



Farm Household Support Amendment Bill 2005

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Farm Household Support Amendment Bill 2005

Date Introduced: 16 February 2005

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: The provisions of Schedule 1 will commence the day after Royal Assent

Purpose

The purpose of the Farm Household Support Amendment Bill 2005 is to reinforce the structural adjustment focus of the Government's 'Farm Help - Supporting Families Through Change' programme.

Background

Farm Help is the successor program to the Farm Family Restart Scheme which commenced on 1 December 1997 as part of the Government's integrated rural policy package entitled Agriculture – Advancing Australia. It is the vehicle currently used to deliver two longstanding features of Australian agricultural policy – the provision of short term income support for farmers experiencing significant financial hardship and financial assistance for those who wish to adjust out of agriculture.

The objective of Farm Help is to provide short term income support to low-income farm families experiencing financial hardship and who are unable to borrow further against their assets, so that they can take action to improve their long-term financial situation by improving the financial performance of their farm, finding alternative sources of income or re-establishing themselves outside of farming.

Farm Help, which is administered by Centrelink, provides a package of measures, delivering assistance worth up to \$55 500 per farm family, including:

- up to twelve months of income support at the Newstart Allowance rate. While this is subject to an assets and off-farm income test, farmers do not have to satisfy an 'activity test' or put their farm on the market to qualify
- a grant of up to \$5 500 for professional advice and training
- the development of an activity plan, customised to each farm family's situation, and

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- a re-establishment grant of up to \$50 000 for those who decide to leave farming and sell the farm. This grant is subject to an assets test and any income support received while on Farm Help is deducted from the amount of the grant.

Eligibility criteria

To be eligible for Farm Help, applicants must:

- be a farmer, and have been, for a continuous period of at least two years immediately before applying for the scheme
- be over 18 years old
- unable to borrow against their assets
- 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
- not be in receipt of any other assistance from Centrelink, such as Exceptional Circumstances Relief Payment or Newstart Allowance at the same time as receiving Farm Help
- only have joined the program once before and received less than six months income support from the program during that time
- have attended an initial advice session which included a professional assessment of their farm enterprise's financial situation and an assessment of their ability to obtain finance, and
- have developed a Farm Help Pathways Plan with a Centrelink Farm Help Contact Officer.

Farm Help results

The Minister's second reading speech notes that since commencement, Farm Help has provided income support to over 9000 farmers, assisted nearly 8000 farmers with advice and training sessions and provided re-establishment assistance to over 1000 farmers.¹ Expenditure to date is estimated at a total \$178 million with \$8.7 million spent to date in 2004-05. The Government expects total Farm Help expenditure in 2004-05 of \$28.8 million.² This compares with \$34.4 million in 2003-04 with the reduction due to a lower than initially expected uptake among farmers.³

The *Farm Household Support Amendment Act 2004* (FHSAA) extended the Farm Help program by another four years to 30 June 2008. Other provisions in the FHSAA included:

- extending applications for Income Support and the Re-establishment Grant closing on 30 June 2007
- increasing the maximum Re-establishment Grant from \$45 000 to \$50 000

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- requiring applicants to undertake an initial advice session to establish their farm's financial situation, and to develop a 'Pathways Plan', before claiming income support, a re-establishment grant or access further advice and training
- requiring the initial advice session to be undertaken by a prescribed adviser and include an assessment of their ability to access further finance
- providing immediate access to income support if applicants meet the program's hardship provisions
- strengthening mutual obligation provisions through quarterly reviews of Pathways Plans, and
- stopping farmers suspending Farm Help income support to access the Exceptional Circumstances Relief Payment, and then returning to Farm Help income support.

Main Provisions

The provisions of this Bill are of two types: substantive and operational. The substantive provisions are in **Part 1** of **Schedule 1** and make changes to the *Farm Household Support Act* 1992 (the Act). The operational provisions (**clauses 1-3** and **Part 2** of **Schedule 1**) make clear when the substantive provisions come into effect and how they are to apply.

Item 1 of **Schedule 1** amends the definition of 'farmer' as it is used throughout the Act. Under the Act, a farmer is a person who has a right or an interest in land used for the purposes of a farm enterprise.

Item 2 amends section 8A of the Act which deals with the qualifications for exceptional circumstances relief payment. To qualify for exceptional circumstances relief payment, a farmer must be at least 18 years of age, an Australian resident and living in Australia. **Item 2** adds two further requirements, namely, that a person:

- contributes a significant part of his or her labour and capital to the farm enterprise, (**subparagraph 8A(1)(b)(i)(B)**), and
- derives a significant part of his or her income from the farm enterprise (**subparagraph 8A(1)(b)(i)(C)**).

These two conditions were previously to be found in the definition of 'farmer' in section 3 of the Act and as such, were always included in the qualification requirement for Exceptional Circumstances Relief Payment. The amendment does not change the eligibility arrangements for the Exceptional Circumstances Relief Payment and the term 'a significant part' remains undefined.

Section 8B of the Act deals with qualification for Farm Help income support. Here the effect of the change to the definition of 'farmer' means that the words 'contributes a significant part of his or her labour and capital to the farm enterprise', and 'derives a

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significant part of his or her income from the farm enterprise', will not apply any longer. Instead, under the amendments proposed by **item 3**, in order to qualify for Farm Help income support, a farmer must, for a continuous period of at least two years immediately before he or she applies for entry to the program, have derived more than 50 per cent of his or her gross income from the farm enterprise, contributed more than 50 per cent of his or her capital to the farm enterprise, and spent more than 50 per cent of his or her working hours in work on the farm enterprise.

According to the Explanatory Memorandum, these changes are to exclude hobby farmers and people who cannot prove that they have been a farmer for a continuous period of two years prior to the date of their application.⁴

Item 4 provides the Secretary to the Department of Social Security (the Secretary) with the discretion to consider applications for Farm Help from people who have derived less than 50 per cent of their income from the farm. Again, according to the Explanatory Memorandum, the exercise of this discretion would be made by the Secretary 'in close consultation with the Department of Agriculture, Fisheries and Forestry', and only in cases where the farmer's income during the two year qualifying period had been significantly reduced by unforeseen events such as natural disaster, extreme seasonal conditions, market collapse or serious illness or disability.⁵ The intent of this provision is to ensure that otherwise eligible applicants who have suffered a decline in farm income or financial loss due to unforeseen events, are not excluded from assistance under Farm Help.

Section 41 of the Act provides that a person to whom farm household support, Exceptional Circumstances Relief Payment or Farm Help income support is being paid, may be required to notify the Department of Social Security (the Department) if their circumstances change or are likely to change. In order to remove potential ambiguity, **Item 5** amends to time frame within which the person must give such information to the Department. The period within which the person must notify the Department must end no later than 14 days after the earlier of:

- the day on which the event or change of circumstances occurs, or
- the day on which the person becomes aware that the event or change of circumstances is likely to occur.

Item 6 inserts two new sections which give the Secretary of the Department the power to require recipients of Farm Help re-establishment grants to notify the Department or to provide certain information if requested. **New section 52AB** requires people who receive re-establishment grants to notify Centrelink if their circumstances change within 5 years of receiving the grant. **New paragraph 52AB(2)(b)** specifies the nature of the change of circumstances as being either a change of address, or if the recipient, or the recipient's partner, acquires a right or interest in a farm enterprise. Failure to do this can attract a penalty of up to 20 penalty units (\$2 200) for not notifying a change of address, and up to 30 penalty units (\$3 300) for failure or refusal to comply with a notice to inform the Department of the acquisition of a right or interest in a farm enterprise.

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New section 52AC gives the Secretary of the Department the power to require a person who receives a re-establishment grant to provide a statement about whether they, or their partner has acquired a right or interest in a farm enterprise within 5 years after receiving the grant. Refusal or failure to provide a statement can attract a penalty of up to 30 penalty units (\$3 300).

Part 2 of Schedule 1 contains operational provisions of the bill. They explain how the substantive items in Part 1 (items 1-6) are to be applied. The saving provisions continue the original provisions into the future if certain circumstances are met.

Item 8 applies to applicants for Farm Help income support. It notes that amendments made by items 1, 3 and 4 will apply to people who make a claim for Farm Help income support on or after the commencement of this item. If a person has been granted an advice and training grant prior to Royal Assent being given to this Act, then he or she will have up to three months to undertake their activity plan and advice on financial outlook for this information to be used to assist their application for Farm Help income support. If the person does not fulfil these requirements within this three month period, he or she will have to qualify under the amendments made by items 1, 3 and 4 of the Schedule.

Item 9 applies to applicants for Exceptional Circumstances Relief Payment. It notes that amendments to the definition of ‘farmer’ made by items 1 and 2 will apply to a person who makes a claim for Exceptional Circumstances Relief Payment on or after the commencement of this item.

Item 10 applies to applicants for Farm Help re-establishment grants. The new requirements to notify the Department of a change of specific circumstances or a change of address, and to provide a statement about whether a re-establishment grant recipient, or their partner has acquired a right or interest in a farm enterprise within 5 years after receiving the grant, will apply to applicants on and after the commencement of the new sections. However, these new provisions will not apply to a person who has received a re-establishment grant prior to the day after Royal Assent to this Act.

Concluding Comments

Under this Bill the Government proposes to:

- amend the definition of a farmer for the purpose of receiving Farm Help
- amend the qualification requirements for Farm Help, and
- enable reviews of recipients of re-establishment grants to be conducted.

The new definition of a farmer as ‘a person who has a right or an interest in land used for the purposes of a farm enterprise’ will bring about consistency with the definition used for the Exceptional Circumstances Relief Payment.

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The effect of the amendments in Item 2 and 3 of Schedule 1 is to introduce two different standards or tests. Applicants for Exceptional Circumstances Relief Payments will need to have contributed a 'significant part' of their labour and capital to the farm enterprise, and to have derived a 'significant part' of their income from the farm enterprise. What constitutes a 'significant part' remains undefined. In contrast, applicants for Farm Help income support will need to meet a '50 per cent' test. During the two year qualifying period, they will need to have contributed more than 50 per cent of their labour and more than 50 per cent of their capital to the farm enterprise, and to have derived more than 50 per cent of their gross income from the farm enterprise.

The '50 per cent' test for income support payments replaces the previous 'significant part' test, despite the Explanatory Memorandum's assertion that the amendments 'clarify' what is meant by a 'significant part'. As a result of the proposed amendments, the Act is made more descriptive with regard to the test for income support payments, and more discretionary with regard to the test for exceptional circumstances relief payments. While retaining more discretion, the test for exceptional circumstances relief payments could also be more stringent than 50 per cent.

The changes to the test for Farm Help income support payments are designed to exclude hobby farmers and those who cannot prove that they have been a farmer for the two years prior to their application. However, the amendments will also give the Secretary of the Department of Social Security discretion in cases where a person's gross income during the qualifying period is significantly diminished by certain unforeseen events due to natural disaster, extreme seasonal conditions, market collapse or serious illness or disability.

Other amendments proposed by the Bill would enable the Government to conduct reviews of re-establishment grant recipients, to confirm they are complying with their undertakings not to re-enter farming within five years of receiving the re-establishment grant and to require them to notify a change in address. In addition there would be penalties for a person who, within five years of receiving their Farm Help grant, failed to advise that they had re-entered farming or changed their address.

Endnotes

- 1 Truss, Hon Warren, 'Second reading speech, Farm Household Support Amendment Bill 2005, House of Representatives, *Debates*, 16 February 2005, p. 3.
- 2 Department of Agriculture, Fisheries and Forestry, *Portfolio Additional Estimates Statements (PAES) 2004-2005*, Table 1.9, p. 20. Available on the Department's website at: http://www.affa.gov.au/corporate_docs/publications/pdf/about_affa/budget/2004_05_paes_fin_al.pdf.

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- 3 Senate, Rural and Regional Affairs and Transport Legislation Committee, *Hearings* (Additional Estimates), Tuesday, 15 February 2005, p. 82. Available at: <http://www.aph.gov.au/hansard/senate/commtee/S8084.pdf> .
- 4 *Explanatory memorandum*, Farm Household Support Amendment Bill 2005, paragraph 15.
- 5 *ibid.*, paragraph 18.

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