding debts which are not in respect of the farm business, such as personal, credit card and home loan debts.

Part 3—Administrative matters

11 Notice of decision to grant or refuse loan

The Corporation will ensure that applicants for agristarter loans are informed of the outcome of their loan application as soon as practicable after a decision on their application has been made.

12 Loan management

- (1) The Corporation must undertake all aspects of its loan management in a prudential manner to minimise the risk of default.
- (2) The Board must ensure that prudential and arrears management policies and procedures are developed and applied by the Corporation. The Board must ensure at all times that the loan management, arrears management, recovery action, foreclosure arrangements, waiver of debt, write-offs and dispute/complaints handling are undertaken in accordance with those policies and procedures.
- (3) In developing its policies and procedures in relation to loan management activities, the Corporation is expected to have regard to the concessional nature of loans and consider the impact on the farm business of any proposed action in relation to the loan. The Corporation must offer, and undertake where required, farm debt mediation.
- (4) The Corporation may take loan recovery and foreclosure action. Where possible, decisions on foreclosure should be made by the Board, and not by a delegate.
- (5) The Corporation may waive an unpaid loan debt, in accordance with its arrears management policies and procedures. Before waiving any unpaid loan debt, the Corporation must consult with, and take into account the views of, the responsible Ministers. Where possible, a decision to waive an unpaid loan debt should be made by the Board, and not by a delegate.
- (6) The Corporation will offer and promote refinancing to eligible farm businesses under the program. This may include debt from other concessional loan programs.

13 Internal review

- (1) The Board must ensure that an internal review procedure for decisions to grant or refuse loans is developed and applied by the Corporation.
- (2) The internal review procedure is required to be transparent, robust and fair. Specifically, the internal review procedure:
 - (a) will require the internal review to be carried out by a person who was not the primary decision-maker in the original decision;

- (b) will require the decision on the internal review to be made by an officer within the Corporation who was not the primary decision-maker in the original decision (who may be the same person referred to in paragraph (a)); and
- (c) must be consistent with principles of procedural fairness.

14 Corporation must publish program guidelines

- (1) The Corporation must develop and publish written guidelines relating to the program (*the program guidelines*).
- (1A) The program guidelines must be developed in consultation with the responsible Ministers.
- (2) Without limiting subsection (1), the program guidelines must:
 - (aa) specify the uses to which agristarter loans can be applied, consistently with this rule and having regard to the purpose of the program; and
 - (a) include details of the right to request an internal review of application decisions and the process for requesting such a review; and
 - (b) contain information about the types of security the Corporation will consider accepting in relation to a loan; and
 - (c) specify when the Corporation will consider a person to be an Australian citizen or permanent resident within the meaning of paragraph 7(1)(a).

15 Corporation must report to responsible Ministers

- (1) The Corporation must provide a report to the responsible Ministers as at the end of every March, June, September and December in respect of the program. The report is to include information regarding the uptake of loans, details of the loan portfolio, financial performance information and any other matters requested by the responsible Ministers.
- (2) The Corporation is expected to proactively advise the Commonwealth on matters that will improve the operation and policy outcomes of loans.

Note: In this instrument, a reference to a loan is a reference to an agristarter loan under this program (see section 4).

16 Responsible Ministers may give written directions

For the purposes of subparagraph 8(5)(b)(iii) of the Act, to the extent that the responsible Ministers cannot otherwise give directions to the Corporation under section 11 of the Act, the responsible Ministers may give written directions to the Corporation in relation to the program.

Part 4—Financial matters

17 Corporation may charge transaction costs

For the purposes of subparagraph 8(5)(b)(i) of the Act, the Corporation may charge a recipient for transaction costs incurred by the Corporation in relation to an agristarter loan.

18 Funding arrangements

- (1) Funds for loans will be provided to the Corporation upon the Corporation's request to enable the Corporation to advance loan funds to recipients as required.
- (2) The Corporation must:
 - (a) only request funds as they are required to advance loan funds to recipients; and
 - (b) only use funds provided for loans for that purpose.
- (3) The Corporation is authorised to collect all loan repayments (including principal repayments and payments of interest) and transaction costs from loan recipients.
- (4) All loan repayments (including principal repayments and payments of interest) received by the Corporation from loan recipients must be paid to the Commonwealth as soon as reasonably practicable.
- (5) Any funds received by the Corporation from farm businesses under section 17 to reimburse the Corporation for transaction costs may be retained by the Corporation and do not need to be paid to the Commonwealth.

Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Editorial changes

The *Legislation Act 2003* authorises First Parliamentary Counsel to make editorial and presentational changes to a compiled law in preparing a compilation of the law for registration. The changes must not change the effect of the law. Editorial changes take effect from the compilation registration date.

If the compilation includes editorial changes, the endnotes include a brief outline of the changes in general terms. Full details of any changes can be obtained from the Office of Parliamentary Counsel.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnotes

Endnote 2—Abbreviation key

Endnote 2—Abbreviation key

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	reloc = relocated
ed = editorial change	renum = renumbered
exp = expires/expired or ceases/ceased to have effect	rep = repealed
F = Federal Register of Legislation	rs = repealed and substituted
gaz = gazette	s = section(s)/subsection(s)
LA = <i>Legislation Act 2003</i>	Sch = Schedule(s)
LIA = <i>Legislative Instruments Act 2003</i>	Sdiv = Subdivision(s)
(md) = misdescribed amendment can be given effect	SLI = Select Legislative Instrument
(md not incorp) = misdescribed amendment cannot be given effect	SR = Statutory Rules
mod = modified/modification	Sub-Ch = Sub-Chapter(s)
No. = Number(s)	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
Regional Investment Corporation (Agristarter Loans) Rule 2019	11 Apr 2019 (F2019L00604)	12 Apr 2019 (s 2)	
Regional Investment Corporation (Agristarter Loans) Amendment (Loan Terms and Eligibility) Rule 2019	31 July 2019 (F2019L01028)	1 Aug 2019 (s 2(1))	—
Regional Investment Corporation (Agristarter Loans) Amendment Rule 2020	16 Dec 2020 (F2020L01625)	17 Dec 2020 (s 2)	—
Regional Investment Corporation (Agristarter Loans) Amendment (Share Farming and Farm Leasing) Rules 2022	31 Mar 2022 (F2022L00437)	1 Apr 2022 (s 2(1) item 1)	—

Endnotes

Endnote 4—Amendment history

Endnote 4—Amendment history

Provision affected	How affected
Part 1	
s 2.....	rep LA s 48D
s 4.....	am F2020L01625
Part 2	
s 5.....	am F2020L01625
s 6.....	am F2020L01625
s 7.....	am F2019L01028 rs F2020L01625
s 8.....	am F2019L01028 rs F2020L01625
s 9.....	am F2019L01028 rs F2020L01625 am F2022L00437
s 10.....	am F2019L01028; F2020L01625
Part 3	
s 14.....	am F2020L01625
