

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management
and the Minister for Finance

Regional Investment Corporation Act 2018

*Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of
Interest-Free Period) Amendment Instrument 2020*

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.

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

Further, paragraph 8(1)(g) of the Act provides that it is a function of the Corporation to administer programs prescribed by the Rules. Subsection 8(5) of the Act relevantly provides that the Rules may prescribe one or more programs to be administered by the Corporation.

Section 54 of the Act provides that the responsible Ministers may, by legislative instrument, make Rules prescribing matters required or permitted by the Act to be prescribed, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Purpose

The purpose of the *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020* (the Amendment Instrument) is to amend the following legislative instruments to cease the availability of the two year interest-free period for the Corporation's Drought Loans and Small Business Drought Loans offered in relation to applications made from 1 October 2020:

- the *Regional Investment Corporation Operating Mandate Direction 2018*;
- the *Regional Investment Corporation (Drought Loans Expansion) Rule 2020*; and
- the *Regional Investment Corporation (Small Business Drought Loans) Rules 2020*.

Background

On 22 July 2020, the Australian Government announced it would cease the two year interest-free period for Drought Loans and Small Business Drought Loans from 1 October 2020. The two year interest-free period was introduced from 1 January 2020 for Drought Loans and 20 January 2020 for Small Business Drought Loans, in response to severe drought conditions across the nation. With conditions easing across many areas, the Government decided that Drought Loans and Small Business Drought Loans will revert back to their original concessional terms from 1 October 2020 which includes an initial interest-only period of five years.

The Amendment Instrument will amend the current terms of the Corporation's Drought Loans and Small Business Drought Loans. Currently, these loans have the first two years interest free. Interest is payable for the third, fourth and fifth years of the loan, with interest and principal repayments required over the final five years of the 10-year loan term. These terms will be replaced with new terms where interest is payable over the first five years, and interest and principal repayments would be required over the final five years of the 10-year loan term.

Impact and Effect

The Amendment Instrument means that Drought Loans and Small Business Drought Loans offered in relation to applications made from 1 October 2020 will no longer have an initial two year interest-free period. These loans will revert back to an initial interest-only period of five years.

Consultation

The Department of Agriculture, Water and the Environment consulted with the Department of Finance and the Regional Investment Corporation on the Amendment Instrument. The Attorney-General's Department was consulted on the Statement of Compatibility with Human Rights. The Office of Best Practice Regulation has advised that reverting relevant loans back to an initial interest-only period of five years does not appear to have more than minor regulatory impacts on businesses, community organisations or individuals (ID: 42505).

Details / Operation

Details of the Amendment Instrument is set out in [Attachment A](#).

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

The Amendment Instrument 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](#).

ATTACHMENT A

Details of the *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020*

Section 1 – Name

This section provides that the name of this instrument is the *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020* (the Amendment Instrument).

Section 2 – Commencement

This section provides that the Amendment Instrument commences on 1 October 2020.

Section 3 – Authority

This section provides that the Amendment Instrument is made under subsection 11(1) and section 54 of the *Regional Investment Corporation Act 2018*.

Section 4 – Schedules

This section provides that each instrument that is specified in a Schedule to this Amendment Instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to the Amendment Instrument has effect according to its terms.

Schedule 1 – Amendments

Regional Investment Corporation Operating Mandate Direction 2018

Item 1 – After section 20

Item 1 amends the *Regional Investment Corporation Operating Mandate Direction 2018* (Operating Mandate Direction) by inserting a new section 21 – *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020*—transitional and application provisions.

Subsection 21(1) defines the ‘commencement day’ as 1 October 2020. The subsection also includes a note indicating that the commencement day is the day on which the instrument that made the relevant amendments commenced. In addition, the term ‘relevant amendments’ is defined in this subsection as the amendments made to the Operating Mandate Direction by the Amendment Instrument. This means that the amendments made by the Amendment Instrument come into effect on 1 October 2020.

Subsection 21(2) provides that where an application for a drought loan was made to the Regional Investment Corporation (the Corporation) before the commencement day, the Operating Mandate Direction applies in relation to the application and any loan offered on the basis of the application as if the relevant amendments had not been made.

This means that the amendments made by the Amendment Instrument will not apply to any drought loans offered in relation to applications made before 1 October 2020 (that is, the two year interest-free period will apply to loans offered in relation to applications made before 1 October 2020).

Item 2 – Schedule 1

Schedule 1 of the Operating Mandate Direction provides for loan specifications for the Corporation's farm business concessional loans program. Item 2 omits from Schedule 1 of the Operating Mandate Direction '*(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;*' and '*(ca) in the case of a loan other than a drought loan—has an initial interest-only period of 5 years; and*' and substitutes these with '*(c) has an initial interest-only period of five years; and*'.

The purpose of this amendment is to remove the availability of the two year interest-free period for drought loans made under the Operating Mandate Direction from 1 October 2020. Drought loan applications made under the Operating Mandate Direction and made from 1 October 2020 will be eligible for an initial interest-only period of five years.

Regional Investment Corporation (Drought Loans Expansion) Rule 2020

Item 3 – Section 4 (definition of expanded drought loan)

Section 4 of the *Regional Investment Corporation (Drought Loans Expansion) Rule 2020* (Drought Loans Expansion Rule) provides a definition of an expanded drought loan. Item 3 of the Amendment Instrument omits from the definition of an expanded drought loan '*(b) for the first 2 of those years: (i) the loan is interest-free; and (ii) no repayment of the principal is required;*' and '*(c) only interest is payable for the third, fourth and fifth years of the loan;*' and substitutes these with '*(b) only interest is payable for the first 5 years of the loan;*'.

The purpose of this amendment to the Drought Loans Expansion Rule is to remove the availability of the two year interest-free period for expanded drought loans made under the Drought Loans Expansion Rule. This amendment, combined with the amendments made by Item 5 of this Schedule means that expanded drought loans offered in relation to applications made from 1 October 2020 will not have a two-year interest free period but the loan will be interest-only for the first five years. Expanded drought loans offered in relation to applications made before 1 October 2020 will be able to receive an initial two year interest-free period.

Item 4 – Section 17

Item 4 omits the note under section 17 of the Drought Loans Expansion Rule, which describes the Corporation setting interest rates, and notes that the first two years of each expanded drought loan are interest-free.

This is a consequential amendment to the amendments made by items 3 and 5 which remove the initial two-year interest free period from expanded drought loans offered on the basis of an application for such a loan made from 1 October 2020.

Item 5 – After section 30

Item 5 inserts into the Drought Loans Expansion Rule, a new Part 4 – Transitional, application and savings provision. The new Part 4 includes a new section 31 – *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020*—transitional and application provisions.

Subsection 31(1) defines the ‘commencement day’ as 1 October 2020. The subsection includes a note that the commencement day is the day on which the instrument that made the relevant amendments commenced. The term ‘relevant amendments’ is also defined in this subsection as the amendments made to the Drought Loans Expansion Rule by the Amendment Instrument. This means that the amendments made by the Amendment Instrument commence on 1 October 2020.

Subsection 31(2) provides that where an application for an expanded drought loan was made before the commencement day, the Drought Loans Expansion Rule applies in relation to the application and any loan offered on the basis of the application as if the relevant amendments had not been made.

This means that the amendments made by the Amendment Instrument will not apply to any expanded drought loan offered in relation to an application made before 1 October 2020 (that is, the two year interest-free period will apply to loans offered in relation to applications made before 1 October 2020).

Regional Investment Corporation (Small Business Drought Loans) Rules 2020

Item 6 – Section 4 (definition of *small business drought loan*)

Section 4 of the *Regional Investment Corporation (Small Business Drought Loans) Rules 2020* (Small Business Drought Loans Rule) provides a definition of a small business drought loan. Item 6 omits from the definition of a small business drought loan ‘(b) for the first 2 of those years: (i) the loan is interest-free; and (ii) no repayment of the principal is required;’ and ‘(c) only interest is payable for the third, fourth and fifth years of the loan;’ and substitutes ‘(b) only interest is payable for the first 5 years of the loan;’.

The purpose of this amendment to the Small Business Drought Loans Rule is to remove the availability of the two year interest-free period for the small business drought loans made under the Small Business Drought Loans Rule. This amendment, combined with the amendments made by Item 8 of this Schedule means that small business drought loans offered in relation to applications made from 1 October 2020 will not have a two-year interest free period but the loan will be interest-only for the first five years. Small business drought loans offered in relation to applications made before 1 October 2020 will be eligible for an initial two year interest-free period.

Item 7 – Section 13

Item 7 omits the note under section 13 of the Small Business Drought Loans Rule, which prescribes how the Corporation sets interest rates on small business drought loans. The note provides that the first two years of each small business drought loan are interest-free.

This is a consequential amendment to the amendments made by items 6 and 8, which remove the initial two-year interest free period for small business drought loans offered on the basis of an application for such a loan made from 1 October 2020.

Item 8 – After section 26

Item 8 inserts into the Small Business Drought Loans Rule, a new Part 4 – Transitional, application and savings provision. The new Part 4 includes a new section 27 – *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020*—transitional and application provisions.

Subsection 27(1) defines the ‘commencement day’ as 1 October 2020. The subsection includes a note that the commencement day is the day on which the instrument that made the relevant amendments commenced. The term ‘relevant amendments’ is also defined in this subsection as the amendments made to the Small Business Drought Loans Rule by the Amendment Instrument. This means that the amendments made by the Amendment Instrument commence on 1 October 2020.

Subsection 27(2) provides that where an application for a small business drought loan was made before the commencement day, the Small Business Drought Loans Rule applies in relation to the application and any loan offered on the basis of the application as if the relevant amendments had not been made.

This means that the amendments made by the Amendment Instrument will not apply to any small business drought loans offered in relation to an application made before 1 October 2020 (that is, the two-year interest-free period will apply to loans offered in relation to applications made before 1 October 2020).

ATTACHMENT B

Statement of Compatibility with Human Rights

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

Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020

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

A two year interest-free period was introduced from 1 January 2020 for the Regional Investment Corporation's (the Corporation's) farm business Drought Loans and from 20 January 2020 for the Corporation's Small Business Drought Loans, in response to severe drought conditions across the nation. With conditions easing across many areas, Drought Loans and Small Business Drought Loans will revert back to their original concessional terms from 1 October 2020 which includes an initial interest-only period of five years.

The purpose of the *Regional Investment Corporation (Drought and Small Business Drought Loans)(Cessation of Interest-Free Period) Amendment Instrument 2020* (the Amendment Instrument) is to amend the following legislative instruments to cease the availability of the two year interest-free period for the Drought Loans and Small Business Drought Loans offered in relation to applications made from 1 October 2020:

- the *Regional Investment Corporation Operating Mandate Direction 2018*;
- the *Regional Investment Corporation (Drought Loans Expansion) Rule 2020*; and
- the *Regional Investment Corporation (Small Business Drought Loans) Rules 2020*.

Human rights implications

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

Conclusion

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