



# **Regional Investment Corporation (Plantation Development Concessional Loans) Rules 2021**

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We, David Littleproud, Minister for Agriculture and Northern Australia, and Simon Birmingham, Minister for Finance, make the following rules.

Dated 21 November 2021

David Littleproud  
Minister for Agriculture and Northern  
Australia

Simon Birmingham  
Minister for Finance



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## Part 1—Preliminary

### 1 Name

This instrument is the *Regional Investment Corporation (Plantation Development Concessional Loans) Rules 2021*.

### 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	6 December 2021.	6 December 2021

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

### 3 Authority

This instrument is made under 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;
- (c) responsible Ministers.

In this instrument:

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

**Australian entity**: see subsection 5(2).

**commercial debt** means debt established on commercial terms, at commercial interest rates.

**constitutional corporation** means a corporation to which paragraph 51(xx) of the Constitution applies.

**eligible business**: see subsection 5(1).

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**plantation** means an intensively managed stand of trees (of either native or exotic species) that is created by the regular placement of seedlings or seed.

**plantation loan** means a loan by the Corporation in relation to an eligible business for the purpose of establishing a plantation (including purchasing land for a plantation) or re-establishing a plantation damaged by bushfire in the financial year beginning on 1 July 2019, on terms and conditions that include the following:

- (a) the term of the loan is 20 years;
- (b) only interest is payable for the first 13 years of the loan;
- (c) the business must pay interest and repay principal over the final 7 years of the loan;
- (d) the principal of the loan may be repaid (wholly or partly) at any time during the term of the loan without penalty.

Note: Costs that a plantation loan could be used for include purchasing seedlings, labour hire to plant and site preparation.

**program** means the Plantation Loans Program prescribed by section 6.

### 5 What is an eligible business?

- (1) Each of the following is an **eligible business**:
  - (a) a constitutional corporation incorporated in Australia;
  - (b) a trust, all of the trustees of which are constitutional corporations incorporated in Australia;
  - (c) a body corporate that is incorporated in a Territory;
  - (d) a body corporate that is taken to be registered in a Territory under section 119A of the *Corporations Act 2001*;
  - (e) a trust, if the proper law of the trust and the law of the trust's administration are the law of a Territory;
  - (f) an Australian entity, the core or routine activities of which are carried out in or in connection with a Territory;
  - (g) an Australian entity, the core or routine activities of which involve trade or commerce:
    - (i) between Australia and places outside Australia; or
    - (ii) among the States; or
    - (iii) within a Territory, between a State and a Territory or between 2 Territories.

Note: Extra conditions must be met for a loan to be made in relation to the business under the Plantation Loans Program: see Division 3 of Part 2.

- (2) An **Australian entity** means any of the following:
  - (a) an Australian citizen or a permanent resident of Australia;
  - (b) a body corporate incorporated by or under a law of the Commonwealth or a State or Territory;
  - (c) a partnership formed in Australia;
  - (d) a trust created in Australia.

## **Part 2—Plantation Loans Program**

### **Division 1—Prescribing Plantation Loans Program**

#### **6 Plantation Loans Program prescribed**

- (1) For the purposes of paragraph 8(1)(g) of the Act, this section prescribes the Plantation Loans Program.
- (2) The Plantation Loans Program is the program that:
  - (a) consists of the following activities:
    - (i) making plantation loans, and dealing with applications for loans, in accordance with Division 2;
    - (ii) determining in accordance with Division 3 the terms and conditions on which plantation loans are made;
    - (iii) taking security for plantation loans;
    - (iv) charging borrowers for transaction costs incurred by the Corporation in relation to plantation loans;
    - (v) collecting and dealing with payments of interest on, and repayments of principal of, plantation loans, and if required, enforcing security taken for plantation loans, in accordance with Division 4;
    - (vi) reviewing periodically plantation loans and the terms and conditions on which they are made;
    - (vii) dealing with debts relating to plantation loans in accordance with Division 5;
    - (viii) reporting to the responsible Ministers on plantation loans in accordance with Division 6; and
  - (b) relates to plantation loans funded in accordance with Division 7.

#### **7 Constitutional basis for program**

The constitutional basis for the program is paragraphs 51(i) and (xx), and section 122, of the Constitution.

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### Division 2—Making plantation loans

#### 8 Plantation loans to be made only on application

The Corporation may make a plantation loan in relation to an eligible business only if the application for the loan:

- (a) is in writing; and
- (b) includes the information (if any) required by the Corporation; and
- (c) is accompanied by the documents (if any) required by the Corporation.

#### 9 Preconditions for making plantation loans

- (1) The Corporation must not make a plantation loan in relation to an eligible business unless the Corporation is satisfied that:
  - (a) the business is, or is able to demonstrate a preparedness to be, involved in the plantation forestry industry; and
  - (b) the location or proposed location of the plantation is in Australia and is economically viable for wood production; and
  - (c) the size of the plantation or proposed plantation is greater than 30 hectares; and
  - (d) the business has an appropriate plantation management plan; and
  - (e) the business owes commercial debt; and
  - (f) the 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*; and
  - (g) the business is not subject to:
    - (i) external administration or bankruptcy; or
    - (ii) appointment of a receiver; or
    - (iii) in the case of a partnership—an application for dissolution of the partnership; and
  - (h) the business has insurance for natural disasters in relation to the plantation or proposed plantation.

Note: The Board has the function of ensuring that the Corporation has procedures for review of decisions to make or refuse plantation loans: see section 25.

- (2) The preconditions in paragraphs (1)(e) and (h) may be satisfied by:
  - (a) if the eligible business is a trust—one or more trustees on behalf of the trust; or
  - (b) if the eligible business is a partnership—one or more partners on behalf of the partnership.

#### 10 Amount of loan

- (1) The Corporation must not make a plantation loan in relation to an eligible business that would result in the business having more than 50 per cent of its total debt in government funded concessional loans (including plantation loans).



- (2) For the purposes of subsection (1), the reference to the debt of the eligible business includes:
  - (a) if the business is a trust—the debt owed by any trustee on behalf of the trust; or
  - (b) if the business is a partnership—the debt owed by any partner on behalf of the partnership.
- (3) The Corporation must not loan more than \$2,500,000 in relation to an eligible business, whether in a single plantation loan or in total over multiple plantation loans.

### **11 Capacity to repay loan and provide security**

The Corporation must not make a plantation loan in relation to an eligible business unless:

- (a) the recipient of the loan is assessed as having the capacity to repay the loan; and
- (b) sufficient security for the loan is provided by the recipient of the loan.

### **12 Informing applicants of outcome of applications for plantation loans**

The Corporation must ensure that applicants for plantation loans are informed of the outcomes of their loan applications as soon as practicable after decisions on their applications have been made.

## **Division 3—Determining terms and conditions of plantation loans**

### **13 Extra terms and conditions of plantation loans**

The Corporation may determine the terms and conditions on which a plantation loan is made.

Note: The loan needs to be subject to the terms and conditions mentioned in the definition of *plantation loan* in section 4.

### **14 Setting interest rates**

The Corporation must determine the interest rates on all plantation loans in accordance with the agreed methodology described in section 26.

## **Division 4—Collecting and dealing with payments and enforcing security**

### **15 Corporation to pay amounts collected to Commonwealth**

The Corporation must pay the Commonwealth, as soon as reasonably practicable, all loan repayments received by the Corporation from recipients of plantation loans (including principal repayments and payments of interest, but excluding payments of any transaction costs the Corporation charged the recipients in relation to the loans).

### **16 Decisions on foreclosure to be made by Board**

Any decision of the Corporation on foreclosure on a plantation loan must be made by the Board (not a delegate of the Corporation or the Board).

## **Division 5—Dealing with debt relating to plantation loans**

### **17 Mediation**

The Corporation must offer to undertake mediation relating to debts relating to plantation loans and, if the offer is accepted, undertake the mediation.

### **18 Waiver**

A decision of the Corporation to waive debt relating to a plantation loan must be made by the Board (not a delegate of the Corporation or the Board) after consulting the responsible Ministers and taking their views into account.

## **Division 6—Reporting to responsible Ministers**

### **19 Quarterly reporting**

The Corporation must provide a report on plantation loans to the responsible Ministers as at the end of every March, June, September and December, including information regarding:

- (a) the uptake of plantation loans; and
- (b) details of the portfolio of plantation loans; and
- (c) financial performance information.

Note: The Corporation also has the function of providing information about plantation loans to the responsible Ministers on request: see section 24.

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**Division 7—Funding of plantation loans**

**20 Funding of plantation loans**

- (1) The Corporation will be funded to make plantation loans through an appropriation made by an Act.
- (2) Funds for plantation loans will be provided to the Corporation upon the Corporation's request to enable the Corporation to advance loan funds to recipients of those loans as required.
- (3) The Corporation must:
  - (a) only request funds as they are required to advance loan funds to recipients of plantation loans; and
  - (b) only use funds provided for plantation loans for that purpose.

## **Division 8—Other matters relating to program**

### **21 Charging of transaction costs**

For the purposes of subparagraph 8(5)(b)(i) of the Act, the Corporation may charge transaction costs incurred by the Corporation in relation to the program.

### **22 Directions by responsible Ministers**

For the purposes of subparagraph 8(5)(b)(iii) of the Act, the responsible Ministers may give written directions to the Corporation relating to the program (other than directions that direct, or have the effect of directing, the Corporation in relation to a particular plantation loan).





## **Division 2—Board functions**

### **25 Ensuring internal review of decisions about loans**

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 reviewing decisions (the *original decisions*) to make or refuse plantation loans that:

- (a) are transparent, robust and fair; and
- (b) require reviews to be carried out, and decisions to be made on reviews, by persons who were not the primary decision-makers of the original decisions; and
- (c) are consistent with principles of procedural fairness.

### **26 Setting interest rates**

For the purposes of paragraph 15(1)(e) of the Act, the Board has the functions of:

- (a) agreeing with the responsible Ministers on a methodology for setting variable interest rates for plantation loans that:
  - (i) is to result in rates that only cover the Corporation's administrative costs to deliver plantation loans and the Commonwealth's borrowing costs to fund the Corporation to make such loans; and
  - (ii) involves review of the interest rate for plantation loans each November and May and, if necessary, revising it in line with changes of more than 0.1% in the Commonwealth 10-year bond rate; and
- (b) ensuring that the Corporation:
  - (i) applies any revised interest rate on the first day of the third month after the month the relevant review was conducted; and
  - (ii) notifies affected recipients of plantation loans in advance of any revision of the interest rate.

### **27 Developing and applying loan management policies and procedures**

- (1) For the purposes of paragraph 15(1)(e) of the Act, the Board has the functions of:
  - (a) ensuring that the Corporation develops policies and procedures described in subsection (2) of this section, taking into account the following matters:
    - (i) the concessional nature of plantation loans;
    - (ii) the effect on eligible businesses of taking action in accordance with those policies and procedures; and
  - (b) ensuring that the Corporation applies those policies and procedures taking those matters into account.
- (2) Subsection (1) applies to policies and procedures for managing plantation loans in a prudential manner to minimise the risk of default, including policies and procedures for:
  - (a) arrears management; and
  - (b) recovery action; and
  - (c) foreclosure arrangements; and

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**Division 2** Board functions

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- (d) waiving debt after consulting the responsible Ministers; and
- (e) writing off debt; and
- (f) handling disputes and complaints.