

1994

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

DROUGHT RELIEF PAYMENT BILL 1994

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industries and Energy,
Senator the Hon Bob Collins)

DROUGHT RELIEF PAYMENT BILL 1994**GENERAL OUTLINE**

1. Amendments are required to the Farm Household Support Act 1992, the Income Tax Assessment Act 1936, the Health Insurance Act 1973 and the Social Security Act 1991, to give effect to a new payment called the Drought Relief Payment.
2. This Bill proposes to amend the Farm Household Support Act 1992 to provide drought relief payments to farmers who are experiencing difficulty in meeting living expenses and who are in exceptional circumstances due to extreme drought.
3. The Bill proposes to amend the Income Tax Assessment Act 1936 to provide for the tax treatment of drought relief payments.
4. The Bill proposes to amend the Health Insurance Act 1973 to classify recipients of drought relief payments as disadvantaged persons so that they may receive a Health Care Card.
5. The proposed amendments to the Social Security Act 1991 will exempt the approval of certain aspects, for example the drought relief payment claim form, from review and appeal processes under that Act.

FINANCIAL IMPACT STATEMENT

6. The package of measures associated with drought relief payments is estimated to cost \$52.99 million in 1994-95 and \$24.22 million in 1995-96.

NOTES ON CLAUSES

Clause 1 - Short title

7. This provides for the Act to be cited as the Drought Relief Payment Act 1994.

Clause 2 - Commencement

8. This provides for the Act to commence on the day on which it receives Royal Assent.

Clause 3 - Amendments

9. This provides for the Farm Household Support Act 1992, the Health Insurance Act 1973, the Income Tax Assessment Act 1936 and the Social Security Act 1991, to be amended in accordance with the applicable items in the Schedule.

SCHEDULE

AMENDMENT OF ACTS

Part 1 - Farm Household Support Act 1992

10. Item 1 amends the long title of the Farm Household Support Act 1992 to include the introduction of the drought relief payment under that Act.
11. Item 2 inserts definitions of "family payment" and "RAS authority".
12. Item 3 adds the object of providing financial assistance to farmers who are in exceptional circumstances due to extreme drought to the existing objects of the Farm Household Support Act 1992, reflecting the introduction of the drought relief payment.
13. Item 4 changes the heading of Part 2, to provide for the incorporation of drought relief payment.
14. Item 5 changes the heading of Part 2, Division 1, to specify that this Division applies only to qualification for farm household support.
15. Item 6 inserts a new Division into Part 2, to provide that a person qualifies for drought relief payment if he or she is: a farmer; at least 18; an Australian resident; in Australia; and in possession of a drought exceptional circumstances certificate issued in respect of him or her.
16. The drought exceptional circumstances certificate is issued to farmers by a RAS authority under a memorandum of understanding between the RAS authority and the Secretary to the Department of Primary Industries and Energy. The certificate is evidence that a farmer's property is located in an area affected by extreme drought, consistent

with guidelines issued by the Minister for Primary Industries and Energy in respect of the exceptional circumstances provisions of the Rural Adjustment Scheme.

17. Item 7 changes the heading of Part 2, Division 2, to provide for the incorporation of drought relief payment.
18. Item 8 amends section 9 to specify that farm household support is not payable to a drought relief payment recipient.
19. Item 9 amends section 9 to define certain situations under which drought relief payment is not payable.
20. Item 10 inserts a section to ensure that farm household support is not payable to a person in receipt of drought relief payment, and is taken never to have been payable during the period through which the drought relief payment is received. This provides for a farm household support recipient to transfer from farm household support to drought relief payment, with their farm household support suspended for the period through which they receive drought relief payment.
21. Items 11 and 12 amend section 10 to provide for an assets test to apply to receipt of the drought relief payment. This assets test is based on the same assets test that applies to applicants for Job Search Allowance, but the value of farm assets is excluded.
22. Items 13 and 14 amend section 11 to provide for drought relief payment not to be payable to full time students.
23. Items 15, 16, and 17 amend section 12 to ensure that drought relief payment is not payable to a person if they are receiving any of a number of pensions or benefits, or if any of these pensions or benefits become payable to a person.
24. Item 18 amends section 13 to ensure that a person cannot receive drought relief payment while they are receiving income that is paid by a community or group from funds provided under a Commonwealth funded employment program.
25. Item 19 changes the heading of Part 3, to provide for the incorporation of drought relief payment.
26. Items 20, 21, 22 and 23 amend section 14 to provide that a person wishing to receive drought relief payment must make a claim for it. If a claim is made and the claimant is not qualified for drought relief payment, the claim is taken not to have been made.
27. Item 24 amends section 15 to provide that a claim for drought relief payment must be made to the Secretary to the Department of Social Security in an approved form.

28. Items 25 and 26 amend section 19 to provide that the Secretary to the Department of Social Security will determine that a claim for drought relief payment will be granted, if the person is qualified for drought relief payment and no provision of the Farm Household Support Act 1992 prevents payment to the person.
29. Item 27 amends section 20 to provide that a determination under section 19 of the Farm Household Support Act 1992 will take effect on the day on which the determination is made or on an alternative day which is specified in the determination.
30. If a claim is rejected and the person applies for a review of the determination within 3 months, and the claim is then granted, the determination will take effect from the day of the first application. Where a person applies for a review more than 3 months after being notified that the claim was rejected, and the claim is granted, the determination will take effect on the day on which the review was sought. This 3 month limit does not apply in cases where the applicant has not been advised of the decision to disallow the claim. In these cases, if a subsequent review results in the claim being granted, the determination will take effect from the date of the initial rejection, irrespective of the time that has elapsed.
31. Item 28 changes the heading of Part 4, to provide for the incorporation of drought relief payment.
32. Item 29 changes the heading of Part 4, Division 1, to provide for the incorporation of drought relief payment by making Division 1 only applicable to the rate of farm household support.
33. Item 30 amends section 22 to clarify that exempt assets (farm assets and life insurance and superannuation) are to be disregarded for the purposes of calculating the maximum fortnightly rate of farm household support.
34. Item 31 changes the heading of Part 4, Division 2, to make it a Subdivision of Division 1. This provides for the maximum fortnightly rate and the applicable rate of farm household support to be determined under Division 1.
35. Item 32 inserts a new Part 4, Division 2, under which the rate of drought relief payment is determined. The proposed subsection 24A(1) states that the rate of drought relief payment is to be equivalent to the sum of any job search allowance, partner allowance and family payment that a person would be able to receive if they were entitled to receive those payments. The proposed subsection 24A(2) clarifies that exempt assets (farm assets and life insurance and superannuation) are to be disregarded for the purposes of calculating the rate at which drought relief payment is payable. The same income

test that applies to job search allowance will apply to drought relief payment applicants.

36. Item 33 changes the heading of Part 5, to provide for the incorporation of drought relief payment.
37. Item 34 amends section 25 to provide that the drought relief payment becomes payable to a person on the day on which the determination by the Secretary to the Department of Social Security under section 20, that the person's claim for drought relief payment is to be granted, takes effect.
38. Item 35 inserts a new section 26A, which specifies that drought relief payment is to be paid as a grant of financial assistance to a person.
39. Item 36 amends section 28 to provide for drought relief payment to be paid by instalments and at times determined by the Secretary to the Department of Social Security.
40. Item 37 amends section 29 to specify that the instalment calculation described within section 29 only applies to farm household support.
41. Item 38 inserts a new section 29A to describe how the instalment amount is to be calculated for drought relief payment.
42. Item 39 amends section 31 so that instalments of a person's drought relief payment are to be paid to that person, unless the Secretary to the Department of Social Security directs that whole or part of the instalments be paid to a nominee of that person.
43. Item 40 amends section 33 to provide that the Secretary to the Department of Social Security can direct that an instalment of drought relief payment that is due on, for example, a public holiday or a bank holiday, be paid on an earlier day.
44. Item 41 amends section 37 so that the provisions of section 37 which exempt a former RAS Part C beneficiary who transferred to farm household support under Part 6 of the Farm Household Support Act 1992 from having to qualify or apply for farm household support, and allow them to continue receiving the same rate of payment that was formerly paid under RAS Part C, only apply to farm household support, and not to the drought relief payment.
45. Items 42, 43, 44 and 45 amend sections 41 and 42 to provide that the Secretary to the Department of Social Security may require a drought relief payment recipient to provide information about a specified event or change of circumstances, or advice that this event or change of circumstances is likely to occur, which may affect the payment of drought relief payment.

46. Item 46 changes the heading of Part 8, to provide for the incorporation of drought relief payment.
47. Items 47 and 48 amend section 43 to provide for the termination of drought relief payment if particular pensions or benefits become payable to a person or their partner, or if the person starts a full time course, or resumes a deferred full time course, of education or of vocational training.
48. This section relates to pensions or benefits becoming payable. It is not intended to exclude people from eligibility for pensions or benefits. Farmers will have the choice, for example, between drought relief payment and job search allowance if they qualify for both.
49. Items 49, 50, 51 and 52 amend section 44 to provide that if a person provides information as requested under section 41 of the Farm Household Support Act 1992, and their circumstances have changed such that they are no longer eligible for drought relief payment, payments will be terminated.
50. Items 53, 54, 55 and 56 amend section 45 to provide that where a drought relief payment recipient does not comply with notification obligations under section 41 of the Farm Household Support Act 1992, and an event or change in circumstances occurs such that the person ceases to be qualified for drought relief payment or drought relief payment ceases to be payable to the person, payments will be terminated immediately after the day on which the event or change in circumstances occurred.
51. Items 57, 58, and 59 amend section 46 to provide that if a drought relief payment recipient fails to comply with notification obligations under section 42 of the Farm Household Support Act 1992, then drought relief payment is terminated. However, the Secretary to the Department of Social Security may vary the date of termination.
52. Items 60 and 61 amend section 47 to provide that if a person's financial circumstances change such that the person is no longer in need of drought relief payment, the Secretary to the Department of Social Security may determine that drought relief payment is no longer payable to the person.
53. Item 62 amends section 48 to provide that drought relief payment ceases to be payable to a person if they request in writing that payments cease or they no longer qualify for drought relief payment.
54. Items 63 and 64 amend section 49 to provide that if a recipient of drought relief payment dies, the instalment of drought relief payment that would otherwise have been payable to them is paid as a grant to their estate. This provision is consistent with the current provision

relating to the death of a farm household support recipient.

55. Item 65 inserts a new Part 8A to provide for the suspension of farm household support if drought relief payment becomes payable to a person. This is to ensure that farm household support recipients who transferred to drought relief payment are not obliged to repay any amount of farm household support while they are in receipt of drought relief payment, and to ensure that the period during which they receive drought relief payment is not included in the maximum two year period for which they may receive farm household support.
56. The proposed section 49A provides that farm household support ceases to be payable for a period during which a person receives drought relief payment.
57. The proposed section 49B provides for the suspension of farm household support where drought relief payment is payable in cases where a person did not transfer from the former RAS Part C to farm household support under Part 6 of the Farm Household Support Act 1992.
58. The proposed section 49C provides for the suspension of farm household support where drought relief payment is payable in cases where a person transferred from the former RAS Part C to farm household support under Part 6 of the Farm Household Support Act 1992.
59. Item 66 amends the heading of Part 9 to specify that this part applies only to repayment of farm household support.
60. Items 67, 68, 69, 70 and 71 amend section 54 to provide the Secretary to the Department of Social Security with the power to obtain relevant information relating to the qualification for, and payability of, drought relief payment to a person.
61. Item 72 amends section 55 to provide that payments of drought relief payment are inalienable.
62. Items 73, 74, 75, 76 and 77 amend section 56 to provide for the recovery of overpayments of drought relief payment.
63. Item 78 amends section 57 to appropriate funds from the Consolidated Revenue Fund for the drought relief payment.
64. Item 79 is a transitional provision providing for a drought relief payment claim form approved before the commencement of this item to have effect for the purposes of the Farm Household Support Act 1992.
65. Item 80 is a transitional provision providing for drought relief payment claims lodged before the commencement of this item to have effect under the Farm Household Support Act 1992.

- 66. Item 81 is a transitional provision providing for recipients of farm household support who receive support during a period for which they subsequently receive a drought relief payment to offset farm household support received against a later drought relief payment.
- 67. Item 82 is a transitional provision providing for recipients of drought relief payment made from money appropriated under an Appropriation Act prior to the commencement of this item, to offset this payment against later drought relief payment paid under the Farm Household Support Act 1992.
- 68. Item 83 is a transitional provision providing for the approval of any farm household support claim form in force prior to the commencement of this item, to remain in force after the commencement of this item.

Part 2 - Health Insurance Act 1973

- 69. Item 84 amends paragraph 3(1) to provide for dependants of recipients of the drought relief payment to be included in the definition of "dependant" for the purposes of the Health Insurance Act 1973.
- 70. Item 85 ensures that, where a person is declared as a disadvantaged person, they are deemed to be a disadvantaged person upon every day included in that period.
- 71. Item 86 inserts a section providing for a recipient of a drought relief payment to be defined as a "disadvantaged person" for the purposes of the Health Insurance Act 1973.
- 72. Item 87 amends subsection 5G(1) to provide that a declaration of a person in receipt of a drought relief payment to be disadvantaged is not required to be made if the person is already a disadvantaged person by virtue of a declaration under other sections of the Health Insurance Act 1973.
- 73. Item 88 amends subsection 5H to provide that periods referred to in declaring a person to be disadvantaged, being in receipt of a drought relief payment, may be varied by regulation.

Part 3 - Income Tax Assessment Act 1936

- 74. Items 89, 90 and 91 amend Division 1AA of Part 3 of the Income Tax Assessment Act 1936. Division 1AA determines the tax treatment of various Government payments.
- 75. Item 89 amends the table in section 24AAA to include a reference to drought relief payment under the Farm Household Support Act 1992. The table lists the various

Government payments for which Division 1AA determines tax treatment.

76. Item 90 amends section 24AI to define the amounts of an instalment of a drought relief payment which are exempt from income tax. Amounts included for rent assistance, remote area allowance, family payment and amounts paid as bereavement payment following the death of the recipient are to be exempt from income tax. The component which corresponds to the basic living allowance payable under job search allowance and partner allowance is to be taxable but subject to beneficiary rebate (see Item 84 below).
77. Item 91 amends subsection 79A(4) to insert into the definition of "prescribed allowance" a provision to cover payments by way of remote area allowance made under the Farm Household Support Act 1992. This provision would reduce the remote area rebate where applicable.
78. Item 92 amends subsection 160AAA(1) to provide for a drought relief payment to be a "rebatale benefit" under the Income Tax Assessment Act 1936. A "rebatale benefit" may qualify the recipient of the payment for a rebate sufficient to negate the tax on the payment, depending upon the level of other taxable income.
79. Item 93 inserts a section to provide for the amendments to apply to amounts paid after the commencement of the item.

Part 4 - Social Security Act 1991

80. Item 94 amends section 1250 to provide for the exemption of a decision to approve the form of a claim form for drought relief payment from the review provisions of the Social Security Act 1991. The item also provides for a decision made by a RAS authority under a memorandum of understanding under the Farm Household Support Act 1992, to be exempt from Social Security Act 1991 review provisions, as the decision of a RAS authority under such a memorandum of understanding is subject to review under established mechanisms by the RAS authority.



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