



Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008

PaoYi Tan
Law and Bills Digest Section

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Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008

Date introduced: 29 May 2008

House: House of Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: On the day of the Royal Assent.

Links: The [relevant links](#) to the Bill, Explanatory Memorandum and second reading speech can be accessed via BillsNet, which is at <http://www.aph.gov.au/bills/>. When Bills have been passed they can be found at ComLaw, which is at <http://www.comlaw.gov.au/>.

Purpose

To increase access and benefits to farmers and small business operators under the *Farm Household Support Act 1992* (the Farm Household Support Act), through the Exceptional Circumstances Relief Payments (ECRP) Scheme, by:

- Allowing ECRP claimants to earn more off-farm income than previously allowed
- Broadening the scope of eligible applicants to the ECRP Scheme by including small business operators situated in farming towns which are covered by a declaration of exceptional circumstances, and
- Bringing the rules relating to overseas absences for the ECRP Scheme in line with the overseas absence rules for the Newstart Allowance.

Background

Basis of policy commitment

The following background to the Exceptional Circumstances (EC) assistance is extracted from the [Bills Digest](#) for the Farm Household Support Amendment Bill 2007:

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Exceptional Circumstances (EC) assistance

EC rationale

Exceptional circumstances are those climatic and other events of sufficient rarity and severity as to be considered outside the scope of reasonable and responsible risk management strategies. Relatively short periods of income decline due to fluctuations in both seasonal and market conditions are not included as farmers are expected to have strategies in place to deal with these. This means, for example, that a drought as defined in meteorological terms does not automatically qualify for EC.

For a region or industry to be declared eligible for EC assistance the event must be rare and severe, the effects of the event must result in a severe downturn in farm income over a prolonged period and the event must not be a predictable part of the process of structural adjustment.

EC components

EC assistance is the mechanism by which direct, short-term, financial assistance is provided to farmers for the purposes of both welfare support to farm households and farm business assistance. The EC Relief Payment (ECRP) is the welfare component of EC and equivalent to the Newstart Allowance. EC Interest Rate Subsidies (ECIRS) is the business assistance element of EC although the level of support under this provision has been phased down.

EC origins and drought

Following the removal of drought from the Natural Disaster Relief Arrangements in 1989, Commonwealth and State Ministers agreed on a National Drought Policy in August 1992. The (then) Rural Adjustment Scheme (RAS) was the nominated vehicle for providing assistance to farmers in times of exceptional circumstances including, but not limited to drought. One of the key features in major changes to the RAS announced in September 1992 was the introduction of the Exceptional Circumstances provisions which included differentiation between financial assistance to the farm business and the farm household.

In 1993 EC declarations were made in relation to two non-drought events: heavy rainfall in Southern Australia and the collapse of wool prices. Since then all EC declarations are believed to have either been for drought or for a combination of developments with drought being a major factor. In September 1994 the Drought Relief Payment (DRP) was introduced to provide welfare support for farm households in drought EC areas and this was renamed the Exceptional Circumstances Relief Payment (ECRP) in late 1997.

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Recent extensions to the eligibility criteria for ECRP

In late 2006, the then Prime Minister announced changes to the ECRP Scheme to make some small business owners eligible for EC assistance. The Act was extended to allow small business owners, who could claim that at least 70% of their usual turnover was from goods and services provided for farming activities in EC declared areas. The 2006 extensions were enacted with the passage of the *Farm Household Support Amendment Act 2007*.

On 25 September 2007, more changes were [announced](#) to the ECRP Scheme to extend eligibility even further.¹ Non-farming small business owners who live in farming towns, and therefore could claim some dependency on the economy within those communities, would also be eligible for ECRP. These changes were immediately effective, however were not enforced by legislation. They are being enacted by the current Bill.

The increase of allowed off-farm income was included in the 2007 changes, to allow recipients of ECRP to earn up to \$20 000 in alternative income. This amount is considered exempt from income assessment for the purposes of calculating an applicant's income support.

Changes to rules about overseas absence

The proposed changes relating to overseas absences have attracted little attention or commentary. It is noted in the [Bills Digest](#) for the Farm Household Support Amendment (Restart and Exceptional Circumstances) Bill 1997 (through which the ECRP Scheme was first introduced) that the ECRP Scheme was to be equal to the Newstart Allowance Scheme in payment rate. Other aspects of the Farm Household Support Act mirror the Newstart Allowance scheme, such as assets testing (section 10). Therefore, considering the parallels between the two schemes, it is logical that the schemes treat overseas absences in the same way.

Position of political parties

When the measures which are formalised in this Bill were introduced by the previous Government, they received bipartisan support. Then Shadow Minister for Primary Industries, Fisheries and Forestry, Kerry O'Brien, [welcomed](#) the former Prime Minister's commitment to extend drought assistance.²

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1. The Hon John Howard, Prime Minister, *Australian Government Strengthens Drought Support*, Media Release, 25 September 2007.
 2. Kerry O'Brien, *Labor Welcomes Drought Package*, Media release, 25 September 2007.

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In the lead up to the introduction of this Bill members of the Opposition have released [media statements](#) voicing support for the changes to the scheme.³

In his second reading speech for the Bill, the Minister stated:

We supported the former government's introduction of these changes while we were in opposition and we will now honour that commitment by formalising them in legislation.⁴

Financial implications

Payments under the extended scheme commenced on 25 September 2007; therefore, there has been an additional unbudgeted expenditure to Government in the interim. The Explanatory Memorandum states that the amendments are an additional cost to the government, with an approved 2007-08 appropriation allocation of \$85 million to cover the cost.⁵ The Bill enables the costs of past payments to be appropriated from the Consolidated Revenue Fund.

The 2008-09 Budget Statement for the Department of Agriculture, Fisheries and Forestry states that the estimated appropriation available for the ECRP scheme for 2007-08 is \$386 868 000.⁶

As reports show that drought assistance in Australia is at an all-time high,⁷ and likely to continue growing, it is probable that the budget allocation for these measures will need to be increased in the future.

3. The Hon Dr Sharman Stone, *Relief is Available for Small Business in EC Declared Areas*, Media release, 19 March 2008.

4. The Hon Tony Burke, Minister for Agriculture, Fisheries and Forestry, 'Second Reading Speech: Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008', House of Representatives, *Debates*, 29 May 2008, p. 1.

5 Explanatory Memorandum, Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008, p. 3.

6. Portfolio Overview and the Department of Agriculture, Fisheries and Forestry, at http://www.daff.gov.au/data/assets/pdf_file/0009/654507/2008-09-overview.pdf [17 June 2008]

7 The Hon. Peter McGauran, *Drought Assistance Hits an All-time High*, Media Release, 15 April 2007, accessible at: <http://pandora.nla.gov.au/pan/54888/20071113-0915/www.maff.gov.au/releases/07/07044pm.html> [12 June 2007]

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Main provisions

Schedule 1 of the Bill contains proposed amendments to the Farm Household Support Act to increase access to ECRP.

Item 3 inserts **proposed subsection 6C(2)** which extends the period for which a person can receive ECRP until 30 June 2009 or such later day as prescribed.

Item 4 creates a new category of eligible applicants for the ECRP scheme. Applicants are now eligible if they own a small business which is situated wholly or partly in a town which has been EC declared. Relevant towns must be determined by the Minister (**proposed paragraph 7(c)**) and have populations of no more than 10,000 and be substantially reliant on income derived from the supply of goods or services to farm enterprises, farmers, farm workers or their families.

A map of Australia's EC declared areas is available [here](#).⁸

Under **proposed subsection 8A(9)**, a determination by the Minister under **proposed paragraph 8A(7)(c)** is not a legislative instrument; therefore, it is not subject to registration, Parliamentary scrutiny or disallowance.

Item 8 ensures that multiple entitlements to the ECRP scheme are not created by the amendments in this Bill.

Items 9 – 17 contain proposed amendments to existing sections 24A and 24AA of the Farm Household Support Act, to increase the amount of money that ECRP recipients can earn from non-farming income (referred to as 'off-farm salary'). The amount is increased from \$10 000 to \$20 000. Subsequently, the proposed amendments ensure that \$20 000 of such income is disregarded when assessing ECRP payments. The effect of this change is backdated to off-farm salary earned from 1 July 2007 (**item 10**), ensuring that the change applies to income assessments for the 2007-08 financial year.

Items 18 and 19 make consequential amendments to the *Social Security Act 1991* (the Social Security Act) to provide for the proposed new category of eligible applicants to the ECRP scheme.

Part 2, items 20 – 24 contain proposed application and transitional provisions. These proposed provisions backdate the application of the proposed new eligibility criteria to ECRP applications made on or after 25 September 2007 and is therefore retrospective in effect. As a matter of practice, there is no prohibition on a Bill which seeks to have retrospective impact. In this case, the eligibility changes have been in effect since that date without legislative basis, so the amendments simply formalise the current arrangements.

8. http://www.daff.gov.au/__data/assets/pdf_file/0020/153542/national-ec.pdf

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Part 3, items 25 – 29 contain provisions to validate the payments under the new eligibility criteria that occurred after 25 September 2007 (the date the new criteria came into operation). Referred to as *pre-commencement payments*, the Bill proposes to validate them, as well as validating any ancillary social security benefits (such as health care cards) which may have been conferred consequentially (**item 28**). **Item 27** also validates amounts paid using the new formulae provided in this Bill, to increase the allowable off-farm salary changes (see **items 9-17** above).

Item 29 provides that past payments and entitlements under Part 3 are funded through appropriation of the Consolidated Revenue Fund.

Schedule 2 of the Bill proposes amendments to the Farm Household Support Act to allow for portability of exceptional circumstances relief payment. **Item 3 of Schedule 2** inserts a **new section 49A** into the Farm Household Support Act, to apply the same conditions relating to overseas absences as those for Newstart Allowance.

The current Newstart Allowance conditions on overseas absence is set out in Part 4.2⁹ of the Social Security Act. They allow recipients to travel overseas, without having their payments terminated, under the following conditions:

- to seek eligible medical treatment
- to attend to an acute family crisis
- for a humanitarian purpose.

Newstart Allowance has a maximum portability period (during which their right to payment is not affected by absence) of 13 weeks - section 1217 of the *Social Security Act 1991*. This will also apply to recipients of ECRP. The proposed new section also provides that the Secretary of the Department of Agriculture, Fisheries and Forestry may approve other types of absences by regulation.

Any future amendments to Part 4.2 of the Social Security Act relating to the Newstart Allowance scheme will automatically apply to the ECRP scheme.

Unlike the eligibility and off-farm salary changes contained in **Schedule 1**, the proposed amendments in **Schedule 2** are not currently operating. They will only apply in relation to absences that start on or after commencement of the Act (**item 4**).

9. Part 4.2 of the *Social Security Act 1991* is mistakenly referred to in the Explanatory Memorandum for this Bill as Section 4.2.

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