



Farm Household Support Amendment (Ancillary Benefits) Bill 2010

Peter Hicks
Economics Section

Contents

Purpose.....	2
Background.....	2
Basis of policy commitment	2
Existing drought support arrangements	3
Drought policy review	3
WA pilot of new measures.....	5
Position of significant interest groups	8
Financial implications.....	9
Main provisions	9
Concluding comments	10

Farm Household Support Amendment (Ancillary Benefits) Bill 2010

Date introduced: 26 May 2010

House: Representatives

Portfolio: Agriculture, Fisheries and Forestry

Commencement: Royal Assent

Links: The [links](#) to the Bill, its Explanatory Memorandum and second reading speech can be found on the Bills page, 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

The purpose of the Bill is to ensure that recipients of income support under the Farm Family Support component of a trial of new drought policy measures in Western Australia can access the full range of so-called ‘ancillary benefits’ which are already available to recipients of Exceptional Circumstances Relief Payment and other welfare recipients under existing legislation.

Background

Basis of policy commitment

The Government’s planned changes to drought assistance arrangements have their origins in the ALP’s 2007 election platform for primary industries which states:

... Labor believes that EC arrangements should not be used to artificially support producers who are not viable over the longer term, and that EC policy should not reduce the need for responsible risk management by agriculture producers.

Labor believes it is important for governments to increase the number of drought ready farming businesses so that farms are more prepared for years with reduced rainfall in the context of climate change.

A Rudd Labor Government will continue the evolution of EC policy, and will work with the farm sector including the National Farmers Federation to examine the links between the objectives of drought support and natural resource management policy more broadly.¹

1. K O’Brien, (Shadow Minister for Primary Industries, Fisheries and Forestry), *Labor’s Plan for Primary Industries* Australian Labor Party policy document, Election 2007, viewed 31 May 2010,

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.

In April 2008 the Minister for Agriculture, Fisheries and Forestry (the Minister) announced a review of drought policy ‘to help prepare farmers and local communities for climate change’.²

A one year pilot of new drought policy measures to be conducted in Western Australia (WA) was announced by the Government on 5 May 2010 with funding of \$18 million provided for in the 2010–11 Budget.³

Existing drought support arrangements

For nearly two decades Exceptional Circumstances (EC) assistance has been the major policy measure for the provision of financial support to households and businesses experiencing prolonged dry seasonal conditions. 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.

Under EC assistance direct, short-term, financial assistance is provided to farmers, and more recently agriculture dependent small business operators, for the purposes of both welfare support to households and business assistance. The EC Relief Payment (ECRP) is the welfare component of EC and equivalent to the Newstart Allowance. Additional benefits including access to a health care card and concessional arrangements for Youth Allowance are also available. EC Interest Rate Subsidies (ECIRS) is the business support component of EC.

Drought policy review

As part of the April 2008 announcement the Minister advised the drought policy review would include:

<http://parlinfo.aph.gov.au/parlInfo/search/display/display.w3p;query=Id%3A%22library%2Fpartypol%2FI00P6%22>

2. T Burke (Minister for Agriculture, Fisheries and Forestry), *Drought policy for Australia's future*, media release, Canberra, 23 April 2008, viewed 27 May 2010 http://www.maff.gov.au/media/media_releases/2008/april_2008/drought_policy_for_australia_as_future
3. T Burke (Minister for Agriculture, Fisheries and Forestry), *Start of a new era in drought support with Western Australian trial*, media release, 5 May 2010, viewed 14 May 2010, http://www.maff.gov.au/media/media_releases/2010/may/start_of_a_new_era_in_drought_support_with_western_australian_trial

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.

- an economic assessment of current drought support measures by a Productivity Commission (PC) report
- an expert panel to assess the social impacts of drought
- a detailed scientific examination of likely future climate patterns and the current EC standard of a one-in-20-to-25-year-event undertaken by the Bureau of Meteorology (BoM) and CSIRO.

He also noted:

If droughts become longer and more frequent, farmers may not qualify for drought support under the current definition of an exceptional event, because it may not be something that only occurs every 20-to-25-years.⁴

The announcement also stated the aim was to have an improved drought policy in place by July 2009.⁵

The joint BoM/CSIRO scientific study examining the appropriateness of the one in 20–25 year EC event trigger was completed in July 2008 and concluded:

The current EC trigger, based on historical records, has already resulted in many areas of Australia being drought declared in more than five per cent of years, and the frequency and severity are likely to increase. The principal implication of the findings of this study is that the existing trigger is not appropriate under a changing climate.⁶

The social impact report was finalised in September 2008 and called for:

... a new national approach to *living with dryness*, as we prefer to call it, rather than *dealing with drought*. Governments should focus future policy on facilitating the social wellbeing of farm families, rural businesses and communities to improve their capacity to live with dryness.⁷

4. Drought policy for Australia's future, op. cit.

5. *ibid.*

6. K Hennessy, R Fawcett, D Kirono, F Mpelasoka, D Jones, J Bathols, P Whetton, M Stafford Smith, M Howden, C Mitchell and N Plummer, 'An assessment of the impact of climate change on the nature and frequency of exceptional climatic events', July 2008, viewed 28 May 2010, http://www.daff.gov.au/_data/assets/pdf_file/0007/721285/csiro-bom-report-future-droughts.pdf

7. Drought Policy Review Expert Social Panel, *It's About People: Changing Perspectives on Dryness. A Report to Government by an Expert Social Panel*, Report to the Minister for Agriculture, Fisheries and Forestry, Canberra, September 2008, viewed 28 May 2010, http://www.daff.gov.au/_data/assets/pdf_file/0008/889946/dryness_report.pdf

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 PC report was finalised in February 2009 and released in May 2009. Its key points include:

- Most farmers are sufficiently self-reliant to manage climate variability ...
- The National Drought Policy's (NDP) EC declarations and related drought assistance programs do not help farmers improve their self-reliance, preparedness and climate change management ...
- Governments need to commit to a long term reform path that recognises that the primary responsibility for managing risks, including from climate variability and change, rests with farmers.

With regard to EC assistance the PC recommended:

- Termination of ECIRS and state-based transactions subsidies as it found them ineffective and perversely encouraging of poor management practices
- Replacement of the ECRP due to its limited availability to those in drought-declared areas which means hardship elsewhere or for other reasons is ignored and
- Current EC declarations should lapse as soon as practicable and the process not be extended to new areas as it is inequitable and unnecessary.⁸

The PC also argued that the future policy framework should include the following objectives:

- Assisting primary producers to adapt and adjust to the impacts of climate variability and climate change
- Encouraging primary producers to adopt self-reliant approaches to managing risks
- Assisting primary producers to manage greenhouse gas emissions and other adverse impacts on the environment and
- Ensuring that farming families in hardship have temporary access to an income support scheme that recognises the special circumstances of farmers.⁹

WA pilot of new measures

The trial of new support measures in WA announced on 5 May 2010 will commence on 1 July 2010. The Minister has advised the purpose of the trial is to:

-
8. Productivity Commission (PC), *Government Drought Support*, Productivity Commission Inquiry Report, No. 46, Commonwealth of Australia, Melbourne, 27 February 2009, p. XX, viewed 28 May 2010, http://www.pc.gov.au/_data/assets/pdf_file/0010/86275/drought-support.pdf
 9. *Government Drought Support*, op. cit. p. XL

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.

test a range of new measures, including farm planning, on-farm investment, farmer training, family income support and community grants.

And that it is part of:

the Rudd Government's plans to deliver an improved drought support system which better supports farmers, their families and regional communities.¹⁰

The trial region essentially covers the agricultural production region in WA south from approximately Port Headland with the notable exception of the higher rainfall areas in the south-west corner. It encompasses 67 local government regions. A map of the trial region is available on the Department of Agriculture, Fisheries and Forestry (DAFF) website.¹¹

While the Government has not formally responded to the Drought Policy Review, and in particular the PC report, DAFF has advised:

The pilot will be testing seven measures in response to the national drought policy review, and the measures are designed to move from a crisis management approach to risk management.¹²

The Government has explicitly linked the new income support arrangements in the trial including the hardship provision to the PC's recommendation.¹³ However, its decision to leave open the possibility of new areas in the rest of Australia being EC declared is somewhat at variance with the PC's approach.¹⁴ That said, the Government has clearly indicated the pilot is part of the process of development of a new national drought policy.

-
10. A Burke (Minister for Agriculture, Fisheries and Forestry), *Drought reform trial; current support continues across Australia*, media release, 11 May 2010, viewed 14 May 2010, http://www.maff.gov.au/media/media_releases/2010/may/drought_reform_trial_current_support_continues_across_australia
 11. Department of Agriculture, Fisheries and Forestry (DAFF), 'Pilot of drought reform measures in Western Australia', DAFF website, viewed 28 May 2010, <http://www.daff.gov.au/agriculture-food/drought-pilot>
 12. Senate Rural And Regional Affairs And Transport Legislation Committee, Agriculture, Fisheries And Forestry Portfolio, Budget Estimates 2010–11, 24 May 2010, (Proof Hansard) p. 23, viewed 29 May 2010, <http://www.aph.gov.au/hansard/senate/commtee/S13017.pdf>
 13. 'Tony Burke – announcing the drought reform pilot in Western Australia, Forrestfield WA', transcript, 5 May 2010, viewed 29 May 2010, http://www.maff.gov.au/transcripts/transcripts/2010/may/tony_burke_-_announcing_the_drought_reform_pilot_in_western_australia_forrestfield_wa
 14. Drought reform trial; current support continues across Australia, op. cit.

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.

It will be reviewed in 2011 and will provide the basis for future consideration of a new national drought policy, including measures, implementation and discussion with state and territory governments.¹⁵

The seven measures being tested in the WA pilot are:

Farm Family Support – income support to help farmers meet basic household expenses

Farm Social Support – stronger social support networks to meet the mental health, counselling and other social needs of farming families and communities

Building Farm Businesses – grants of up to \$60,000 to help farm businesses prepare for the impacts of drought, reduced water availability and a changing climate, and on-farm Landcare activities

Farm Planning – support for farmers to undertake training to develop or update a strategic plan for their farm business with a focus on preparing for future challenges

Stronger Rural Communities – grants to local government for activities that make rural communities more resilient during agricultural downturns

Farm Exit Support – grants of up to \$170,000 to support farmers who make the difficult decision to sell the farm business

Beyond Farming – a new measure that puts current farmers in touch with former farmers to work through the opportunities outside of farming.¹⁶

The 2010–11 Budget provides \$18 million for the trial over five years including 2009–10, with \$11 million of this to be spent in 2010–11.¹⁷ In terms of expenditure the significant elements of the trial include:

- Building Farm Businesses (BFB) – this is the main component of the trial with up to \$8.4 million to be allocated in combined grants of up to \$60 000 comprising Farm Business Adaptation Grants of up to \$40 000 and Landcare Adaptation Grants up to \$20 000
- Farm Family Support (FFS) – \$4.9 million is available for income support for eligible farmers experiencing hardship

15. Agriculture, Fisheries And Forestry Portfolio, Budget Estimates 2010–11, 24 May 2010, op. cit., p. 23

16. Start of a new era in drought support with Western Australian trial, op. cit.

17. Australian Government, *Budget measures: budget paper no. 2, 2010–11*, Commonwealth of Australia, Canberra, 2010, pp. 88–89, viewed 17 May 2010, <http://www.budget.gov.au/2010-11/content/bp2/download/bp2.pdf>

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.

- Farm Planning (FP) – \$3.6 million will fund farmers to develop strategic business plans identifying priority activities to improve the management and preparedness of the farm business to respond to future challenges. Completion of a farm plan is a prerequisite for accessing BFB. Individual farmers will receive up to \$7500 under FP and
- Farm Exit Support – \$0.3 million is available for farmers in significant financial difficulty who decide to sell their farm. Eligible farmers will receive up to \$170 000.

The planning component of the trial will be funded by the WA Government which is contributing \$5 million to the trial, bringing total funding to \$23 million.

Position of significant interest groups

The protracted process of changing drought policy was commented on by the National Farmers Federation (NFF) in its response to the announcement of the WA pilot.

For years we have been calling for a shift in the policy focus from ‘drought relief’ to ‘drought management and preparedness’.¹⁸

Nevertheless the NFF described the trial as ‘a sensible, practical and forward-looking approach that takes account of climate risks and proactively manages them’ and noted that the trial was based on a plan it had earlier provided to the Government.¹⁹

When, due apparently to funding considerations, there was no announcement of a new drought policy in the 2009-10 Budget as had been widely anticipated, the NFF observed:

... [a drought] reform package without the required funding support to make it work, would have been a disaster. That was a real fear of farmers going into tonight’s budget. It is better to wait to get drought policy right than have a half-baked package.²⁰

However, by February 2010 the NFF appeared to have run out of patience with its declaration ‘drought relief has stalled’. And while it praised the Government for having accepted the NFF’s espoused principles for drought reform it concluded that ‘... to date, despite ongoing negotiations between the NFF and the Federal Agriculture Minister Tony Burke, not much has happened.’²¹

18. National Farmers Federation (NFF), *Drought pilot up and away*, media release, Canberra, 5 May 2010, viewed 29 May 2010, <http://www.nff.org.au/read/2484355328.html>

19. *ibid.*

20. NFF, *Budget '09: farm sector to sustain nation through dark days*, media release, Canberra, 12 May 2009, viewed 29 May 2010, <http://www.nff.org.au/read/2468752944.html>

21. NFF, *Pilot needed to get drought reform off the ground*, media release, Canberra, 16 February 2010, viewed 29 May 2010, <http://www.nff.org.au/read/2481455474.html>

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.

In responding to the announcement of the WA pilot the NSW Farmers Association welcomed the planning, preparedness and social support measures but expressed concern that a twelve month trial won't give enough time for measuring its effectiveness. It also observed there was 'still much detail to be clarified, such as the income and assets test for the farm family support'.²²

The trial has been welcomed by WA's major farming organisations with the President of WA Farmers Federation (WAFF) describing it as 'an excellent initiative' and noted that EC 'really hasn't worked in Western Australia'. The Vice President of the WA Pastoralists and Graziers Association commended the Federal and WA Ministers 'on a very imaginative approach to a very difficult problem' and expressed appreciation for the 'whole human approach'.²³

The Opposition welcomed the announcement of the WA trial but claims it does nothing to address serious droughts. It expressed disappointment at the final result of 'a two year work in progress' and described it as 'a missed opportunity to get drought policy right'.²⁴

Financial implications

The estimated cost of providing the ancillary benefits covered by this Bill to recipients of FFS in the WA pilot is \$0.269 million.²⁵

Main provisions

The Bill only makes an amendment to one Act, the *Farm Household Support Act 1992* (Cth), by inserting **new Part 9D. New section 52D** then 'deems' certain provisions of other legislation to apply in relation to payments made under the FFS Scheme in the same way those provisions apply to payments made for exceptional circumstances relief.

-
22. NSW Farmers Association, *Drought reform needs careful consideration*, media release PR/076/10, Sydney, 5 May 2010, viewed 29 May 2010, http://www.nswfarmers.org.au/data/assets/pdf_file/0016/63133/076.10nr.pdf
 23. 'Tony Burke – announcing the drought reform pilot in Western Australia, Forrestfield WA', op. cit.
 24. J Cobb (Shadow Minister for Agriculture, and Food Security), *New dryness policy does not address exceptional droughts*, media release, 5 May 2010, viewed 29 May 2010, <http://www.nationals.org.au/News/LatestNews/tabid/94/articleType/ArticleView/articleId/5124/categoryId/1/New-Dryness-Policy-Does-Not-Address-Exceptional-Droughts.aspx>
 25. Explanatory Memorandum, Farm Household Support Amendment (Ancillary Benefits) Bill 2010, p. 3.

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.

Concluding comments

The Bill provides for routine changes to the Farm Household Support Act (Cth) to ensure equivalent ancillary benefits are available to recipients of Farm Family Support (FFS) as are presently available to beneficiaries of Exceptional Circumstances Relief Payment. FFS is the welfare component of a package of new drought support measures to be trialled in WA for one year from 1 July 2010. There is major interest in several elements of the trial especially FFS which represents a quite different approach to the provision of income support to farmers from the current and longstanding EC measures.

The Explanatory Memorandum explains that the FFS scheme will be delivered through an executive scheme arrangement under the *Financial Management and Accountability Act 1997*, rather than being fully legislated.²⁶ Guidelines providing operational details of the FFS scheme are to be published.²⁷ A critical part of those guidelines will be the definition of hardship adopted. There has been no indication as to whether an existing definition of hardship used for the provision of welfare payments in other circumstances will be adopted for the trial or one customised for farming circumstances be developed.

The rationale given for use of an executive scheme is ‘the complex nature of the income support legislation and the short term nature of this program’.²⁸ A counter argument would be that the trial should include all the relevant institutional arrangements including legislation so that their effectiveness can also be assessed prior to any similar arrangements be implemented nationally. In addition, the Farm Household Support Act already demonstrates that customisation of the complex income support legislation to farmers’ circumstances is possible. That precedent plus the Government’s reference to the trial being a short term activity provides a reasonable basis for the expectation that any national FFS style scheme will be fully legislated.

The Ombudsman’s report on executive schemes notes:

The main advantages of executive schemes are the speed with which they can be set up and their flexibility when circumstances change. However, that very flexibility poses risks to the accountability of such schemes. Many of the checks and balances on government power apply only to powers conferred by legislation. Of particular

26. Other executive schemes are the Bass Strait Passenger Vehicle Equalisation Scheme and the Insulation Industry Assistance Package. Copies of the relevant guidelines are available at http://www.infrastructure.gov.au/transport/programs/maritime/pdf/BSPVES_Min_Directions_AmendedbySecretaryMay2009.pdf and <http://www.ausindustry.gov.au/ClimateChange/IIAP/Documents/Ministerial%20Guidelines%20May%202010.pdf> respectively.

27. Explanatory Memorandum, op. cit., p. 2.

28. *ibid.*

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.

concern are the restricted review and appeal rights that are available to people who are affected by decisions made under executive schemes.²⁹

The report's conclusions make suggestions for 'best practice' in the establishment and running of such schemes to overcome some of the problems that have arisen in the past. A major suggestion is that a scheme's eligibility criteria need to be set out clearly and early and that they ensure legal compliance.

Interestingly, one of the complaints used as a case study by the Ombudsman in developing its eight best practice principles for executive schemes is the Exceptional Circumstances Exit Grant for drought affected farmers administered by the Department of Agriculture, Fisheries and Forestry. The Ombudsman considers this an "example of criteria which appear unsuitable and not fully reflecting the policy behind a program".³⁰

In relation to the WA trial more broadly as well as its components, the Government has also yet to reveal the methodology which will be used to evaluate the trial thereby allowing a judgement to be made about whether it constitutes an 'improved drought support system which better supports farmers, their families and regional communities'.³¹

29. Commonwealth Ombudsman, 'Executive Schemes', Report no. 12 2009, p. 1, viewed 29 May 2010, http://www.ombudsman.gov.au/files/investigation_2009_12.pdf

30. 'Executive schemes', op. cit., p. 16

31. Drought reform trial; current support continues across Australia, op. cit.

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.

© Copyright Commonwealth of Australia

This work is copyright. Except to the extent of uses permitted by the *Copyright Act 1968*, no person may reproduce or transmit any part of this work by any process without the prior written consent of the Parliamentary Librarian. This requirement does not apply to members of the Parliament of Australia acting in the course of their official duties.

This work has been prepared to support the work of the Australian Parliament using information available at the time of production. The views expressed do not reflect an official position of the Parliamentary Library, nor do they constitute professional legal opinion.

Feedback is welcome and may be provided to: web.library@aph.gov.au. Any concerns or complaints should be directed to the Parliamentary Librarian. Parliamentary Library staff are available to discuss the contents of publications with Senators and Members and their staff. To access this service, clients may contact the author or the Library's Central Entry Point for referral.

Members, Senators and Parliamentary staff can obtain further information from the Parliamentary Library on (02) 6277 2462.

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.