

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Water Resources, Drought, Rural Finance,
Natural Disaster and Emergency Management and the Minister for Finance

Regional Investment Corporation Act 2018

Regional Investment Corporation Operating Mandate Amendment (Drought Loans – Interest-free Period) Direction 2019

Legislative Authority

The *Regional Investment Corporation Act 2018* (the Act) establishes the Regional Investment Corporation (the Corporation). The Corporation's functions are set out in section 8 of the Act and include administering programs prescribed by rules.

Subsection 11(1) of the Act requires the responsible Ministers to give directions, by legislative instrument, to the Corporation about the performance of the Corporation's functions.

On 6 June 2018, the responsible Ministers for the Corporation made the *Regional Investment Corporation Operating Mandate Direction 2018* (the Operating Mandate Direction). The Operating Mandate Direction directs the Corporation in relation to the performance of the Corporation's functions, including matters relating to the:

- objectives the Corporation is to pursue in administering its programs;
- expectations relating to the strategies and policies to be followed for the effective performance of the Corporation's functions;
- eligibility criteria for farm business loans and financial assistance to the States and Territories for water infrastructure projects; and
- financial arrangements for the Corporation.

Subsection 33(3) of the *Acts Interpretation Act 1901* provides that where an Act confers a power to make an instrument of a legislative character, it includes a power to amend such an instrument.

Purpose

The purpose of the *Regional Investment Corporation Operating Mandate Amendment (Drought Loans – Interest-free Period) Direction 2019* (Amendment Direction) is to amend the Operating Mandate Direction to include a two year interest free period for new and existing drought loans.

Background

On 7 November 2019, the government announced it was providing a two year interest free period for drought loans. This announcement also fulfilled the government's 2019 Election Commitment to provide interest free loans for restocking and replanting.

Impact and Effect

The Amendment Direction allows the Corporation to offer a two year interest free period for new and existing drought loans.

Consultation

The Department of Agriculture consulted with the Department of Finance and the Regional Investment Corporation in preparing the Amendment Direction.

Details / Operation

Details of the Amendment Direction are set out in Attachment A.

The Amendment Direction is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Amendment Direction is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A statement of compatibility is set out in Attachment B.

Details of the Regional Investment Corporation Operating Mandate Amendment (Drought Loans – Interest-free Period) Direction 2019

PART 1 - PRELIMINARY

Section 1 – Name of Instrument

This section provides that the name of the instrument is the *Regional Investment Corporation Operating Mandate Amendment (Drought Loans - Interest-free Period) Direction 2019* (the Amendment Direction).

Section 2 – Commencement

This section provides for the Amendment Direction to commence on the day after registration. The section includes a note that the table featured relates only to the provisions of the instrument as originally made. It will not be amended to deal with any later amendments of the instrument.

Section 3 – Authority

This section provides that this instrument is made under subsection 11(1) of the *Regional Investment Corporation Act 2018*.

Section 4 – Schedules

This section provides that the Schedule amends the *Regional Investment Corporation Operating Mandate Direction 2018* (Operating Mandate Direction).

SCHEDULE 1 – AMENDMENTS

Regional Investment Corporation Operating Mandate Direction 2018

Item 1 – Section 4 of the Operating Mandate Direction provides the definitions. Item 1 inserts the definition of a drought loan to mean a farm business concessional loan that helps a farm business to prepare for, manage through and recover from periods of drought.

The purpose of this amendment is to define a drought loan in order to specify its two year interest free period in the Operating Mandate Direction.

Item 2 –Item 2 inserts Part 3—Transitional, application and savings provisions and section 20 Regional Investment Corporation Operating Mandate Amendment (Drought Loans—Interest free Period) Direction 2019—transitional and application provisions.

The purpose of this section is to provide transitional and application provisions for the two year interest free period. Specifically, the amendment contains provisions for when a drought loan is offered after commencement of the Amendment Direction, offered before commencement of the Amendment Direction but not yet drawn down, and when the drought loan is drawn down before commencement of the Amendment Direction. The amendment also provides for those wishing to opt out of the two year interest free period.

Subsection 20(1) provides for definitions in the section, specifically for the terms ‘amendment’ and ‘commencement’.

Subsection 20(2) provides for the interest free period to apply to drought loans offered after commencement of the Amendment Direction.

Subsection 20(3) provides for the interest free period to apply to drought loans offered before commencement of the Amendment Direction, but not yet drawn down. The subsection refers to the amendment being applied to the loan, including the two year interest free period and an interest-only period of three years, despite the actual terms and conditions of the original loan offer. The Corporation will provide a written notice to the farm business stating the effects of the amendments on the particular circumstances of its loan and indicating that a farm business has an opportunity to elect for the amendments not to apply.

Subsection 20(4) provides for the interest free period to apply to drought loans drawn down before commencement of the Amendment Direction. The subsection provides for a two year interest free period starting on 1 January 2020, and then an interest-only period after that for the remainder of the five-year period commencing from when the loan was drawn down, despite the actual terms and conditions of the loan. The repayment terms for the loan prior to the commencement of the interest only period on 1 January 2020, and the remainder of the loan term following the end of the five year period, will not be affected by the amendments. The Corporation will provide a written notice to the farm business stating the effects of the amendments on the particular circumstances of its loan and indicating that a farm business has an opportunity to elect for the amendments not to apply.

Subsection 20(5) provides for those who do not wish for the amendment to apply. The farm business with the drought loan must give written notice to the Corporation before 1 January 2020 in order to opt out of the interest free period terms.

Item 3 – Schedule 1 of the Operating Mandate Direction provides for loan specifications. Item 3 omits ‘(c) has an initial interest-only period of five years; and’, and substitutes it with ‘(c) in the case of a drought loan—has an initial interest-free period of 2 years followed by an interest-only period of 3 years; (ca) in the case of a loan other than a drought loan—has an initial interest-only period of 5 years; and’.

The purpose of this amendment is to separate the drought loan from other loans and identify its two year interest free period.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Regional Investment Corporation Operating Mandate Amendment (Drought Loans – Interest-free Period) Direction 2019

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

The purpose of this Legislative Instrument is to amend the *Regional Investment Corporation Operating Mandate Direction 2018* (Operating Mandate Direction) to provide for a two year interest free period for new and existing drought loans.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

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Senator the Hon. Mathias Cormann
Minister for Finance