

1992

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FARM HOUSEHOLD SUPPORT BILL 1992

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Primary Industries and Energy,
the Hon Simon Crean MP)



FARM HOUSEHOLD SUPPORT BILL 1992

GENERAL OUTLINE

1. This Bill proposes to introduce a new scheme to replace Part C of the old Rural Adjustment Scheme and is targeted at farmers who are unable to access commercial finance to meet the daily requirements of the family.
2. The scheme is essentially a loan to farmers at commercial rates for up to two years while they consider their options. The scheme contains incentives to encourage those without a productive future in farming to leave the sector, by converting a portion of the farm household support loan into a grant for those who leave farming.
3. The scheme provides assistance to farmers who are often excluded from standard welfare schemes because of their asset levels. Farmers who qualify for both farm household support and job search allowance will have a choice between the two schemes. Farmers on the former Part C of RAS will automatically transfer to farm household support payments.

FINANCIAL IMPACT STATEMENT

4. The proposals put forward in the Bill will not affect Government expenditure. Funding for the scheme will be from the allocation to the Rural Adjustment Scheme and is covered by forward estimates.

NOTES ON CLAUSES

PART 1- PRELIMINARY

Clause 1: Short title

5. Provides for the Bill to be called the *Farm Household Support Act 1992*.

Clause 2: Commencement

6. Provides for this Bill to come into effect on 20 March 1993 or on Royal assent whichever is the later.

Clause 3: Interpretation

7. Defines the terms used in the Bill.

Clause 4: Certificate of inability to obtain finance

8. This clause explains the nature of this certificate. This certificate is provided by a financial institution indicating that a farmer is unable to access commercial loans for a period of six months from signature.

Clause 5: Grant period

9. This clause explains that during periods of downturn across or in parts of Australia, the Minister may extend the grant period of farm household support for all persons receiving farm household support across Australia or in designated parts of Australia, from 9 months, up to a maximum of 2 years.
10. In the case of individuals, the Secretary of the Department of Primary Industries and Energy can allow the grant period to be extended from 9 months, to a maximum of 2 years, if there is sufficient evidence that it would not be possible to complete arrangements for the sale of the farm within 9 months.
11. The purpose of this clause is to allow for circumstances in which there is either no land market or genuine efforts to sell have been unsuccessful. The intention is to extend the grant period, for a further three months, to delay the beginning of the loan portion of the support for farmers who have been unable to sell for reasons outside their control, or in spite of their genuine efforts to do so.

Clause 6: Objects of this Act

12. This clause defines the objectives of this Bill as: the provision of financial assistance to farmers who are unable to obtain commercial loans and cannot meet day-to-day living expenses; and to provide an incentive for these people to leave farming.

PART 2 - QUALIFICATION FOR AND PAYABILITY OF FARM HOUSEHOLD SUPPORT

Division 1 - Qualification

Clause 7: Qualification for farm household support

13. This clause explains that, to qualify for farm household support, a person must be a farmer aged between 16 years and pension age, be an Australian resident living in Australia, and have a current certificate of inability to obtain finance.

Clause 8: Persons not qualified if they have received farm household support for 2 years etc.

14. This clause explains that a person will not qualify for farm household support if they have already received it for a period of 2 years or during periods that add up to 2 years.
15. If a person has received job search or newstart allowances or household support under Part C of the Rural Adjustment Scheme, or if their partner has received job search or newstart allowances, during the 12 months before applying for farm household support, time spent on these allowances will be counted as time spent on Farm Household Support for the purposes of this clause.

Division 2 - Situations where farm household support not payable

Clause 9: Farm household support not payable in certain situations

16. This clause explains that farm household support will not be payable if a person's assets exceed a value limit, if the person is a full time student, if another support payment is being received, or if income is received via a community group, from a Commonwealth funded employment program.

Clause 10: Assets test - allowance not payable if assets value limit exceeded

17. This clause explains that if an applicant's assets exceed the allowable limit, the applicant will not be paid farm household support.
18. Subclause 2 provides that the determination relating to the assets test must be applied at the time when the claim for farm household support is determined or within 6 months from the day of the last determination.
19. Subclause 3 states that the value of a person's assets, excluding exempt assets under this Bill, is worked out in accordance with Part 3.12 of the *Social Security Act 1991*. This means that after exemption of the assets specified in

this Bill, further assets are exempted under the Social Security Act from the assets test.

20. Subclause 4 explains that the assets limit applied, excluding exempt assets, is the same as that which would apply for payment of the job search Allowance under the Social Security Act.
21. Subclause 5 provides that a determination of the value of a person's assets must specify the day ("operative day") that it takes effect, and the duration of the effect of the determination.

Clause 11: Full-time students

22. This clause explains that farm household support is not payable to a person enrolled in a full-time course of education or vocational training. This exclusion applies from when the person starts the course, until it is completed, abandoned, withdrawn from or changed to a part time course, and includes periods of vacation.
23. Subclause 2 states that farm household support can be payable for any period during which a course of education or of vocational training has been deferred.

Clause 12: Multiple entitlement exclusion

24. This clause explains that farm household support is not payable to a person who is receiving any of a number of pensions or benefits or if any of these benefits or payments become payable.
25. This clause also explains that if a person's partner is receiving job search or newstart allowance, farm household support is not payable to the person.
26. The exceptions to this exclusion are described in subclauses 3 and 6 relating to recipients of a pension under Part II or IV of the Veterans' Entitlements Act, or a pension under the *Seamen's War Pensions and Allowances Act 1940*, if a woman has been receiving payments from these pensions continuously since before 1 November 1986 and was also receiving a social security benefit before 1 November 1986.
27. A further exception can be applied under subclause 6, which states that the Secretary can allow payment of farm household support, even if payments educational payments other than ABSTUDY or the Maintenance Allowance for Refugees are received.

Clause 13: Commonwealth funded employment program exclusion

28. This clause states that a person cannot receive farm household support when they are receiving income that is paid by a community or group from funds provided under a Commonwealth funded employment program.

PART 3 - CLAIM FOR FARM HOUSEHOLD SUPPORT

Clause 14: Need for a claim

29. This clause provides that a person wishing to receive farm household support must make a claim for it. The clause also explains that if a claim is made and the claimant is not qualified for farm household support, the claim is taken not to have been made.

Clause 15: Form of claim

30. Provides that a claim for farm household support must be made in writing to the Secretary of the Department of Social Security in an approved form.

Clause 16: Lodgement of claim

31. Provides that a claim for farm household support must be lodged at an office of the Department of Social Security, or alternatively at a place or with a person approved by the Secretary of the Department of Social Security.

Clause 17: Claimant must be Australian Resident and in Australia

32. Provides that a person making a claim for farm household support must be an Australian resident and in Australia on the day on which the claim is lodged.

Clause 18: Secretary to determine claim

33. Provides that the Secretary of the Department of Social Security must determine a claim for farm household support.

Clause 19: Grant of claim

34. Provides that the Secretary of the Department of Social Security will determine that the claim will be granted, if a person is qualified for farm household support and no provision of this Bill prevents payment to the person.

Clause 20: Date of effect of determination

35. This clause provides that the determination will take effect on the day on which the determination is made or on an alternative day which is specified in the determination.

36. The clause further provides that if a claim is rejected and the person applies for a review of the determination within 3 months, and the claim is 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.
37. This clause also explains that this three 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.

PART 4 - RATE OF FARM HOUSEHOLD SUPPORT

Division 1 - Maximum fortnightly rate

Clause 21: Maximum fortnightly rate of farm household support - to be determined by Secretary

38. This clause provides that if the Secretary of the Department of Social Security determines that a claim for farm household support is to be granted, the Secretary must, at the same time, determine the maximum fortnightly rate.
39. The maximum fortnightly rate must be stated in writing, and the day on which it takes effect must be specified. The maximum fortnightly rate has an effect for a period of 6 months, unless revoked beforehand.
40. This clause provides for a farm household support recipient to request a review of their maximum rate as a result of changed circumstances. Such a review could result in the determination of a higher maximum rate.

Clause 22: Maximum fortnightly rate - how worked out

41. This clause states that the maximum fortnightly rate will be equal to the fortnightly rate at which job search allowance would be payable, if the person were entitled to receive job search allowance.
42. If the person's partner is receiving a social security benefit, other than job search or newstart allowances, social security pension or service pension, the person's fortnightly rate will be half the JSA married rate.

*Division 2 - Applicable rate***Clause 23: Declaration by applicant or recipient**

43. This clause provides that after the Secretary of the Department of Social Security has determined the maximum fortnightly rate, the person must declare, in writing, the fortnightly rate at which they wish to be paid. This fortnightly rate will remain current unless revoked by the person, replaced by another declaration, or if farm household support ceases to be payable. If the Secretary determines that a maximum rate is applicable to the person which is lower than the declared rate, the declaration ceases to have effect.
44. This provision is included in the Bill in recognition of the fact that farm household support is a loan. It is intended to provide flexibility for farm household support recipients to determine the level of debt they wish to accumulate.

Clause 24: Applicable rate

45. This clause explains that the rate applicable is the maximum rate specified by the Secretary unless a lower rate has been nominated under the previous clause.

PART 5 - PAYMENT OF FARM HOUSEHOLD SUPPORT**Clause 25: Commencement of farm household support**

46. This clause states that farm household support will become payable on the day that the determination by the Secretary of the Department of Social Security takes effect.

Clause 26: Support to be by way of loan

47. This clause explains that farm household support is a loan, subject to the provisions of Part 9 of this Bill, which outline the conversion of the grant period to a grant under certain circumstances.

Clause 27: Rate at which farm household support payable

48. This clause explains that farm household support should be paid at the rate to which the person is entitled, subject to their request for a lower rate.

Clause 28 : Instalments

49. This clause provides that farm household support is to be paid by instalments and at the times determined by the Secretary of the Department of Social Security.

Clause 29: Amount of instalments

50. This clause outlines how the instalment amount is to be calculated.

Clause 30: Rounding off instalment

51. This clause explains how parts of cents are to be rounded off in paying instalments.

Clause 31: Instalment to be paid to person or nominee

52. This clause states that instalments of a person's farm household support are to be paid to that person, unless the Secretary of the Department of Social Security directs that whole or part of the instalments be paid to someone else on behalf of the person.

Clause 32: Method of payment

53. This clause explains that farm household support instalments will be credited directly to the recipient's bank account, credit union account or building society account unless an alternative payment method is deemed to be appropriate or necessary.

Clause 33: Where instalment payable on public holiday etc.

54. This clause provides that the Secretary of the Department of Social Security can direct that an instalment of farm household support that is due on, for example, a public or bank holiday, be paid on an earlier day.

PART 6 - FORMER RAS (PART C) BENEFICIARY

Division 1 - General

Clause 34: Former RAS (Part C) beneficiary not required to make a claim under Part 3 but may do so

55. This clause provides that a former RAS (Part C) beneficiary is automatically entitled to receive farm household support, without making a claim, at the rate set out in Division 2 of this Part.
56. The clause also provides for a Part C recipient to transfer to farm household support by making a claim in the same manner and subject to the same qualifications, as other farm household support applicants.
57. The intention of these provisions is to ensure that Part C recipients are not disadvantaged by the transfer to farm household support.

Division 2 - Entitlement to farm household support when no claim made under Part 3

Clause 35: Application

58. This clause explains that the clauses in Division 2 apply to former RAS Part C beneficiaries unless they have chosen to make a claim for farm household support and this claim has been granted.

Clause 36: Qualification for farm household support

59. This clause explains that time spent on RAS Part C will be subtracted from the two years maximum available of farm household support.

Clause 37: Certain provisions of Act not applicable

60. The sections listed in this clause state that former Part C recipients are not required to provide certificates proving inability to access commercial finance or pass the farm household support income and assets tests.

Clause 38: Commencement of farm household support

61. This clause indicates that the transfer of Part C recipients to farm household support will occur on the date that the farm household support scheme commences.

Clause 39: Amount of instalment of farm household support

62. This clause explains how instalments of the farm household support payable to former Part C recipients are to be calculated.
63. The clause also explains that the amount payable to former Part C recipients is the same as the amount that was paid to them as the last payment of Part C assistance.

Division 3 - Situation where Division 2 ceases to apply

Clause 40: Farm household support taken not to have ceased to be payable

64. This clause explains that if a person claims and receives farm household support under the normal provisions of this Bill, Division 2 will cease to apply to that person and they will be paid farm household support under other provisions of this Bill. The transfer will not be seen as a termination of farm household support for the purposes of repaying that support as outlined in Part 9 of this Bill.

PART 7 - RECIPIENT'S OBLIGATIONS

Clause 41: Secretary may require notice of the happening of an event or a change in circumstances

65. This clause indicates that a farm household support recipient may be required to provide to the Secretary of the Department of Social Security 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 that support. The clause explains how and when the information is to be provided and includes penalties for non-compliance or false or misleading information.

Clause 42: Secretary may require recipient to give particular information relevant to payment of farm household support

66. This clause indicates that a farm household support recipient may be required to provide to the Secretary of the Department of Social Security particular information that might affect the payment of the support. The clause specifies how and when the information is to be provided and includes penalties for non-compliance or false or misleading information.

PART 8 - TERMINATION OF FARM HOUSEHOLD SUPPORT

Clause 43: Automatic termination - social security benefit etc payable

67. This clause explains that if a social security benefit or pension or service pension becomes payable to a farm household support recipient, farm household support payments will be terminated. Payments will also cease if job search or new start allowances become payable to the person's partner. Similarly, payments will be terminated if a person starts a full time course, or resumes a deferred full time course, of education or of vocational training.
68. This clause relates to pensions or benefits becoming payable. It is not intended to refer to eligibility or qualification for pensions or benefits. For example, the intention is that farmers will have the choice between farm household support and job search allowance if they qualify for both.

Clause 44: Automatic termination - recipient complying with section 41 notification obligations

69. This clause explains that if a person provides information as requested under section 41, and within a specified period, and their circumstances have changed which result in their no longer being eligible for farm household support, payments will be terminated at the end of the specified period.

Clause 45: Automatic termination - recipient not complying with section 41 notification obligations

70. This clause explains that, if a person fails to provide information requested under section 41 within the requested time, and their circumstances have changed which result in their no longer being eligible for farm household support, payments will be terminated from the time of the change in circumstances.

Clause 46: Automatic termination - failure to provide section 42 statement

71. This clause explains that if a person receiving farm household support fails to provide information as requested under section 42 in the time period specified, farm household support payments will be terminated from the first day in the specified period.
72. This clause also provides for the Secretary of the Department of Social Security to vary the day of termination.

Clause 47: Termination- determination by Secretary that recipient no longer in need of farm household support

73. This clause explains that if a person's circumstances change, and they no longer qualify for farm household support, farm household support will no longer be payable.

Clause 48: Termination - at request of recipient or if recipient ceases to be qualified

74. This clause explains that farm household support will cease to be payable if the recipient asks that it cease or they no longer qualify for farm household support.

Clause 49: Termination - death of recipient

75. This clause explains that if a farm household support recipient dies, the instalment of farm household support to which he or she was entitled in the fortnight in which he or she died, becomes a grant to the deceased estate. This clause recognises that, as farm household support is a loan, it would be unreasonable for the debt to continue to accumulate following the death of a recipient.

PART 9 - REPAYMENT

Clause 50: Repayment of farm household support

76. This clause states that once farm household support ceases, a person must repay monies received, together with interest, to the Commonwealth. In the case of former RAS (Part C) beneficiaries, these people must repay to the Commonwealth the money received from farm household support, plus the money received under RAS Part C, plus interest on these monies.

77. If a farm household support recipient dies, the amount that would have been repayable to the Commonwealth by the recipient, is to be repaid to the Commonwealth from the person's estate.

Clause 51: Agreement

78. This clause provides that the Secretary of the Department of Primary Industries and Energy can enter into an agreement with a person, or the representative of a deceased person, regarding the terms of repaying monies owed to the Commonwealth.
79. If agreement is not reached, this clause provides that the debt can be recovered by the Commonwealth.

Clause 52: Person entitled to grant on sale of farm within grant period

80. This clause provides that if a person sells their farm within the grant period, the total amount of farm household support paid to the person is converted to a grant.
81. In addition, this clause provides that where the farm is sold within the 9 month grant period, the person is entitled to receive a grant equal to the maximum amount of job search allowance for the period from the sale of the farm, to the end of the 9 month grant period. This means that if a sale occurs before nine months, the farmer will receive the equivalent of the job search allowance for the balance of nine months at the rate as if he or she had no income or assets, irrespective of the maximum to which they were otherwise entitled.
82. If a person sold their farm after the end of the grant period, but before farm household support was due to cease, the money paid during the grant period becomes a grant.
83. This clause explains that references to the total farm household support paid include the payments made to a person under RAS Part C.
84. The conversion of the monies received during the grant period to a grant is intended to provide incentive to farmers to sell their properties quickly.

PART 10 - MISCELLANEOUS

Clause 53: Delegation of powers

85. This clause enables the Secretary of the Department of Social Security to delegate, in writing, all or any of his or her powers under this Bill to an officer of the Department.

Clause 54: General power to obtain information

86. The Secretary of the Department of Social Security may require a person to provide the Department with information or a document that is relevant to whether a person is qualified for farm household support, whether support is or was payable, and the rate of that support. The Secretary must request this information in a written notice, and the notice must specify details of how and when the person should provide the necessary information.
87. The clause sets out how, when and where the information is to be provided and the obligations on a person to do so.

Clause 55: Farm household support to be inalienable

88. This clause protects farm household support payments from claims relating to sale, assignment, execution, charge, bankruptcy of otherwise.

Clause 56: Recovery of overpayments

89. This clause explains that overpayments of farm household support may be recovered by the Commonwealth as a debt due to the Commonwealth.

Clause 57: Appropriation

90. This clause provides that payments of farm household support will be made from money appropriated by the Parliament for the Rural Adjustment Scheme in 1992-93 and in subsequent years from money appropriated for that purpose.

Clause 58: Regulations

91. This clause provides that the Governor-General may make regulations prescribing all matters necessary for giving effect to this Bill.

Clause 59: When Act ceases to have effect

92. This clause states that this Act will cease to have effect at the end of December 2000.

PART 11 - AMENDMENTS OF THE SOCIAL SECURITY ACT 1991Clause 60: Amendment of the *Social Security Act* 1991

93. This clause states that amendments to the *Social Security Act* 1991 are set out in the Schedule.

