



INFORMATION, ANALYSIS
AND ADVICE FOR THE PARLIAMENT

INFORMATION AND RESEARCH SERVICES
PARLIAMENTARY LIBRARY

Bills Digest
No. 160 2003–04

Farm Household Support Amendment Bill 2004

ISSN 1328-8091

© Copyright Commonwealth of Australia 2004

Except to the extent of the uses permitted under the *Copyright Act 1968*, no part of this publication may be reproduced or transmitted in any form or by any means including information storage and retrieval systems, without the prior written consent of the Parliamentary Library, other than by Senators and Members of the Australian Parliament in the course of their official duties.

This paper has been prepared for general distribution to Senators and Members of the Australian Parliament. While great care is taken to ensure that the paper is accurate and balanced, the paper is written using information publicly available at the time of production. The views expressed are those of the author and should not be attributed to the Information and Research Services (IRS). Advice on legislation or legal policy issues contained in this paper is provided for use in parliamentary debate and for related parliamentary purposes. This paper is not professional legal opinion. Readers are reminded that the paper is not an official parliamentary or Australian government document. IRS staff are available to discuss the paper's contents with Senators and Members and their staff but not with members of the public.

Inquiries

Members, Senators and Parliamentary staff can obtain further information from the Information and Research Services on (02) 6277 2646.

Information and Research Services publications are available on the ParlInfo database.
On the Internet the Parliamentary Library can be found at: <http://www.aph.gov.au/library/>

Published by the Information and Research Services, Parliamentary Library,
Department of Parliamentary Services, 2004.

I N F O R M A T I O N A N D R E S E A R C H S E R V I C E S

Bills Digest
No. 160 2003–04

Farm Household Support Amendment Bill 2004

Rosemary Bell
Law and Bills Digest Section
16 June 2004

Contents

Purpose.	1
Background.	2
Eligibility for Farm Help.	3
Take up of Farm Help.	3
Awareness of the Farm Help program	4
Main Provisions	4
Schedule 1 Extending the Farm Help income support scheme	4
Schedule 2 Changes to Farm Help income support and re-establishment grant scheme. . .	5
Concluding Comments.	6
Endnotes.	7

Farm Household Support Amendment Bill 2004

Date Introduced: 27 May 2004

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: Royal Assent, except for Schedule 1 (extending the Farm Help income support scheme) which commences on 1 July 2004, and Schedule 2 (changes to Farm Help scheme) which commences on a day to be fixed by Proclamation or 6 months and one day after Royal Assent.

Purpose

To amend the *Farm Household Support Act 1992* in order to:

- extend the closing date for applications for Farm Help income support from 30 June 2004 to 30 June 2007 and the deadline for Farm Help income support payments from 30 June 2005 to 30 June 2008 with provision for future extensions of the program to be made by regulation, and
- reflect the changed focus of the Farm Help program from providing welfare support to facilitating adjustment by:
 - requiring applicants for income support or re-establishment grants to obtain professional financial advice and prepare an activity plan before they are eligible to receive either income support payments or re-establishment grants, unless they are in conditions of great hardship and unable to meet their living expenses
 - removing the provision allowing farmers to suspend their Farm Help income support in order to access the exceptional circumstances relief payment and then return to Farm Help income support
 - ensuring recipients are making effective use of the program by fulfilling all their obligations under the activity plans, and
 - enabling reviews to be conducted of re-establishment grant recipients and their partners to determine that they have not returned to farming within five years of receiving a re-establishment grant.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Background

Farm Help is the successor program to the Farm Family Restart Scheme which commenced in 1997 as part of the Government's integrated rural policy package entitled Agriculture – Advancing Australia (AAA). Farm Help is available to farmers who are experiencing severe financial difficulty and cannot borrow further against their assets. It provides a safety net for those farmers who need to reassess their options and perhaps find a new future outside farming.

The key features of the Farm Help program are:

- fortnightly support paid at the same rate as Newstart Allowance for up to twelve months. Income support is subject to income and non-farm assets tests
- up to \$5500 to obtain compulsory professional advice on the future financial viability of the farming business and on employment opportunities should the family choose to leave farming. This grant may also be used to complete skills training for an alternative career and to obtain appropriate computer software
- a compulsory activity plan based on the initial financial viability assessment and goals identified by the farmer. All farmers on the program, regardless of their viability assessment, must have an activity plan and act in accordance with it while they are receiving Farm Help income support
- case management provided by a Centrelink Farm Help contact officer, to provide advice on the options available to the farmer, and
- a re-establishment grant of up to \$45 000 on the sale of the farm. The grant is subject to an assets test. Any income support received while on Farm Help is deducted from the amount of the grant.

Currently the closing date for Farm Help applications is 30 June 2004. Since income support may be paid for a period of 12 months, the closing date for Farm Help income support payments is 30 June 2005. This Bill extends the program to 30 June 2008 with applications for income support and re-establishment grants closing on 30 June 2007. The Bill also allows for further extension of the closing dates to be made by regulation. The Minister for Agriculture, Fisheries and Forestry, Hon Warren Truss, made it clear in his second reading speech that any further extensions to the Farm Help program beyond June 2009 will be made by regulation.¹ The Minister also foreshadowed an amendment to the re-establishment grant disallowable instrument to increase the grant to \$50 000.

In 2003 the Government extended the program by seven months to 30 June 2004.² The Minister said at the time that the reason for the extension of the program was to facilitate transition to any new arrangements that might be considered in the context of the 2004 Budget.³ The Government has allocated \$134.9 million in the 2004-05 Budget to continue

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

the Farm Help program over the next four years. On 11 May 2004 the Minister said that the Government will review the program in 2005-06 and that its future beyond 2007 will be considered in the context of the 2006-07 Budget.⁴

Eligibility for Farm Help

To be eligible for Farm Help a person must:

- be a farmer, and have been so for a continuous period of at least two years immediately before applying for the program
- be over 18 years of age
- be an Australian resident living in Australia
- hold a certificate of inability to obtain finance from their primary financial institution, and
- not be involved in bankruptcy proceedings or have been issued with an eviction order or in any other way have lost control of the management of the farm.

Take up of Farm Help

The Minister said in his second reading speech that since the Farm Help program commenced on 1 December 1997, and up to 30 April 2004, over 8600 farmers had received Farm Help income support and over 1000 farmers had received re-establishment assistance.⁵ A review of the Farm Help program carried out by the Australian National Audit Office (ANAO) in 2002 reported that the number of farmers participating in the program has been below the levels anticipated by the Government when budget allocations were made for the program. Figures in the ANAO's report show that in 2001-02 the number of people receiving income support was over-estimated by 30 per cent, the number receiving professional advice by 21 per cent, and the number receiving a re-establishment grant by 11 per cent.⁶ In the 2003-04 financial year the original budget allocation for the Farm Help program was \$24.875 million. The actual expenditure was \$15.602 million.⁷ Staff of AFFA explained at Senate Estimates hearings on 25 May 2004 that:

The figure for uptake of Farm Help is often quite difficult to estimate accurately. Over the last couple of years there has been a level of interaction with other programs. Our expectation was that, in the 2003-04 budget, it would be up around the \$24 million mark. What we did see was a sharp drop in the last couple of months of 2002-03 and a continuing decline throughout 2003-04 in the number of people on income support across Farm Help. There are a couple of reasons. In particular, I guess we expected that there would be some increased uptake of Farm Help at the

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

conclusion of the sugar package. The various drought initiatives probably impacted on that sort of uptake as well.⁸

The average number of farmers receiving income support in 2003-04 was about 700 each month.⁹ According to information provided in May 2004 to the Senate Estimates committee, AFFA is budgeting for a doubling in the number of people applying for Farm Help in 2004-05.¹⁰ The increased numbers are based on an expectation that some farmers now receiving exceptional circumstances assistance will choose to access the Farm Help program once exceptional circumstances declarations expire.¹¹

Awareness of the Farm Help program

Farm Help is administered by AFFA and Centrelink under the terms of a memorandum of understanding between the two government agencies. While AFFA is responsible for creating promotional materials for the Farm Help program, Centrelink distributes the materials and conducts local promotional activities. The ANAO considered the effectiveness of the promotion of the Farm Help program.¹² A survey carried out by AFFA in 2002 found that overall awareness among farmers of the Farm Help program was 37 per cent, up from 21 per cent in 2001. AFFA's goal was reported as having 50 per cent of all primary producers aware of Farm Help by June 2004.¹³

The ANAO report showed that awareness of Farm Help varied considerably between primary industry sectors. It was highest amongst sugar cane growers and dairy farmers, that is, in sectors that have been the recipients of recent Government adjustment packages. According to the ANAO report, awareness of Farm Help tended to be lower for primary producers who report making a loss, than for those reporting to break even or make a profit (32 per cent and 39 per cent awareness respectively). The ANAO commented that:

The lower level of awareness amongst loss-making primary producers presents a challenge to AFFA, since potential users of Farm Help are more likely to come from loss making enterprises. Some means of increasing awareness by loss-makers warrants consideration in the further development of AFFA's promotion strategy.¹⁴

Main Provisions

Schedule 1 Extending the Farm Help income support scheme

Item 1 extends the closing date for Farm Help income support applications to 30 June 2007 or to a later date as prescribed in regulations. Income support may be paid for 12 months. **Item 2** extends the closing date for payment of Farm Help income support to 30 June 2008 or to a later date prescribed in regulations.

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

Schedule 2 Changes to Farm Help income support and re-establishment grant scheme

Items 1-6 of Schedule 2 add and amend definitions used in the *Farm Household Support Act 1992* (the Act) and are made necessary by changes proposed by this Bill. The definition of ‘sale of a farm’ is repealed by **item 4** and replaced in **item 5** by another definition to ensure that a person selling their farm and claiming the re-establishment grant has not just transferred their right or interest in the farm enterprise to their partner.

Item 7 inserts a **proposed section 5** which enables farmers who are in severe financial hardship when they make an application for Farm Help income support to be paid the income support before they have fulfilled all the qualifications for the program. (**Item 13** gives the Secretary the discretion to waive the requirements. This responsibility can be delegated by the Secretary to Centrelink.) This change is made necessary by other amendments to the Act that make it necessary for applicants to have first obtained advice on their financial outlook and drawn up an activity plan before they can access income support (**item 9** makes these changes). Severe financial hardship is defined in **proposed section 5** as a situation where the liquid assets of the farmer and their partner (excluding farm assets) are not greater than the total amount of the Newstart Allowance that would have been paid in the preceding six weeks, if the person were entitled to Newstart Allowance and had no other income. (i.e. about \$1200 for a single person or \$2100 for a couple).¹⁵

The purpose of **item 8** is to clarify the object of the Act and to make a clear distinction between Farm Help income support and the exceptional circumstances relief payment. According to the Explanatory Memorandum¹⁶ the Courts have considered that the objectives of the two programs are the same and that Farm Help had a welfare orientation. The proposed amendment makes it plain that this is not the case. The object of the Farm Help program as stated in **proposed subsection 6(2)** is to promote change by farmers in financial difficulties. This is to be done by providing eligible farmers with twelve month’s financial assistance while they take actions to improve their longer term financial situation, either by improving the financial performance of their farm business, finding alternative sources of income, or selling the farm and re-establishing themselves outside farming.

Item 9 amends the qualifications for Farm Help income support. **Proposed subparagraph 8B(1)(d)(i)** removes the requirement for a farmer to obtain a ‘certificate of inability to obtain finance’ from a bank and replaces it with a requirement for a farmer to obtain advice on their financial outlook from a ‘prescribed adviser’. Details of who will be a prescribed adviser will be included in regulations. The Minister said that the removal of the requirement for a certificate of inability to obtain finance addresses concerns by banks and their clients that obtaining the certificate might jeopardise a person’s future borrowing arrangements.¹⁷ **Proposed paragraph 8B(1)(e)** also makes it a requirement for a person applying for Farm Help income support to obtain advice from a prescribed

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

adviser on whether there is a reasonable likelihood of improving the financial performance of the farm enterprise.

At present farmers receiving income support are required to develop an activity plan and act in accordance with it. The purpose of the activity plan is to assist farmers gain skills and information that will help them take decisions about their future and implement changes. **Proposed paragraph 8B(1)(f)** requires farmers to draw up an activity plan before they receive income support payments or a re-establishment grant. The new requirements in **proposed paragraphs 8B(1)(d), (e) and (f)** can be deferred in cases of severe financial hardship (**proposed section 5** refers).

The effect of **item 10** is to end the opportunity for a person or their partner to suspend their Farm Help income support in order to access exceptional circumstances relief payments, and then rejoin the Farm Help program when the other package ceases. According to the Explanatory Memorandum this provision has been introduced to focus farm families' attention on implementing their activity plans and improving their longer term financial security.¹⁸ **Proposed section 50** allows for a payment of Farm Help income support to be terminated if a person or their partner is receiving an exceptional circumstances relief payment. This removes the possibility of a person or a couple receiving Farm Help income support and exceptional circumstances relief payment at the same time. A person or their partner will still be able to apply for exceptional circumstances relief payment after they have completed the Farm Help program, assuming that they have decided not to sell their farm.

Proposed section 51 provides for automatic termination of Farm Help income support payments if a person who has had some of the application requirements waived because of their circumstances of extreme hardship, then fails to obtain advice on their financial outlook or draw up an activity plan within three months. **Proposed section 52** enables the Secretary to terminate an income support payment if a person fails to comply with an activity plan that they have drawn up.

Item 17 gives the Commonwealth authorisation to recover the amount of a re-establishment grant if a person who has received such a grant or their partner returns to farming within five years after receiving the grant. This provision is in the Re-establishment grant regulations and is being transferred to the Act.

Concluding Comments

The Minister has foreshadowed that the disallowable instruments made under the Act will be amended to implement the changes to the program. The Farm Help Advice Scheme 1997 instrument is to be amended to specify the operational details of the Farm Help advice and training grant. The Farm Help Re-establishment Grant Scheme 1997 instrument is to be amended to extend the closing date for applications for the re-

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

establishment grant to 30 June 2007 and to increase the maximum re-establishment grant to \$50 000. A regulation will also be made to define who can provide financial assessments under the program. These disallowable instruments cannot take legal effect until the relevant amendments in the Act are in force.¹⁹

The amendments to the Act seem designed to promote earlier decision making by farmers in difficult financial circumstances and to encourage low-income farmers to make changes designed to return their farming enterprise to profit, to seek sources of income outside the farm, or to sell up and leave farming. Farmers with access to other agricultural support packages, such as exceptional circumstances relief payments or the sugar industry reform program 2004, are unlikely to choose Farm Help. The re-establishment assistance under the sugar package allows farmers to access grants of up to \$100 000 – double what is available under the Farm Help program.²⁰ As well, there are a range of other elements of the sugar industry reform program that will be more attractive to canefarmers than the assistance offered under the Farm Help program.

Endnotes

- 1 Hon Warren Truss, ‘Second reading speech, Farm Household Support Amendment Bill 2004’, House of Representatives, *Debates*, 27 May 2004, p. 29133.
- 2 *Farm Household Support Amendment Act 2003*.
- 3 Hon Warren Truss, ‘Second reading speech, Farm Household Support Amendment Bill 2003’, House of Representatives, *Debates*, 17 September 2003, p. 19500.
- 4 Hon Warren Truss, ‘New focus for Farm Help’, *Media release* DAFF04/114WT, 11 May 2004.
- 5 Hon Warren Truss, ‘Second reading speech, Farm Household Support Amendment Bill 2004’, House of Representatives, *Debates*, 27 May 2004, p. 29133.
- 6 Australian National Audit Office, *Administration of Three Key Components of the Agriculture – Advancing Australia (AAA) Package*, Canberra, 2003, p. 58.
- 7 ‘Portfolio Budget Statements 2003-04’, Agriculture, Fisheries and Forestry portfolio, *Budget related paper No. 1.1*, p. 21; and ‘Portfolio Budget Statements 2004-05’, Agriculture, Fisheries and Forestry portfolio, *Budget related paper No. 1.1*, p. 27.
- 8 Senate, Rural and Regional and Transport Legislation Committee, ‘Budget Estimates’, *Hearings*, 25 May 2004, p. 35.
- 9 *ibid.*, p. 37.
- 10 *ibid.*, p. 37.
- 11 An employee of AFFA told the Senate Estimates Committee on 25 May 2004 that “I think an approximate figure for the number of people on exceptional circumstances is probably

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

10,000...If we expected, say, 10 per cent of those people to transfer to Farm Help then we would see quite a significant increase.”

12 Australian National Audit Office, *Administration of Three Key Components of the Agriculture – Advancing Australia (AAA) Package*, pp. 64–5.

13 *ibid.*, p. 65.

14 *ibid.*, p. 65.

15 The current basic rates of Newstart Allowance are, for a single person with no children \$389.20 a fortnight, single with dependent children \$421.00 a fortnight, or for partners \$351.10 each per fortnight.

16 Explanatory memorandum, Farm Household Support Amendment Bill 2004, p. 6.

17 Hon Warren Truss, ‘Second reading speech, Farm Household Support Amendment Bill 2004’, House of Representatives, *Debates*, 27 May 2004, p. 29132.

18 Explanatory memorandum, *op. cit.*, p. 7.

19 Hon Warren Truss, ‘Second reading speech, Farm Household Support Amendment Bill 2004’, House of Representatives, *Debates*, 3 June 2004, p. 29641.

20 See Sugar Industry Reform Program 2004 (SIRP) at:
<http://www.affa.gov.au/content/output.cfm?ObjectID=3662DAEF-3235-4FA8-86F13B5961C60A12>

Warning:

This Digest was prepared for debate. It reflects the legislation as introduced and does not canvass subsequent amendments.

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.