

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Fisheries and Forestry and  
the Minister for Finance

*Regional Investment Corporation Act 2018*

*Regional Investment Corporation (Marine Recovery Loans) Rules 2026*

### **Legislative Authority**

The *Regional Investment Corporation Act 2018* (the Act) establishes the Regional Investment Corporation (the Corporation).

Section 54 of the Act provides that the responsible Ministers may, by legislative instrument, make rules prescribing matters required by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act. The responsible Ministers are the Agriculture Minister and the Minister who administers the *Public Governance, Performance and Accountability Act 2013* (the Finance Minister).

The Corporation's functions are set out in section 8 of the Act. The functions of the Corporation include: to administer programs prescribed by the rules (paragraph 8(1)(g)), any functions conferred on the Corporation by the Act, the rules or any other Commonwealth law (paragraph 8(1)(h)), and to do anything incidental to, or conducive to, the performance of its functions (paragraph 8(1)(i)).

Subsection 8(5) of the Act provides that, for the purposes of paragraph 8(1)(g) of the Act, the rules may prescribe one or more programs to be administered by the Corporation. Paragraph 8(5)(a) of the Act provides that any rules that prescribe a program must address the constitutional basis for the program. Paragraph 8(5)(b) also provides that the rules may allow for the charging of transaction costs incurred by the Corporation in relation to a program or allow for the responsible Ministers to give written directions to the Corporation in relation to the program.

### **Purpose**

The purpose of the *Regional Investment Corporation (Marine Recovery Loans) Rules 2026* (the Rules) is to establish the Marine Recovery Loans Program (the program) to enable the Corporation to make concessional loans to certain wild-catch fishing and aquaculture businesses that are in financial need, and are adversely affected by a marine harmful algal bloom or marine heatwave event, to assist those businesses to manage or recover from the effects of the event. The Rules apply to the marine harmful algal bloom that was first detected in March 2025 off the coast of South Australia.

The program is intended to help businesses which have experienced a material reduction in the turnover of the business due to a marine harmful algal bloom or marine heatwave event. A condition of the loan is that it is used to assist the business to manage or recover from the effects of the event by restructuring its existing debt, meeting its operating expenditure or through funding capital expenditure.

## **Background**

On 20 August 2025, the Prime Minister, the Hon Anthony Albanese MP, announced that a loan program would be developed to provide long-term support relating to the impact of slow-onset events like marine heatwaves and algal blooms. On 11 December 2025, the Minister for Agriculture, Fisheries and Forestry, the Hon Julie Collins MP (the Agriculture Minister), announced that the Government had progressed a new concessional loan scheme for marine harmful algal blooms and marine heatwaves that would assist wild-catch fishers and aquaculture operators affected by the harmful algal bloom off the coast of South Australia.

These Rules give effect to these announcements by providing for a Commonwealth funded concessional loan program, administered by the Corporation, that is intended to assist affected businesses manage or recover from the effects of the harmful algal bloom.

## **Impact and Effect**

The program prescribed by the Rules will provide relief to wild-catch fishing and aquaculture businesses that are adversely affected by the marine harmful algal bloom that was first detected in March 2025 off the coast of South Australia, which have experienced a material reduction in business turnover as a result of that event, and are in financial need. The program will support eligible businesses to manage, and recover from, the effects of the event.

## **Consultation**

In developing the program, the Department of Agriculture, Fisheries and Forestry (the department) drew from stakeholder contributions to the Senate Environment and Communications References Committee Inquiry into Algal Blooms in South Australia, including written submissions and evidence to inquiry hearings. To support awareness about the settings for the loan program and its launch date, the Agriculture Minister invited stakeholders to register their interest in the loan on the Corporation's website as part of her announcement. The department consulted the Attorney-General's Department, the Department of Finance, the Department of Climate Change, Energy, the Environment and Water, the Department of Foreign Affairs and Trade, the Department of the Prime Minister and Cabinet, the Department of the Treasury, and the Corporation, in the development of the Rules.

## **Details**

Details of the Rules are set out in [Attachment A](#).

The Rules are 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](#).

The Rules commence as follows: sections 1 to 4, section 22 and section 25 commence the day after the Rules are registered; and sections 5 to 21, 23 and 24 commence on 6 May 2026.

The Rules are a legislative instrument for the purposes of the *Legislation Act 2003*.

**Details of the *Regional Investment Corporation (Marine Recovery Loans) Rules 2026***

**Part 1—Preliminary**

**Section 1 – Name**

This section provides that the name of the instrument is the *Regional Investment Corporation (Marine Recovery Loans) Rules 2026* (the Rules).

**Section 2 – Commencement**

This section provides that:

- sections 1 to 4 and anything in this instrument not elsewhere covered by the table commence the day after the Rules are registered;
- sections 5 to 21 commence 6 May 2026;
- section 22 commences the day after the Rules are registered;
- sections 23 and 24 commence 6 May 2026; and
- section 25 commences the day after the Rules are registered.

**Section 3 – Authority**

This section provides that the instrument is made under the *Regional Investment Corporation Act 2018* (the Act).

**Section 4 – Definitions**

This section provides definitions of terms used in the Rules.

A note explains that a number of expressions used in the instrument are defined in the Act, including the following: Board; Corporation; and responsible Ministers.

The following table sets out the terms used in the Rules that are defined in section 4.

<b>Term</b>	<b>Definition</b>
<i>Act</i>	means the <i>Regional Investment Corporation Act 2018</i> .
<i>commercial debt</i>	means debt established on commercial terms, at commercial interest rates.
<i>existing debt</i>	of a business has the meaning given by section 13.
<i>fishing</i>	means the taking of aquatic organisms from waters.
<i>marine harmful algal bloom or marine heatwave event</i>	means the marine harmful algal bloom that was first detected in March 2025 off the coast of South Australia.
<i>maximum loan amount</i>	for a business has the meaning given by section 12.
<i>permanent resident</i>	has the same meaning as in the <i>Australian Citizenship Act 2007</i> .
<i>program</i>	means the Marine Recovery Loans Program prescribed by section 5.

<b>Term</b>	<b>Definition</b>
<i>total debt</i>	of a business has the meaning given by section 12.

## **Part 2—Marine Recovery Loans Program**

### **Division 1—Prescribing Marine Recovery Loans Program**

#### **Section 5 – Marine Recovery Loans Program prescribed**

This section prescribes and sets out the purpose and scope of the Marine Recovery Loans Program (the program).

Subsection 5(1) provides that the program is prescribed for the purposes of paragraph 8(1)(g) of the Act. Subsection 8(5) of the Act provides that for the purposes of paragraph (1)(g), the rules may prescribe one or more programs to be administered by the Regional Investment Corporation (the Corporation). Paragraph 8(1)(g) of the Act provides that the Corporation has the function of administering programs prescribed by the rules.

#### Purpose of program

The heading to subsection 5(2) is “*Purpose of program*”.

Subsection 5(2) provides that the purpose of the program is for the Corporation to make concessional loans to aquaculture businesses and wild-catch fishing businesses that are in financial need of those loans, and are adversely affected by a marine harmful algal bloom or marine heatwave event, to assist those businesses to manage or recover from the effects of the event. ***Marine harmful algal bloom or marine heatwave event*** is defined to mean the marine harmful algal bloom that was first detected in March 2025 off the coast of South Australia (see section 4).

#### Scope of program

The heading to subsection 5(3) is “*Scope of program*”.

Subsection 5(3) provides for the scope of the program. It provides that the program consists of the following:

- making loans under the Rules in accordance with Division 2;
- determining under Division 3 the terms and conditions on which those loans are made;
- taking security for those loans;
- charging applicants for those loans, and recipients of those loans, transaction costs incurred by the Corporation in relation to the program;
- collecting and dealing with payments of interest on, and repayments of principal of, those loans;
- managing those loans, and, if required, enforcing security taken for those loans or taking foreclosure action in relation to those loans;
- reviewing periodically those loans and the terms and conditions on which they are made;
- dealing with debts relating to those loans;
- reporting to the responsible Ministers on those loans in accordance with Division 6;

- other matters incidental to a matter set out above.

A note directs the reader to Division 5 about the funding of loans.

The purpose of this section is to establish the program, to be administered by the Corporation, which includes to make concessional loans to wild-catch fishing and aquaculture businesses that are adversely affected by marine harmful algal bloom or marine heatwave events, to assist those business to manage or recover from the effects of the event. This means the harmful algal bloom that was first detected in March 2025 off the coast of South Australia.

## **Section 6 – Constitutional basis for program**

This section specifies the constitutional basis for the program together with section 7.

Paragraph 8(5)(a) of the Act provides that if the rules prescribe one or more programs to be administered by the Corporation, they must address the constitutional basis for each program.

Section 6 of the Rules provides, for the purposes of paragraph 8(5)(a) of the Act, that the program relies on the Commonwealth’s legislative powers under paragraph 51(xxix) (external affairs) of the Constitution as it relates to giving effect to Australia’s obligations under one or more of the following Climate Change Conventions: the United Nations Framework Convention on Climate Change (the UNFCCC); the Kyoto Protocol to the UNFCCC; and the Paris Agreement.

This section also includes three notes that provide further information on the relevant Climate Change Conventions and where they can be accessed online.

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to “external affairs”. The external affairs power supports legislation implementing Australia’s international obligations under treaties to which it is a party. Australia has obligations under the Climate Change Conventions in relation to adaptation to climate change.

Article 7(1) of the Paris Agreement establishes a “global goal on adaptation of enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change with a view to contributing to sustainable development and ensuring an adequate adaptation response in the context of the temperature goal [of the Paris Agreement]”.

Article 7(9) of the Paris Agreement provides that each party: “... shall, as appropriate, engage in adaptation planning processes and the implementation of actions, including the development or enhancement of relevant plans, policies and/or contributions, which may include: (a) the implementation of adaptation actions, undertakings and/or efforts; ... (e) building the resilience of socioeconomic and ecological systems, including through economic diversification and sustainable management of natural resources”.

In addition, Article 4(1)(b) of the UNFCCC provides, among other things, that parties commit to “[f]ormulate, implement, publish and regularly update national ... programmes containing ... measures to facilitate adequate adaptation to climate change”. Article 10(b) of the Kyoto Protocol to the UNFCCC is in similar terms to Article 4(1)(b) of the UNFCCC.

The program for marine recovery loans authorises loans to be made to assist wild-catch fishing and aquaculture businesses that have been adversely affected by an event that is likely to have been contributed to by climate change, to manage or recover from the effects of that event so that they may be in a better position to deal with the impacts of similar events in the future.

It is likely climate change contributed to the conditions that led to the harmful algal bloom event that was first detected in March 2025 off the coast of South Australia. Globally and throughout Australia's waters, marine heatwaves are increasing in frequency and intensity because of climate change, and they have been linked to harmful algal blooms. There was a marine heatwave prevalent off the coast of South Australia which started in September 2024 and resulted in sea temperatures about 2.5°C warmer than usual. This marine heatwave has been identified by the South Australian Government as among the environmental events that led to the harmful algal bloom event that was first detected in March 2025 off the coast of South Australia.

The program enables the Corporation to provide loans to certain eligible businesses that undertake aquaculture or wild-catch fishing activities that are adversely affected by the harmful algal bloom event that was first detected in March 2025 off the coast of South Australia. This includes that the business has experienced a material reduction in business turnover because of the event and is in financial need. These loans assist eligible businesses to remain viable through and following this event, and in turn help manage the broader socio-economic impacts of the event. Further, assisting businesses in managing and recovering from the effects of the event will improve their resilience and adaptation to other or similar events in future.

## **Section 7 – Additional operation of program**

Section 7 of the Rules provides, for the purposes of paragraph 8(5)(a) of the Act, and in addition to section 6 above, the program also has effect as provided in this section.

Subsection 7(2) provides that the program also has the effect it would have if a reference to aquaculture or wild-catch fishing activities in subsection 9(3) were expressly confined to aquaculture or wild-catch fishing activities undertaken in the course of: (a) trade or commerce between Australia and places outside Australia, or (b) trade and commerce among the States, or (c) trade or commerce within a Territory, between a State and a Territory or between 2 Territories. Paragraphs (a) and (b) refer to the trade and commerce power (section 51(i) of the Constitution) and paragraph (c) refers to the territories power (section 122 of the Constitution).

Section 51(i) of the Constitution empowers the Parliament to make laws with respect to “trade and commerce with other countries, and among the states”. Section 122 of the Constitution empowers the Parliament to “make laws for the government of any territory”.

Under the program, the Corporation may make marine recovery loans to eligible businesses undertaking aquaculture or wild-catch fishing activities within Australia in the course of trade and commerce with other countries, or among the States or Territories, between a State and a Territory, or between 2 Territories.

Subsection 7(3) provides that the program also has the effect it would have if a reference to aquaculture or wild-catch fishing activities in subsection 9(3) were expressly confined to aquaculture or wild-catch fishing activities undertaken by a corporation to which section 51(xx) of the Constitution applies.

Under the program, the Corporation may make marine recovery loans to eligible businesses undertaking aquaculture or wild-catch fishing activities within Australia as constitutional corporations.

Subsection 7(4) provides that the program also has the effect it would have if a reference to aquaculture or wild-catch fishing activities in subsection 9(3) were expressly confined to aquaculture or wild-catch fishing activities undertaken beyond the limits of the States and Territories.

Section 51(xxix) of the Constitution empowers the Parliament to make laws with respect to “external affairs”. The external affairs power supports legislation with respect to matters or things outside the geographical limits of Australia.

Under the program, the Corporation may make marine recovery loans to eligible businesses undertaking aquaculture or wild-catch fishing activities that are beyond the limits of the States and Territories.

Subsection 7(5) provides that the program also has the effect it would have if a reference to aquaculture or wild-catch fishing activities in subsection 9(3) were expressly confined to aquaculture or wild-catch fishing activities undertaken in fisheries in Australian waters beyond territorial limits (within the meaning of section 51(x) of the Constitution).

Section 51(x) of the Constitution empowers the Parliament to make laws with respect to “fisheries in Australian waters beyond territorial limits”.

Under the program, the Corporation may make marine recovery loans to eligible businesses undertaking aquaculture or wild-catch fishing activities in Australian waters beyond territorial limits, including Commonwealth fisheries.

Subsection 7(6) provides that the program also has the effect it would have if a reference to aquaculture or wild-catch fishing activities in subsection 9(3) were expressly confined to aquaculture or wild-catch fishing activities undertaken in a Territory. As noted above, section 122 of the Constitution empowers the Parliament to “make laws for the government of any Territory”.

Under the program, the Corporation may make marine recovery loans to eligible businesses undertaking aquaculture or wild-catch fishing activities in a Territory within Australia.

## **Division 2—Making marine recovery loans**

### **Section 8 – Making loans**

Section 8 of the Rules provides that the Corporation may make a marine recovery loan under the Rules to a business if the business is eligible for the loan and the business makes an application in accordance with section 10.

Section 9 provides for when a business is eligible for a loan under the Rules. Section 10 sets out the requirements for an application for a loan under the Rules, which include the form in which an application must be made, the manner (if any) in which it must be made, and any information or documents that must be included in, or accompany, the application.

The purpose of this section is to provide that the Corporation may only exercise its discretion to make a marine recovery loan to a business if the business satisfies the eligibility requirements in section 9 and makes an application in accordance with section 10.

## **Section 9 – Eligibility for loan**

Section 9 of the Rules prescribes the eligibility requirements for a loan made under the Rules.

Subsection 9(1) provides that a business (referred to as the *affected business* for the purposes of this section) is eligible for a loan under the Rules if the requirements of section 9 are satisfied in relation to the business.

The effect of this subsection is that a business must satisfy all the requirements prescribed by section 9 to be eligible to be granted a marine recovery loan by the Corporation.

### Nature of the business

The heading to subsection 9(2) is “*Nature of business*”.

Subsection 9(2) prescribes a requirement in relation to the nature of a business that is eligible for a loan.

Subsection 9(2) provides that it is a requirement that:

- the affected business is an aquaculture business or a wild-catch fishing business or both (paragraph 9(2)(a)); and
- the aquaculture or wild-catch fishing activities or both of the affected business are authorised to be carried on by a licence, permission or right (however described) granted by the Commonwealth, a State or a Territory or an authority of the Commonwealth, a State or a Territory (paragraph 9(2)(b)).

The effect of paragraph 9(2)(a) is that to be eligible for a loan, the business must be an aquaculture business or a wild-catch fishing business or both an aquaculture business and a wild-catch fishing business.

The effect of paragraph 9(2)(b) is that to be eligible for a loan:

- for a business that is an aquaculture business, the aquaculture activities of the business must be authorised to be carried on by a licence, permission or right (however described) granted by the Commonwealth, a State or a Territory or an authority of the Commonwealth, a State or a Territory;
- for a business that is a wild-catch fishing business, the wild-catch fishing activities of the business must be authorised to be carried on by such a licence, permission or right; and
- for a business that is both an aquaculture business and a wild-catch fishing business, both the aquaculture activities of the business and the wild-catching fishing activities

of the business must be authorised to be carried on by such a licence, permission or right.

The term ‘aquaculture’ is not defined, and it is intended that the ordinary meaning would apply. The term **fishing** is defined in section 4 to mean the taking of aquatic organisms from waters.

Business is affected by a marine harmful algal bloom or marine heatwave event

The heading to subsections 9(3) and 9(4) is “*Business affected by marine harmful algal bloom or marine heatwave event*”.

Subsections 9(3) and 9(4) prescribe requirements that the Corporation must be satisfied of in relation to a business being affected by a marine harmful algal bloom or marine heatwave event.

Subsection 9(3) provides that it is a requirement that the Corporation is satisfied that some or all of the aquaculture or wild-catch fishing activities of the affected business are adversely affected by a marine harmful algal bloom or marine heatwave event (whether or not those activities are carried on in, or using, waters affected by that event).

Subsection 9(4) provides that it is a requirement that the Corporation is satisfied that there has been a material reduction in the turnover of the affected business because of a marine harmful algal bloom or marine heatwave event.

Subsections 9(3) and 9(4) together impose key eligibility requirements directed to serving the purpose of the program for the Corporation to make concessional loans to certain aquaculture businesses or wild-catch fishing businesses adversely affected by a marine harmful algal bloom or marine heatwave event.

The purpose of subsection 9(3) is to impose a requirement in relation to the impact of the marine harmful algal bloom or marine heatwave event on the activities of the business. It requires that the Corporation is satisfied that some or all of the aquaculture or wild-catch fishing activities of the affected business are adversely affected by a marine harmful algal bloom or marine heatwave event (whether or not those activities are carried on in, or using, waters affected by that event).

For a business that is both an aquaculture business and a wild-catch fishing business, the requirement in subsection 9(3) may be satisfied in circumstances where the Corporation is satisfied that some or all of:

- *either* the aquaculture activities or the wild-catch fishing activities of the business are so affected;
- *both* the aquaculture activities and the wild-catch fishing activities of the business are so affected.

Subsection 9(3) clarifies that it is not necessary for the aquaculture or wild-catch fishing activities of a business to be carried on in, or using, waters affected by a marine harmful algal bloom or marine heatwave event for the Corporation to be satisfied that those activities are adversely affected by that event. This recognises that the aquaculture activities or wild-catch

fishing activities of a business may not need to be carried on in waters affected by a marine harmful algal bloom or marine heatwave event for those activities to be affected by the event.

The purpose of subsection 9(4) is to impose a requirement in relation to the impact of the marine harmful algal bloom or marine heatwave event on the business. It requires that the Corporation is satisfied that there has been a material reduction in the turnover of the affected business because of the marine harmful algal bloom or marine heatwave event.

### Business requirement

The heading to subsection 9(5) is “*Business requirement*”.

Subsection 9(5) prescribes the business requirements that must be satisfied by an affected business for that business to be eligible for a loan.

Subsection 9(5) provides that it is a requirement that:

- the affected business is carried on by an entity that is:
  - a sole trader; or
  - a partnership; or
  - a trust; or
  - a corporation (within the meaning of the *Corporations Act 2001*), other than a public company (within the meaning of that Act) (paragraph 9(5)(a)); and
- the entity carrying on the affected business is registered for tax purposes in Australia with an Australian Business Number (ABN) and registered under the *A New Tax System (Goods and Services Tax) Act 1999* (paragraph 9(5)(b)); and
- the Corporation is satisfied that the sole trader, at least one of the partners in the partnership, at least one beneficiary of, or unit-holder in, the trust or at least one member of the corporation:
  - is an Australian citizen or permanent resident (subparagraph 9(5)(c)(i)); and
  - has suitable experience in operating a business that is an aquaculture business or a wild-catch fishing business or both (subparagraph 9(5)(c)(ii)); and
  - contributes or plans to contribute at least 75% of their labour to the affected business (subparagraph 9(5)(c)(iii)); and
  - derives or plans to derive at least 50% of their income from the affected business (subparagraph 9(5)(c)(iv)); and
- the entity carrying on the affected business is not subject to external administration or bankruptcy (paragraph 9(5)(d)).

The purpose of the requirement in paragraph 9(5)(c) is to ensure that these loans are available to commercial scale aquaculturalists or wild-catch fishers who do, or will, contribute the majority of their labour to the affected business and receive, or will receive, the majority of their income from the aquaculture or wild-catch fishing business.

In order to satisfy the requirement in subparagraph 9(5)(c)(ii), the person’s suitable experience in operating a business that is an aquaculture business or a wild-catch fishing business or both need not be, or only be, experience in operating the business that has applied for the loan.

For the purposes of the requirement in subparagraph 9(5)(c)(i), the term ***permanent resident*** is defined in section 4 of the Rules to have the same meaning as in the *Australian Citizenship*

*Act 2007* (the Australian Citizenship Act). The term ***Australian citizen*** is defined in section 2B of the *Acts Interpretation Act 1901* to have the same meaning as in the Australian Citizenship Act.

### Financial requirements

The heading to subsections 9(6) and 9(7) is “*Financial requirements*”.

Subsections 9(6) and 9(7) prescribe the financial requirements that the Corporation must be satisfied of in relation to the business for that business to be eligible for a loan.

Subsection 9(6) provides that it is a requirement that the Corporation is satisfied that:

- the affected business is financially viable or has sound prospects of a return to financial viability within 10 years; and
- the affected business has the capacity to repay the loan; and
- the affected business has provided sufficient security for the loan.

The purpose of subsection 9(6) is to ensure that the affected business has the means to meet the terms and conditions of the loan set out in section 13 of the Rules.

Subsection 9(7) provides that it is a requirement that the Corporation is satisfied that the affected business is in financial need of a concessional loan.

The purpose of subsection 9(7) is to ensure that the marine recovery loan program is only available to businesses in financial need.

### Debt requirement

The heading to subsection 9(8) is “*Debt requirement*”.

Subsection 9(8) provides that it is a requirement, that, at the time the application is made, the affected business:

- owes commercial debt; and
- has the support of each commercial lender to the proposed loan under the Rules.

The term ***commercial debt*** is defined in section 4 to mean debt established on commercial terms, at commercial interest rates.

The purpose of subsection 9(8) is to require that at the time a business makes an application for a marine recovery loan, it owes commercial debt and has the support of each commercial lender to whom it owes that debt to being granted a marine recovery loan.

## **Section 10 – Application for loan**

Section 10 of the Rules provides for the requirements to make a valid application for a loan under the Rules. The Corporation may make a loan under the Rules if a business makes an application in accordance with section 10 (see paragraph 8(b)).

Subsection 10(1) provides that a business may make an application for a loan under the Rules.

Subsection 10(2) provides that an application for a loan under the Rules must:

- be in a form approved under subsection 10(3) (paragraph 10(2)(a)); and
- include the information (if any) required by the Corporation (paragraph 10(2)(b)); and
- be accompanied by the documents (if any) required by the Corporation (paragraph 10(2)(c)); and
- be made in the manner (if any) approved under subsection 10(4) (paragraph 10(2)(d)).

Subsection 10(3) provides that the Corporation must, in writing, approve a form for the purposes of paragraph 10(2)(a) and that the Corporation must publish the form on its website.

The purpose of subsection 10(3) is to require the Corporation to approve a form in which an application must be made and to make this form available to businesses by publishing the approved form on its website.

Subsection 10(4) provides that the Corporation may, in writing, approve a manner for the purposes of paragraph 10(2)(d) and that the Corporation must give details of the manner on its website.

The purpose of subsection 10(4) is to enable the Corporation to approve the manner – that is, the way or method – in which an application for a loan must be made. If the Corporation approves a manner in which an application must be made, it must give details of the manner on its website.

The purpose of this section is to set out how businesses may make a valid application for a loan under the Rules and to enable the Corporation to determine how applications must be made and what they must include. The section provides the Corporation with the power to approve the form and manner in which a business must make an application for a loan and to require certain information to be included in an application and certain documents to accompany an application.

## **Section 11 – Informing applicant of outcome of applications for loan**

Section 11 of the Rules prescribes obligations on the Corporation in relation to informing applicants about the outcome of their loan applications and providing reasons for a decision to refuse an applicant a loan.

Subsection 11(1) provides that the Corporation must ensure that an applicant for a loan under the Rules is informed in writing of the outcome of the application as soon as practicable after a decision on the application is made.

Subsection 11(2) provides that for a decision to refuse an applicant a loan, the Corporation must give the applicant written reasons for the refusal.

The purpose of this section is to ensure that a business that has applied for a loan is informed by the Corporation in writing of the outcome of the application as soon as practicable, and, where an application for a loan is refused, is given written reasons for that decision by the Corporation.

## Division 3—Terms and conditions of loans

### Section 12 – Maximum amount of loan

Section 12 of the Rules provides for the maximum amount of a loan that the Corporation may make under the Rules.

Subsection 12(1) provides that the Corporation must not make a loan under the Rules to a business that exceeds the maximum loan amount.

Subsection 12(2) provides a definition of the term “maximum loan amount”. It provides that the *maximum loan amount* for a business is the lesser of the following:

- an amount that would result in the business holding 50% of its total debt in Commonwealth-funded concessional loans; or
- \$250,000.

A Commonwealth-funded concessional loan is a loan made on more favourable terms than the borrower could obtain in the marketplace that is funded by the Commonwealth. A loan made by the Corporation is an example of a Commonwealth-funded concessional loan.

Subsection 12(3) provides a definition of the term “total debt”. It provides that the *total debt* of a business is the sum of:

- the business’s commercial debt; and
- the amount owing under each Commonwealth-funded concessional loan provided to the business.

The purpose of this section is to set a maximum amount of a loan that can be made by the Corporation under the Rules. A business must owe commercial debt to satisfy the debt requirement of the eligibility criteria for a loan (see subsection 9(8)). The term *commercial debt* is defined by section 4 to mean debt established on commercial terms, at commercial interest rates.

The following are examples of how the provision is intended to apply.

Example 1: A business that has applied for a marine recovery loan owes \$150,000 in commercial debt and does not have another Commonwealth-funded concessional loan.

As the business currently owes \$150,000 in commercial debt, the maximum loan amount the Corporation could offer, that would result in the business holding 50% of its total debt in Commonwealth funded concessional loans, would be \$150,000. That is because a loan amount of \$150,000 would result in the business owing a total debt of \$300,000, which would consist of \$150,000 in Commonwealth funded concessional loans and \$150,000 in commercial debt.

As a result, the maximum loan amount that could be made by the Corporation under the Rules to the business would be \$150,000, as this would be the lesser of the amounts provided for by subsection 12(2).

Example 2: A business that has applied for a marine recovery loan owes \$400,000 in commercial debt and \$100,000 in an existing Commonwealth-funded concessional loan.

Based on the current debt owed by the business, the amount of a loan that would result in the business holding 50% of its total debt in Commonwealth-funded concessional loans would be \$300,000. That is because a loan of that amount would result in the business holding \$400,000 in Commonwealth-funded concessional loans and \$400,000 in commercial debt, and therefore 50% of its total debt in Commonwealth funded concessional loans.

As a result, the maximum loan amount that could be made by the Corporation under the Rules would be \$250,000, as this would be the lesser of the amounts provided for by subsection 12(2).

### **Section 13 – Other terms and conditions of loans**

Section 13 of the Rules provides that a loan agreement in relation to a loan under the Rules to a business must provide for the loan to be made on terms and conditions that include those specified in the section and may provide for other terms and conditions.

Subsection 13(1) provides that, in addition to section 12, a loan agreement in relation to a loan under the Rules to a business must provide for the loan to be made on terms and conditions that include the following:

- the term of the loan is 10 years (paragraph 13(1)(a));
- the loan is to be used to assist the business to manage or recover from the effects of the marine harmful algal bloom or marine heatwave event by doing one or more of the following:
  - restructuring the existing debt of the business;
  - meeting the operating expenses of the business;
  - funding capital expenditure of the business (paragraph 13(1)(b));
- only interest is payable for the first 5 years of the loan (paragraph 13(1)(c));
- the business must pay interest and repay the principal over the final 5 years of the loan (paragraph 13(1)(d));
- the business being able to make a full or partial early repayment of the principal or interest (or both) at any time during the term of the loan without penalty (paragraph 13(1)(e));
- all outstanding amounts must be repaid at the end of the term of the loan (paragraph 13(1)(f)).

A note following subsection 13(1) provides that Part 2 of the *Regional Investment Corporation Operating Mandate Direction 2018* (the Operating Mandate) deals with interest rates applying to loans under the Rules. The Operating Mandate provides directions to the Corporation in relation to the interest rates on loans made under the Rules. The Operating Mandate is a disallowable legislative instrument made by the responsible Ministers.

The purpose of subsection 13(1) is to require that a loan agreement in relation to a loan under the Rules to a business must provide for the loan to be made on certain terms and conditions.

Subsection 13(2) provides that the Corporation may, by notice in writing given to the business, determine other terms and conditions on which the loan is made (including other terms and conditions relating to amortisation of the loan).

The purpose of subsection 13(2) is to clarify that the Corporation may determine other terms and conditions on which a loan under the Rules is made. Any other such terms and conditions are to be determined by the Corporation by notice in writing given to the business. Any terms

and conditions so determined would be in addition to those required by subsection 13(1) to be included in a loan agreement.

Subsection 13(3) provides a definition of the term “existing debt”. It provides that the *existing debt* of a business is the sum of:

- the business’s commercial debt; and
- the amount (if any) owing under each concessional loan that is funded by the Commonwealth, a State or a Territory.

The term *commercial debt* is defined by section 4 to mean debt established on commercial terms, at commercial interest rates.

The term *existing debt* is used in subparagraph 13(1)(b)(i) of the Rules. A loan agreement in relation to a marine recovery loan must provide for the loan to be used to assist the business to manage or recover from the effects of the marine harmful algal bloom or marine heatwave event by doing one or more specified activities. Subparagraph 13(1)(b)(i) provides that one such activity is restructuring the existing debt of the business.

## **Division 4—Loan management**

### **Section 14 – Mediation**

Section 14 of the Rules prescribes obligations on the Corporation in respect of offering to undertake mediation in respect of debts relating to loans under the Rules.

Section 14 provides that the Corporation must offer to undertake mediation in respect of debts relating to loans under the Rules. It also provides that if the offer is accepted, the Corporation must undertake the mediation.

### **Section 15 – Waiver decisions**

Section 15 of the Rules prescribes obligations on the Corporation in respect of decisions to waive a debt relating to a loan under the Rules.

Section 15 provides that a decision to waive a debt relating to a loan under the Rules must be made by the Corporation (not a delegate of the Corporation):

- with the agreement of the Board (not a delegate of the Board) (paragraph 15(a)); and
- after the Corporation (not a delegate of the Corporation) has consulted the responsible Ministers and taken their views into account (paragraph 15(b)).

The requirement that the Corporation must consult with the responsible Ministers and take their views into account before making a decision to waive a debt relating to a loan under the Rules reflects the financial impact that waiving debt may have on the Commonwealth and the usual role of the Finance Minister (a responsible Minister) in waiving debts owed to the Commonwealth under the *Public Governance, Performance and Accountability Act 2013* (PGPA Act).

### **Section 16 – Loan foreclosure decisions**

Section 16 of the Rules prescribes rules in respect of loan foreclosure decisions.

Section 16 of the Rules provides that a decision on foreclosure on a loan under the Rules must be made by the Corporation (not a delegate of the Corporation) with the agreement of the Board (not a delegate of the Board).

The requirements of this section reflect the serious nature of foreclosure decisions, and the impact foreclosure decisions may have on the business and the Commonwealth.

### **Section 17 – Charging of transaction costs**

Section 17 of the Rules provides that, for the purposes of subparagraph 8(5)(b)(i) of the Act, the Corporation may charge applicants for loans under the Rules, and recipients of loans under the Rules, transaction costs incurred by the Corporation in relation to the program.

Subparagraph 8(5)(b)(i) of the Act provides that rules that prescribe programs to be administered by the Corporation for the purposes of paragraph 8(1)(g) of the Act may allow for the charging of transaction costs incurred by the Corporation in relation to a program.

The effect of this section is to permit the Corporation to charge loan applicants and loan recipients for transaction costs it incurs in relation to the program.

### **Division 5—Funding of loans**

#### **Section 18 – Funding of loans**

Section 18 of the Rules provides for the funding of loans under the Rules.

Subsection 18(1) provides that funds for the Corporation, to make loans under the Rules, are to be made out of money appropriated by the Parliament by an Act.

A note to subsection 18(1) provides that the Act will usually be an Annual Appropriation Act.

Subsection 18(2) provides that the Commonwealth is to provide funds to the Corporation for loans under the Rules, upon the Corporation's request, to enable the Corporation to make loans to businesses under the Rules as required.

Subsection 18(3) provides that the Corporation must:

- only request funds from the Commonwealth as the funds are required to make loans to businesses under the Rules (paragraph 18(3)(a)); and
- only use funds provided for loans under the Rules for that purpose (paragraph 18(3)(b)).

The purpose of section 18 is to clarify that funds for the Corporation to make loans are to be provided by the Commonwealth, made out of money appropriated by the Parliament by an Act. This reflects the Commonwealth-funded nature of loans made by the Corporation.

#### **Section 19 – Corporation to pay amounts collected to Commonwealth**

Section 19 of the Rules prescribes obligations in respect of payments made by the Corporation to the Commonwealth.

Section 19 provides that the Corporation must pay the Commonwealth, as soon as reasonably practicable, all payments received by the Corporation, from recipients of loans under the Rules, that are payments of interest on, or repayments of principal of, those loans.

A note directs the reader to section 17 in regard to the payment of transaction costs in relation to the program.

The purpose of section 19 is to ensure that the Corporation pays the Commonwealth all loan payments – payments of interest or repayments of principal – it receives from recipients of loans as soon as reasonably practicable. This is consistent with section 18 of the Rules which requires the Corporation to only request funds from the Commonwealth as the funds are required to make loans to businesses under the Rules.

## **Division 6—Involvement of responsible Ministers**

### **Section 20 – Quarterly reporting to responsible Ministers**

Section 20 of the Rules provides that the Corporation must provide a report on loans under the Rules to the responsible Ministers as at the end of every March, June, September and December, including information regarding the uptake of those loans, details of the portfolio of those loans, and financial performance information.

This reporting requirement is in addition to other reporting obligations the Corporation may have as a corporate Commonwealth entity under the PGPA Act which include requirements to periodically prepare a corporate plan and annual reports.

### **Section 21 – Directions by responsible Ministers**

Section 21 of the Rules provides that for the purposes of subparagraph 8(5)(b)(iii) of the Act, the responsible Ministers may give written directions to the Corporation in relation to the program. This section clarifies that the responsible Ministers may not give directions that direct, or have the effect of directing, the Corporation in relation to a particular loan under the Rules.

Subparagraph 8(5)(b)(iii) of the Act provides that rules that prescribe programs to be administered by the Corporation for the purposes of paragraph 8(1)(g) of the Act may allow for the responsible Ministers to give written directions to the Corporation in relation to a program.

The purpose of this section is to enable the responsible Ministers to give written directions in relation to the program, but not in relation to a particular loan. This ensures that decisions on individual loans are made independently of the government. This provision is consistent with the approach taken in other provisions that apply to the direction powers of the responsible Ministers under sections 11 and 12 of the Act (see subsection 11(3) and subsection 12(1) of the Act).

## **Part 3—Other functions relating to program**

### **Division 1—Corporation functions**

## **Section 22 – Preparing and publishing guidelines relating to program**

Section 22 of the Rules provides that, for the purposes of paragraph 8(1)(h) of the Act, the Corporation has the functions of:

- preparing written guidelines about the program, including guidelines about:
  - the eligibility criteria for loans under the Rules; and
  - the types of security the Corporation may consider and require for loans under the Rules; and
  - the right to request review of decisions to make or refuse loans under the Rules and the process for requesting such reviews; and
  - loans that the Corporation considers to be Commonwealth-funded concessional loans (paragraph 22(a)); and
- publishing the guidelines on the Corporation’s website (paragraph 22(b)).

Paragraph 8(1)(h) of the Act provides that the Corporation has any functions conferred on it by the rules.

The purpose of this section is to provide the Corporation with the function of preparing and publishing written guidelines relating to its administration of the program. The section provides for the matters to be included in written guidelines, although guidelines may be provided about other matters relating to the program.

## **Section 23 – Provision of information and advice**

Section 23 of the Rules provides that, for the purposes of paragraph 8(1)(h) of the Act, the Corporation has the functions of:

- providing information about loans under the Rules to the responsible Ministers on request; and
- advising the Commonwealth on matters that may improve the operation and policy outcomes of marine recovery loans.

Paragraph 8(1)(h) of the Act provides that the Corporation has any functions conferred on it by the rules.

This section provides the Corporation with the functions of responding to requests from the responsible Ministers for information about loans under the Rules and advising the Commonwealth on matters that may improve the operation and policy outcomes associated with those loans.

## **Division 2—Board functions**

### **Section 24 – Ensuring internal review of decisions about loans**

Section 24 of the Rules provides that, for the purposes of paragraph 15(1)(e) of the Act, the Board has the function of ensuring that:

- the Corporation develops and applies procedures for the review, on request, of any decision (the *original decision*) to make or refuse a loan under the Rules; and
- those procedures:
  - are transparent, robust and fair; and

- provide for the review to be carried out, and a decision to be made on the review, by a person or persons who were not involved in making the original decision; and
- are consistent with principles of procedural fairness.

Paragraph 15(1)(e) of the Act provides that functions of the Board include any functions conferred on the Board by the rules.

The effect of this section is to provide the Board with the function of ensuring that the Corporation develops and applies procedures for the review of any decision to make or refuse a marine recovery loan. This internal review mechanism would afford applicants the opportunity to seek internal review of the original decision made by the Corporation to make or refuse such a loan and enable the review officer to determine the correct or preferable decision in the circumstances.

### **Section 25 – Developing and applying loan management policies and procedures**

Subsection 25(1) of the Rules provides that, for the purposes of paragraph 15(1)(e) of the Act, the Board has the functions of:

- ensuring that the Corporation develops policies and procedures described in subsection 25(2), that take into account the following matters:
  - the concessional nature of loans under the Rules;
  - the effect on recipients of those loans of taking action in accordance with those policies and procedures;
- ensuring that the Corporation applies those policies and procedures taking those matters into account.

Paragraph 15(1)(e) of the Act provides that functions of the Board include any functions conferred on the Board by the rules.

Subsection 25(2) of the Rules provides that subsection (1) applies to policies and procedures for managing loans under the Rules in a prudential manner to minimise the risk of default, including policies and procedures for:

- arrears management (paragraph 25(2)(a)); and
- recovery action (paragraph 25(2)(b)); and
- foreclosure arrangements (paragraph 25(2)(c)); and
- waiving debt after consulting with responsible Ministers (paragraph 25(2)(d)); and
- writing off debt (paragraph 25(2)(e)); and
- handling disputes and complaints (paragraph 25(2)(f)).

The Operating Mandate directs the Corporation to undertake all aspects of its loan management in a prudential manner to minimise the risk of default. It further requires the Board to ensure that prudential and arrears management policies and procedures are developed and applied by the Corporation. See subsections 11(1) and (2) of the Operating Mandate.

The purpose of section 25 is to complement those directions by providing the Board with the function of ensuring that the Corporation develops and applies procedures for managing loans under the Rules in a prudential manner to minimise the risk of default. It requires that such policies and procedures cover particular activities, including for foreclosure arrangements and

waiving debt after consulting with responsible Ministers, which are matters addressed by sections 15 and 16 of the Rules.

## **Statement of Compatibility with Human Rights**

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

*Regional Investment Corporation (Marine Recovery Loans) Rules 2026*

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 the *Regional Investment Corporation (Marine Recovery Loans) Rules 2026* (the Rules) is to establish the Marine Recovery Loans Program (the program) to enable the Regional Investment Corporation (the Corporation) to make concessional loans to certain wild-catch fishing and aquaculture businesses that are in financial need, and are adversely affected by a marine harmful algal bloom or marine heatwave event, to assist those businesses to manage or recover from the effects of the event. The Rules apply to the marine harmful algal bloom that was first detected in March 2025 off the coast of South Australia.

The program is intended to help businesses which have experienced a material reduction in the turnover of the business due to a marine harmful algal bloom or marine heatwave event. A condition of the loan is that it is used to assist the business to manage or recover from the effects of the event by restructuring its existing debt, meeting its operating expenditure or through funding capital expenditure.

### **Human rights implications**

The Rules engage the right to privacy in Article 17 of the *International Covenant on Civil and Political Rights* (ICCPR).

### **Protection against unlawful and arbitrary interference with privacy**

Article 17 of the ICCPR prohibits arbitrary or unlawful interference with an individual's privacy, family, home or correspondence, and protects a person's honour and reputation from unlawful attacks. The right to privacy encompasses respect for private information and private life, particularly the storing, use and sharing of personal information. These Rules engage Article 17 because the Rules enable:

- collection, storage, use and disclosure of personal information, including credit information; and
- the Corporation to take loan recovery and foreclosure action with the agreement of the Board.

For an interference with the right to privacy to be permissible, the interference must be authorised by law, be for a reason consistent with the ICCPR and be reasonable in the particular circumstances. To the extent that the measures in the Rules may limit the right in Article 17 of the ICCPR, they are lawful and non-arbitrary. The measures in the Rules may allow information to be collected, used and disclosed for particular purposes that

are necessary, reasonable, and proportionate to enable the effective delivery of the program. This includes those in the following provisions:

- Subsection 10(2) of the Rules requires loan applicants to make an application for a loan in an approved form, include the information required by the Corporation and be accompanied by the documents required by the Corporation. The information sought in this application is expected to include personal and credit-related information.
- Section 23 of the Rules provides that for the purposes of paragraph 8(1)(h) of the Act, the Corporation may provide information about loans under the program to the responsible Ministers on request.
- Section 16 enables the Corporation to manage loans and if required take foreclosure action in relation to them subject to the agreement of the Corporation's Board (section 16).

The right to privacy in Australia is, under Commonwealth jurisdiction, governed by the *Privacy Act 1988* (the Privacy Act). The Australian Privacy Principles, outlined in section 14 of that Act, relevantly assist Government entities to ensure that the collection, storage, access, use and disclosure of personal information has a lawful basis. The provisions in the Rules that engage with the right to privacy and reputation will be subject to the Privacy Act.

The Privacy Act protects the use and disclosure of credit information by providing various safeguards including only collecting data necessary for the operation of the credit reporting system, providing protections against misuse and unauthorised access, affording individuals the right to access and correct their credit information and restricting who can access credit reports. Accordingly, to the extent the right to information privacy is engaged, it is not impermissibly limited as any information usage under the Rules is effectively protected under the Privacy Act.

The component of Article 17 which relates to freedom from arbitrary or unlawful interference with a person's family and home is engaged by the provision in the Rules which enables the Corporation to take loan recovery and foreclosure action following the agreement of the Board to take such action. Any limitation on this freedom in terms of the effects of potential foreclosure action is necessary and proportionate to achieve the legitimate goal of ensuring creditors receive an equitable distribution of the debtors' assets in the event of default.

Lack of a mechanism to realise a person's home as a component of business assets for the recovery of a debt where all other recovery options have been exhausted, would undermine the economic stability and endurance of the loan program.

Foreclosure action requires the agreement of the Corporation's Board and is a measure of last resort where other loan recovery action has been unsuccessful and financial hardship arrangements have been fully explored. The Board has the function of ensuring that the Corporation develops and applies policies and procedures in relation to loans, under the Rules in a prudential manner to minimise the risk of default, taking into account the concessional nature of the loans and the effect on recipients of any proposed action in relation to the loan in accordance with those policies and procedures (section 25). Under section 14 of the Rules, the Corporation must also offer, and undertake when accepted, mediation in respect of debts relating to loans under the Rules.

Accordingly, to the extent the right to protection from arbitrary or unlawful interference with home and family is engaged by potential foreclosure action, the right is not impermissibly limited as such action is lawfully enacted and a remedy of last resort, is proportionate and reasonable and not arbitrary having regard to the legitimate policy objective of maintaining loan sustainability, program integrity and equitable access by ensuring defaults are properly managed, capital is recovered and can be directed towards other eligible loan applicants.

### **Conclusion**

The Rules are compatible with human rights. To the extent that the Rules may limit human rights, these limitations are necessary, reasonable and proportionate.

**The Hon Julie Collins MP  
Minister for Agriculture, Fisheries and Forestry**

**Senator the Hon Katy Gallagher  
Minister for Finance**