

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

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*(As read a first time)*

**FARM HOUSEHOLD SUPPORT BILL 1992**

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## AMENDMENTS OF THE SOCIAL SECURITY ACT 1991



1990-91-92

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA  
HOUSE OF REPRESENTATIVES

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Presented and read a first time, 3 November 1992

*(Minister for Primary Industries and Energy)*

**A BILL**

FOR

**An Act relating to the provision of income support, and financial incentive to leave the rural industries, to primary producers without a long-term productive, sustainable and profitable future in the sector**

The Parliament of Australia enacts:

**PART 1—PRELIMINARY**

**Short title**

1. This Act may be cited as the *Farm Household Support Act 1992*.

5 **Commencement**

2.(1) Subject to this section, this Act commences on 20 March 1993.

(2) If this Act receives the Royal Assent after 20 March 1993, it commences on the day on which it receives the Royal Assent.

MR

**Interpretation**

3.(1) In this Act, unless the contrary intention appears, the following definitions have the same meaning as in the *Social Security Act 1991*:

“asset”

“Australian resident”

5

“Commonwealth funded employment program”

“job search allowance”

“member of a couple”

“newstart allowance”

“officer”

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“partner”

“pension age”

“prescribed educational scheme”

“service pension”

“social security pension”

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“social security benefit”.

(2) In this Act, unless the contrary intention appears:

“applicable rate” has the meaning given by section 24;

“certificate of inability to obtain finance” has the meaning given by section 4;

20

“decision” has the same meaning as in the *Administrative Appeals Tribunal Act 1975*;

“Department” means the Department of Social Security;

“exempt assets”, in relation to a person who is a farmer, means:

(a) any right or interest of the person in the land used for the purposes of the farm enterprise in relation to which the person is a farmer; or

25

(b) any farm plant and machinery, farm livestock or other asset essential for the effective running of the farm enterprise; or

(c) any rights of the person under an insurance policy in relation to the person’s life or under a superannuation scheme;

30

“farm enterprise” means an enterprise carried on within any of the agricultural, horticultural, pastoral, apicultural or aquacultural industries;

“farmer” means a person who:

(a) has a right or interest in the land used for the purposes of a farm enterprise; and

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(b) contributes a significant part of his or her labour and capital to the farm enterprise; and

(c) derives a significant part of his or her income from the farm enterprise;

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“finance institution” means:

(a) a bank; or

- (b) any other prescribed institution, being an institution that makes finance available to farmers;

**“former RAS (Part C) beneficiary”** means a person who:

- (a) immediately before the commencement of this Act was receiving Part C assistance by way of loans under a RAS scheme; and
- (b) is, and has continuously been from the commencement of this Act, receiving farm household support;

**“grant period”** has the meaning given by section 5;

**“maximum fortnightly rate”**, in relation to a person, means the rate determined by the Secretary under Division 1 of Part 4 to be the maximum fortnightly rate at which farm household support may be paid to the person;

**“RAS scheme”** means a scheme of assistance established and operated by a State or Territory under the agreement between the Commonwealth and that State or Territory executed on behalf of the Commonwealth under section 4 of the *States Grants (Rural Adjustment) Act 1988*;

**“sale of a farm”** means a transaction as a result of which the rights or interests of a person in:

- (a) a farm enterprise; and
  - (b) the land used for the purposes of the farm enterprise;
- are transferred to another person;

**“Secretary”** means the Secretary to the Department of Social Security.

**Certificate of inability to obtain finance**

**4.(1)** A certificate of inability to obtain finance is a certificate, in a form approved by the Secretary of the Department of Primary Industries and Energy, provided to the Secretary by a finance institution in respect of a farmer and stating that:

- (a) the farmer has applied to the institution for a loan; and
- (b) the institution does not propose to make any loan to the farmer because of the farmer’s financial situation.

**(2)** Subject to subsection (3), a certificate in respect of a farmer has effect:

- (a) if it was issued within 14 days after the day on which the farmer made a claim for farm household support—for a period of 6 months from that day; or
- (b) in any other case—for a period of 6 months from the day on which it was issued.

**(3)** A certificate in respect of a farmer ceases to have effect if a finance institution makes a loan available to the farmer.

**Grant period**

**5.(1)** Subject to this section, the grant period in relation to a person to whom farm household support is payable, is:

- (a) the period of 9 months from the operative day in relation to the person; or 5
- (b) if a longer period is applicable to the person under a determination made under subsection (3) or (4)—that period.

(2) If, during a period or periods beginning on or after the commencement of this Act and not earlier than 12 months before the operative day, the person, or the person's partner (if any) at that time, was paid job search allowance or newstart allowance, the grant period is the period from the operative day that, apart from this paragraph, would have been the grant period in relation to the person less that period or those periods. 10

(3) If the Minister for Primary Industries and Energy is satisfied that, because of particular circumstances existing at any time in Australia, or in any part of Australia, it would be difficult to make arrangements, within a period of 9 months, for the sale on equitable terms of a farm in Australia or in that part of Australia, the Minister may, in writing, determine that: 15

- (a) the grant period in relation to each person in Australia to whom farm household support is payable; or
  - (b) the grant period in relation to each person in that part of Australia to whom farm household support is payable; 20
- (as the case requires), is the period specified in the determination, being a period of more than 9 months but not more than 2 years from the operative day in relation to that person. 25

(4) If the Secretary to the Department of Primary Industries and Energy is satisfied that:

- (a) arrangements have begun, within 9 months of the beginning of the grant period in relation to a person, for the sale of the person's farm; and 30
- (b) because of particular circumstances applying in relation to the person, it would not be possible to complete arrangements for the sale of the person's farm within that period of 9 months; 35

the Secretary of that Department may, in writing, determine that the grant period in relation to the person is the period specified in the determination, being a period of more than 9 months but not more than 2 years from the operative day in relation to that person.

(5) Application may be made to the Administrative Appeals Tribunal for review of a decision by the Secretary of the Department of Primary Industries and Energy under subsection (4). 40

(6) In this section:



“operative day”, means:

- (a) in relation to a former RAS (Part C) beneficiary—the day on which Part C assistance became, or last became, payable to the person under a RAS scheme; or
- 5 (b) in relation to any other person—the day on which farm household support became, or last became, payable to the person.

**Objects of this Act**

6. The objects of this Act are:

- 10 (a) to provide financial assistance to farmers who are unable to meet day-to-day living expenses and cannot obtain commercial loans; and
- (b) to provide a financial incentive for such persons to leave farming.

15 **PART 2—QUALIFICATION FOR AND PAYABILITY OF FARM HOUSEHOLD SUPPORT**

*Division 1—Qualification*

**Qualification for farm household support**

7. Subject to this Division, a person is qualified for farm household support in respect of a period if, throughout the period:

- 20 (a) the person:
  - (i) is a farmer; and
  - (ii) is at least 16 and has not reached the pension age; and
  - (iii) is an Australian resident; and
  - 25 (iv) is in Australia; and
- (b) a certificate of inability to obtain finance issued in respect of the person has effect.

**Persons not qualified if they have received farm household support for 2 years etc.**

30 8.(1) A person is not qualified, or ceases to be qualified, for farm household support if the person has received farm household support during a period of 2 years or during periods that add up to 2 years.

(2) If:

- 35 (a) farm household support becomes payable, or is payable, to a person; and
- (b) during a period beginning on or after the commencement of this Act and not earlier than 12 months before the day on which farm household support becomes or became payable to the person, the person, or the person’s partner (if any) at that time, was paid job search allowance or newstart allowance;
- 40

that period is taken, for the purposes of subsection (1), to be a period during which the person received farm household support.

(3) If farm household support becomes payable, or is payable, to a person who has been, at any time, in receipt of Part C assistance by way of loans under a RAS scheme, any period during which the person received Part C assistance by way of loans under the RAS scheme is taken, for the purposes of subsection (1), to be a period during which the person received farm household support.

### ***Division 2—Situations where farm household support not payable***

#### **Farm household support not payable in certain situations**

9. Farm household support is not payable to a person for a period during which the person is qualified for farm household support if during that period:

- (a) no determination by the Secretary that the value of the person's assets does not exceed the person's assets value limit has effect (see section 10); or
- (b) the person is a full-time student (see section 11); or
- (c) another support payment is being paid to the person (see section 12); or
- (d) the person is receiving income that is paid by a community or group from funds provided under a Commonwealth funded employment program (see section 13).

#### **Assets test—allowance not payable if assets value limit exceeded**

10.(1) Farm household support is not payable to a person during a period unless a determination ("favourable determination") in writing by the Secretary that the value of the person's assets does not exceed the person's assets value limit has effect during that period.

(2) The Secretary must determine whether the value of a person's assets exceeds the person's assets value limit:

- (a) if the person claims farm household support—at the time when the claim is determined under section 18; and
- (b) if the person is receiving farm household support—within the period of 6 months from the day on which the last favourable determination took effect.

(3) The value of a person's assets at a particular time is worked out by:

- (a) identifying the person's assets at that time that are not exempt assets (for the purposes of this Act); and
- (b) working out the value of those assets in accordance with Part 3.12 of the *Social Security Act 1991*.

5 (4) A person's assets value limit at a particular time for the purposes of this Act is equal to the amount that would be the person's assets value limit at that time for the purposes of Part 2.11 of the *Social Security Act 1991* if at that time the person had made a claim for, or was in receipt of, job search allowance under that Act (see subsection 529(3) and section 530 of the *Social Security Act 1991*).

(5) A favourable determination:

- 10 (a) must specify the day ("operative day") on which it takes effect; and
- (b) unless sooner revoked, continues to have effect:
- (i) if the next determination in respect of the person's assets takes effect less than 6 months after the operative day—until that determination takes effect; or
- 15 (ii) if subparagraph (i) does not apply—at the end of 6 months from the operative day.

#### Full-time students

11.(1) Subject to subsection (2), farm household support is not payable to a person who is enrolled in a full-time course of education or of vocational training for the period that:

- 20 (a) starts when the person starts the course; and
- (b) finishes when the person:
- (i) completes the course; or
- (ii) abandons the course; or
- 25 (iii) gives notice to the provider of the course that the person:
- (A) wishes to withdraw from the course; or
- (B) wishes to withdraw from a number of subjects so that the person's course will no longer be a full-time course; and
- (c) includes periods of vacation.

30 (2) Subsection (1) does not prevent farm household support from being payable for any period during which the person has deferred a course of education or of vocational training.

#### Multiple entitlement exclusion

35 12.(1) Farm household support is not payable to a person if the person is receiving a social security benefit, a social security pension or a service pension.

(2) If a person is a member of a couple, farm household support is not payable to the person if the person's partner is receiving job search allowance or newstart allowance.

- 40 (3) Farm household support is not payable to a woman if:
- (a) the woman is an armed services widow; and

(b) the woman is receiving:

(i) a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at a rate determined under or by reference to subsection 30(1) of that Act; or

(ii) a pension under the *Seamen's War Pensions and Allowances Act 1940* at a rate determined under subsection 18(2) of that Act; 5

unless:

(c) the woman has been receiving a payment referred to in subparagraph (b)(i) or (ii) continuously since before 1 November 1986; and 10

(d) before 1 November 1986 the woman was also receiving a social security benefit.

(4) Farm household support is not payable to a man if:

(a) the man is an armed services widower; and 15

(b) the man is receiving a pension under Part II or IV of the *Veterans' Entitlements Act 1986* at a rate determined under or by reference to subsection 30(1) of that Act.

(5) Farm household support is not payable to a person for a period if a payment has been or may be made in respect of the person for that period under: 20

(a) a prescribed educational scheme other than the ABSTUDY Tertiary Scheme to the extent that it applies to part-time students; or

(b) the scheme to provide an allowance known as the Maintenance Allowance for Refugees. 25

(6) If:

(a) a person enrolls in a full-time course of education; and

(b) a payment under a scheme referred to in subsection (5) may be made in respect of the person; 30

the Secretary may decide that, in spite of subsection (5), farm household support is payable to the person for a period before the person starts the course.

### **Commonwealth funded employment program exclusion**

13. Farm household support is not payable to a person for a period if the person has received, or may receive, income for that period that is paid by a community or group from funds provided under a Commonwealth funded employment program. 35

### PART 3—CLAIM FOR FARM HOUSEHOLD SUPPORT

#### Need for a claim

14.(1) A person who wants to be granted farm household support must make a proper claim for that support.

5 (2) For the purposes of subsection (1), where:

(a) a claim for farm household support is made by or on behalf of a person; and

(b) at the time the claim is made, the claim cannot be granted because the person is not qualified for farm household support;

10 the claim is taken not to have been made.

#### Form of claim

15. To be a proper claim, a claim must:

(a) be made in writing; and

15 (b) be in accordance with a form approved by the Secretary to the Department of Primary Industries and Energy.

#### Lodgment of claim

16.(1) To be a proper claim, a claim must be lodged:

(a) at an office of the Department; or

(b) at a place approved for the purpose by the Secretary; or

20 (c) with a person approved for the purpose by the Secretary.

(2) A place or person approved under subsection (1) must be a place or person in Australia.

#### Claimant must be Australian resident and in Australia

17. A claim by a person is not a proper claim unless the person is:

25 (a) an Australian resident; and

(b) in Australia;

on the day on which the claim is lodged.

#### Secretary to determine claim

30 18. The Secretary must, in accordance with this Act, determine the claim.

#### Grant of claim

19. The Secretary is to determine that the claim is to be granted if the Secretary is satisfied that:

(a) the person is qualified for farm household support; and

35 (b) no provision of this Act makes the support not payable to the person.

**Date of effect of determination**

**20.(1)** Subject to subsections (2), (3) and (4), a determination under section 19 takes effect:

- (a) on the day on which the determination is made; or
- (b) if a later day or earlier day is specified in the determination— 5  
on that day.

**(2)** If:

- (a) a decision (“**previous decision**”) is made rejecting a person’s claim for farm household support; and
- (b) a notice is given to the person advising the person of the making of the previous decision; and 10
- (c) the person applies to the Secretary under section 1240 of the *Social Security Act 1991*, within 3 months after the notice is given, for review of the previous decision; and
- (d) a determination granting the claim is made as a result of the application for review; 15

the determination takes effect on the day on which the previous decision took effect.

**(3)** If:

- (a) a decision (“**previous decision**”) is made rejecting a person’s claim for farm household support; and 20
- (b) a notice is given to the person advising the person of the making of the previous decision; and
- (c) the person applies to the Secretary under section 1240 of the *Social Security Act 1991*, more than 3 months after the notice is given, for review of the previous decision; and 25
- (d) a determination granting the claim is made as a result of the application for review;

the determination takes effect on the day on which the person sought the review. 30

**(4)** If:

- (a) a decision (“**previous decision**”) is made rejecting a person’s claim for farm household support; and
- (b) no notice is given to the person advising the person of the making of the previous decision; and 35
- (c) the person applies to the Secretary under section 1240 of the *Social Security Act 1991* for review of the previous decision; and
- (d) a determination granting the claim is made as a result of the application for review; 40

the determination takes effect on the day on which the previous decision took effect.

## PART 4—RATE OF FARM HOUSEHOLD SUPPORT

### *Division 1—Maximum fortnightly rate*

#### **Maximum fortnightly rate of farm household support—to be determined by Secretary**

- 5       21.(1) If the Secretary determines that a person's claim for farm household support is to be granted, the Secretary must, at the same time, determine the maximum fortnightly rate at which farm household support may be paid to the person.
- 10       (2) A determination ("**maximum rate determination**") by the Secretary of the maximum fortnightly rate at which farm household support may be paid to the person:
- (a) must be in writing; and
  - (b) must specify the day on which it takes effect; and
  - (c) unless sooner revoked, has effect for a period of 6 months.
- 15       (3) Unless the person has ceased to receive farm household support, the Secretary must, before a maximum rate determination in respect of the person ceases to have effect, make a new maximum rate determination in respect of the person that is specified to take effect on the first day after the current determination ceases to have effect.
- 20       (4) The Secretary may, at any time, on receiving a written request from the person:
- (a) revoke the maximum rate determination that has effect in respect of a person; and
  - (b) make a new maximum rate determination in respect of the person specifying a higher maximum fortnightly rate;
- 25       if the Secretary is satisfied, having regard to the person's changed circumstances, that a higher maximum fortnightly rate in respect of the person may be determined under section 22.
- #### **Maximum fortnightly rate—how worked out**
- 30       22.(1) When determining at a particular time the maximum fortnightly rate at which farm household support may be paid to a person, the Secretary must first find out:
- (a) if:
    - (i) the person is a member of a couple; and
    - 35       (ii) the person's partner is receiving a social security benefit, a social security pension or a service pension—  
the fortnightly rate ("**the person's JSA rate**") at which job search allowance would be payable to the person if, at that time:
    - 40       (iii) the person were entitled to receive job search allowance; and

- (iv) the person's partner were not receiving the benefit or pension; or
  - (b) in any other case—the fortnightly rate (“the person's JSA rate”) at which job search allowance would be payable to the person if, at that time, the person were entitled to receive job search allowance. 5
- (2) The maximum fortnightly rate for the person's farm household support is equal to:
- (a) if subsection (1)(a) applies to the person—one half of the person's JSA rate; or 10
  - (b) if subsection (1)(b) applies to the person—the person's JSA rate.

### *Division 2—Applicable rate*

#### **Declaration by applicant or recipient**

- 23.(1) Subject to subsection (2), a person: 15
- (a) who has made a claim for farm household support; or
  - (b) to whom farm household support is payable;
- may, at any time, declare in writing the fortnightly rate at which the person wishes to be paid farm household support.
- (2) A person may not declare a rate that is higher than the maximum fortnightly rate in relation to the person. 20
- (3) A declaration by a person under subsection (1) has effect until:
- (a) the person revokes the declaration in writing; or
  - (b) the person makes another declaration under subsection (1); or
  - (c) the Secretary determines under section 21 a maximum fortnightly rate in relation to the person that is lower than the rate specified in the declaration; or 25
  - (d) farm household support ceases to be payable to the person.

#### **Applicable rate**

24. The applicable rate in relation to a person is: 30
- (a) if a declaration made by the person under section 23 has effect—the rate specified in the declaration; or
  - (b) if paragraph (a) does not apply—the maximum fortnightly rate in relation to the person.

## **PART 5—PAYMENT OF FARM HOUSEHOLD SUPPORT** 35

#### **Commencement of farm household support**

25. Farm household support becomes payable to a person on the day on which the Secretary's determination that the person's claim for farm household support is to be granted takes effect (see section 20).



**Support to be by way of loan**

26. Payment of farm household support to a person is, subject to Part 9, made by way of a loan to the person.

**Rate at which farm household support payable**

5 27. Farm household support is payable to a person at the applicable rate in relation to the person.

**Instalments**

28.(1) Farm household support is to be paid by instalments for periods determined by the Secretary.

10 (2) The instalments are to be paid at the times determined by the Secretary.

**Amount of instalments**

29. The instalment payable for a period to a person is:

$$\text{the person's applicable rate} \times \frac{\text{week days in period}}{10}$$

Note: for the person's applicable rate see section 24.

15 **Rounding off instalment**

30.(1) If the amount of an instalment is:

- (a) a number of whole dollars and a part of a cent; or
- (b) a number of whole dollars and cents and a part of a cent;

20 the amount is, subject to subsection (2), to be increased or decreased to the nearest whole cent.

(2) If the amount of an instalment is:

- (a) a number of whole dollars and 0.5 cent; or
- (b) a number of whole dollars and cents and 0.5 cent;

the amount is to be increased by 0.5 cent.

25 **Instalment to be paid to person or nominee**

31.(1) Subject to subsection (3), instalments of a person's farm household support are to be paid to that person.

(2) The Secretary may direct that the whole or part of any of those instalments is to be paid to someone else on behalf of the person.

30 (3) If the Secretary makes a direction under subsection (2), the instalments are to be paid in accordance with the direction.

**Method of payment**

32.(1) An amount that is to be paid to a person under section 31 is to be paid at the intervals that the Secretary specifies.

(2) The person to whom an amount is payable may direct that it be paid to the credit of a nominated bank account, credit union account or building society account maintained by that person (either alone or jointly with another person). 5

(3) If the person has not given a direction under subsection (2), the Secretary may direct that the whole or a part of the amount be paid to the person in a way different to those provided for in that subsection. 10

(4) If the person gives a direction under subsection (2), or the Secretary gives a direction under subsection (3), the amount is to be paid in accordance with the direction.

**Where instalment payable on public holiday etc.**

33. If the Secretary is satisfied that an instalment of farm household support that would normally be paid on a particular day cannot reasonably be paid on that day (because, for example, it is a public holiday or a bank holiday), the Secretary may direct that the amount be paid on an earlier day. 15

**PART 6—FORMER RAS (PART C) BENEFICIARY 20***Division 1—General***Former RAS (Part C) beneficiary not required to make a claim under Part 3 but may do so**

34.(1) A person who, immediately before the commencement of this Act, was receiving Part C assistance by way of loans under a RAS scheme is, on the commencement of this Act, entitled to receive farm household support without making a claim under Part 3. 25

(2) Farm household support is then payable to the person at the rate, and for the period set out, in Division 2 of this Part.

(3) If a former RAS (Part C) beneficiary so wishes, he or she may, at any time before farm household support ceases to be payable to him or her, make a claim for farm household support under Part 3. 30

(4) If a former RAS (Part C) beneficiary makes such a claim, he or she is subject to all the provisions of this Act regarding qualification for, and payability of, farm household support (Part 2). 35

(5) If the Secretary determines that the claim is to be granted, farm household support is payable to the former RAS (Part C) beneficiary under Part 5.

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

**Application**

5     **35.** This Division applies to a former RAS (Part C) beneficiary unless:

- (a) he or she has made a claim for farm household support under Part 3; and
- (b) the Secretary has determined under section 19 that the claim is to be granted.

10    **Qualification for farm household support**

15     **36.** A former RAS (Part C) beneficiary is qualified for farm household support in respect of a period equal to 2 years less the period during which he or she received Part C assistance by way of loans under the RAS scheme applicable to him or her immediately before the commencement of this Act.

**Certain provisions of Act not applicable**

**37.** Parts 2, 3 and 4 and sections 25 and 29 do not apply to a RAS (Part C) beneficiary.

**Commencement of farm household support**

20     **38.** Farm household support becomes payable to a former RAS (Part C) beneficiary on the day on which this Act commences.

**Amount of instalment of farm household support**

**39.(1)** The instalment of farm household support payable to a former RAS (Part C) beneficiary for a period determined under section 28 is:

25                                   **Applicable RAS rate**  $\times$   $\frac{\text{week days in period}}{10}$

30     **(2)** For the purposes of subsection (1), the applicable RAS rate in relation to a former RAS (Part C) beneficiary is the fortnightly rate that applied for the last payment of Part C assistance made by way of loan to him or her before the commencement of this Act under the RAS scheme applicable to him or her.

***Division 3—Situation where Division 2 ceases to apply***

**Farm household support taken not to have ceased to be payable**

35     **40.** If, at any time after a person has been receiving farm household support under Division 2, that Division ceases to apply to the person because:

- (a) he or she made a claim for farm household support under Part 3; and

- (b) the Secretary has determined under section 19 that the claim is to be granted;

farm household support is taken, for the purposes of section 50 (repayment of farm household support), not to have ceased to be payable to the person.

5

## **PART 7—RECIPIENT'S OBLIGATIONS**

### **Secretary may require notice of the happening of an event or a change in circumstances**

**41.(1)** The Secretary may give a person to whom farm household support is being paid a notice that requires the person to inform the Department if: 10

- (a) a specified event or change of circumstances occurs; or  
 (b) the person becomes aware that a specified event or change of circumstances is likely to occur.

**(2)** An event or change of circumstances is not to be specified in a notice under subsection (1) unless the occurrence of the event or change of circumstances may affect the payment of farm household support to the person. 15

**(3)** A notice under subsection (1):

- (a) must be in writing; and 20  
 (b) may be given personally or by post; and  
 (c) must specify how the person is to give the information to the Department; and  
 (d) must specify the period within which the person is to give the information to the Department. 25

**(4)** The period specified under paragraph (3)(d) must end at least 14 days after:

- (a) the day on which the event or change of circumstances occurs; or  
 (b) the day on which the person becomes aware that the event or change of circumstances is likely to occur. 30

**(5)** A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

Penalty: Imprisonment for 6 months. 35

**(6)** A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

**(7)** This section extends to: 40

- (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and
- (b) all persons irrespective of their nationality or citizenship.

5 **Secretary may require recipient to give particular information relevant to payment of farm household support**

42.(1) The Secretary may give a person to whom farm household support is being paid a notice that requires the person to give the Department a statement about a matter that might affect the payment of the allowance to the person.

10 (2) A notice under subsection (1):

- (a) must be in writing; and
- (b) must be given personally or by post; and
- (c) must specify how the statement is to be given to the Department; and
- 15 (d) must specify the period within which the person is to give the statement to the Department.

(3) The period specified under paragraph (2)(d) must end at least 14 days after the day on which the notice is given.

20 (4) A statement given in response to a notice under subsection (1) must be in writing and in accordance with a form approved by the Secretary.

(5) A person must not, without reasonable excuse, refuse or fail to comply with a notice under subsection (1) to the extent that the person is capable of complying with the notice.

25 **Penalty: Imprisonment for 6 months.**

(6) A person must not, in purporting to comply with a notice under subsection (1), knowingly or recklessly give information that is false or misleading in a material particular.

**Penalty: Imprisonment for 12 months.**

30 (7) This section extends to:

- (a) acts, omissions, matters and things outside Australia whether or not in a foreign country; and
- (b) all persons irrespective of their nationality or citizenship.

**PART 8—TERMINATION OF FARM HOUSEHOLD SUPPORT**

35 **Automatic termination—social security benefit etc. payable**

43.(1) If a person is receiving farm household support and:

- (a) a social security benefit, a social security pension, or a service pension becomes payable to the person; or

- (b) job search allowance or newstart allowance becomes payable to the person's partner;

farm household support ceases to be payable to the person immediately before the day on which:

- (c) the pension or benefit becomes payable to the person; or 5
- (d) job search allowance or newstart allowance becomes payable to the person's partner.

- (2) If a person is receiving farm household support, and the person:

- (a) starts a full-time course of education or of vocational training; or 10
- (b) resumes study on a deferred full-time course of education or of vocational training;

farm household support ceases to be payable to the person immediately before the day on which the person starts, or resumes study on, the course. 15

**Automatic termination—recipient complying with section 41 notification obligations**

**44. If:**

- (a) a person who is receiving farm household support is given a notice under section 41; and 20
- (b) the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period ("**notification period**"); and
- (c) the event or change in circumstances occurs; and
- (d) the person informs the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and 25
- (e) because of the occurrence of the event or change in circumstances:
  - (i) the person ceases to be qualified for farm household support; or 30
  - (ii) farm household support would, apart from this section, cease to be payable to the person; and
- (f) farm household support is not cancelled before the end of the notification period; 35

farm household support continues to be payable to the person until the end of the notification period and then ceases to be payable to the person.

**Automatic termination—recipient not complying with section 41 notification obligations** 40

**45. If:**

- (a) a person who is receiving farm household support is given a notice under section 41; and

(b) the notice requires the person to inform the Department of the occurrence of an event or change in circumstances within a specified period (“notification period”); and

(c) the event or change in circumstances occurs; and

5 (d) the person does not inform the Department of the occurrence of the event or change in circumstances within the notification period in accordance with the notice; and

(e) because of the occurrence of the event or change in circumstances:

10 (i) the person ceases to be qualified for farm household support; or

(ii) farm household support ceases to be payable to the person;

15 farm household support ceases to be payable to the person immediately after the day on which the event or change in circumstances occurs.

**Automatic termination—failure to provide section 42 statement**

46.(1) If:

20 (a) a person who is receiving farm household support is given a notice under section 42 requiring the person to give the Department a statement; and

(b) the notice relates to the payment of that support in respect of a period specified in the notice; and

(c) the person does not comply with the notice;

25 the support, subject to subsection (2), ceases to be payable to the person as from the first day in that period.

(2) If the Secretary is satisfied that, in the special circumstances of the case, it is appropriate to do so, the Secretary may determine in writing that subsection (1) does not apply to the person from a day specified in the determination.

30 (3) The day specified under subsection (2) may be before or after the making of the determination.

**Termination—determination by Secretary that recipient no longer in need of farm household support**

35 47. If at any time within the period in respect of which a person is qualified for farm household support, the Secretary is satisfied, and determines in writing, that because of a change in the financial situation of the person, the person is no longer in need of farm household support, farm household support ceases to be payable to the person immediately before the day on which the determination is made.

**Termination—at request of recipient or if recipient ceases to be qualified**

48. Farm household support ceases to be payable to a person if:

- (a) the person asks the Secretary in writing to stop paying instalments of farm household support to him or her; or 5
- (b) the person ceases to be qualified for farm household support.

**Termination—death of recipient**

49. If a person who is receiving farm household support dies:

- (a) the farm household support is taken to have ceased to be payable to the person immediately before the commencement of the instalment period (“final instalment period”) current at the time of his or her death; and 10
- (b) an amount equal to the instalment of farm household support that would have been payable to the person in respect of the final instalment period if he or she had not died is to be paid as a grant to the person’s estate. 15

**PART 9—REPAYMENT****Repayment of farm household support**

50.(1) Subject to section 52, when farm household support ceases to be payable to a person (other than a former RAS (Part C) beneficiary), the person is liable to repay to the Commonwealth an amount equal to the instalments of farm household support paid to the person under Part 5 together with the amount of interest payable on those instalments under the regulations. 20

(2) Subject to section 52, when farm household support ceases to be payable to a person who is a former RAS (Part C) beneficiary, the person is liable to repay to the Commonwealth an amount equal to the sum of: 25

- (a) the instalments of farm household support paid to the person under Part 5 or Division 2 of Part 6; and 30
- (b) the total amount of Part C assistance paid to the person under the RAS scheme applicable to him or her immediately before the commencement of this Act;

together with the amount of interest payable on those instalments and on the Part C assistance under the regulations. 35

(3) When a person who is receiving farm household support dies, the amount that would have been repayable to the Commonwealth by the person under subsection (1) or (2) if:

- (a) the person had not died; and
- (b) farm household support had ceased to be payable to the person 40



immediately before the commencement of the instalment period current at the time of his or her death;

is to be repaid to the Commonwealth from the person's estate.

**Agreement**

5 **51.(1)** The Secretary to the Department of Primary Industries and Energy may enter into an agreement with a person liable to repay an amount to the Commonwealth under subsection 50(1) or (2) regarding the terms on which any repayment is to be made.

10 (2) The Secretary to the Department of Primary Industries and Energy may enter into an agreement with the personal representative of a deceased person regarding the terms on which any repayment is to be made under subsection 50(3) from the estate of the deceased person.

(3) If:

- 15 (a) there is no agreement under subsection (1) or (2); or
- (b) any term of an agreement entered into under subsection (1) or (2) is not complied with;

20 the total amount payable under subsection 50(1), (2) or (3), or so much of that amount as remains unpaid on the contravention of the agreement (as the case may be), may be recovered by the Commonwealth as a debt due to the Commonwealth.

**Person entitled to grant on sale of farm within grant period**

**52.(1)** If the person sold his or her farm within the grant period in relation to the person:

25 (a) the total amount of farm household support paid to the person is converted into a grant and the person is not liable to repay any instalments of farm household support; and

30 (b) if the farm was sold within the period of 9 months from the beginning of the grant period in relation to the person—the person is entitled to a grant equal to the amount of job search allowance that would be payable to the person in respect of the period (“**qualifying period**”) from the sale of the farm to the end of the period of 9 months if, under the *Social Security Act 1991*:

35 (i) the person were entitled to receive job search allowance for the qualifying period; and

(ii) job search allowance were payable to him or her at the rate that would be the person's maximum payment rate at the beginning of the qualifying period.

Note: for the person's maximum payment rate, see Module A of the Benefit Rate Calculator applicable to the person under section 559 of the *Social Security Act 1991*.

40 (2) If the person sold his or her farm:

- (a) after the end of the grant period in relation to the person; and
- (b) before farm household support ceased to be payable to the person;

the total amount of farm household support paid to the person in respect of the grant period is converted into a grant and the person is not liable to repay any instalment of farm household support paid to him or her in respect of the grant period. 5

(3) In this section, a reference to the total amount of farm household support paid to a person includes, in the case of a person who is a former RAS (Part C) beneficiary, the amount of Part C assistance paid to the person by way of loan under the RAS scheme applicable to the person. 10

## PART 10—MISCELLANEOUS

### Delegation of powers

53. The Secretary may by signed instrument delegate to an officer all or any of his or her powers under this Act. 15

### General power to obtain information

54.(1) The Secretary may require a person to give information, or produce a document that is in the person's custody or under the person's control, to the Department if the Secretary considers that the information or document may be relevant to: 20

- (a) the question whether a person who has made a claim for farm household support under this Act is or was qualified for the support; or
- (b) the question whether farm household support under this Act is payable to a person who is receiving it; or 25
- (c) the question whether farm household support under this Act was payable to a person who has received it; or
- (d) the maximum fortnightly rate or applicable rate, at any time, in relation to a person to whom farm household support is, or was, payable. 30

(2) A requirement under subsection (1) must be by notice in writing given to the person.

(3) The notice must specify:

- (a) how the person is to give the information or how the document is to be produced; and 35
- (b) the period within which the person is to give the information, or produce the document, to the Department; and
- (c) the officer (if any) to whom the information is to be given or the document is to be produced; and 40
- (d) that the notice is given under this section.

(4) The period specified under paragraph (3)(b) must end at least 14 days after the notice is given.

(5) The notice may require the person to give the information by appearing before a specified officer to answer questions.

5 (6) If the notice requires the person to appear before an officer, the notice must specify a time and a place for the person to appear, and the time must be at least 14 days after the notice is given.

(7) A person must not, without reasonable excuse, refuse or fail to comply with a notice under this section.

10 Penalty: Imprisonment for 6 months.

(8) A person must not, in purporting to comply with a notice, knowingly or recklessly provide information or produce a document that is false or misleading in a material particular.

Penalty: Imprisonment for 12 months.

15 (9) This section binds the Crown in right of the Commonwealth, of each of the States, of the Australian Capital Territory, of the Northern Territory and of Norfolk Island, but nothing in this section renders the Crown liable to be prosecuted for an offence.

20 (10) This section does not require a person to give information or produce a document to the extent that in doing so the person would contravene a law of the Commonwealth (other than a law of a Territory).

(11) This section extends to:

(a) acts, omissions, matters and things outside Australia, whether or not in a foreign country; and

25 (b) all persons, irrespective of their nationality, who are making or who have made a claim for a pension, benefit or allowance under this Act; and

30 (c) all persons, irrespective of their nationality, who are receiving, or have received, a payment of a pension, benefit or allowance under this Act.

### **Farm household support to be inalienable**

55. Farm household support is inalienable, whether by way of, or in consequence of, sale, assignment, execution, charge, bankruptcy or otherwise.

### **35 Recovery of overpayments**

56. If an amount purporting to be an amount of farm household support payable under this Act in respect of a period has been paid to a person and:

40 (a) the recipient was not qualified for farm household support in respect of that period; or

- (b) farm household support was not payable in respect of that period to the person; or
- (c) the amount was part of payment made because the farm household support payable to the person in respect of that period was calculated at a rate that was higher than the applicable rate in respect of the person;

the amount so paid may be recovered by the Commonwealth as a debt due to the Commonwealth.

### Appropriation

57.(1) Payments of farm household support payable in the financial year ending 30 June 1993 are to be made out of money appropriated under Item 4 of Subdivision 2 of Division 931 in Schedule 4 to the *Appropriation Act (No. 2) 1992-93* and so much of that money as is required for making those payments is taken to have been appropriated accordingly.

(2) Payments of farm household support payable in any subsequent financial year are to be made out of money appropriated by the Parliament for that purpose.

### Regulations

58.(1) The Governor-General may make regulations prescribing all matters:

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary and convenient to be prescribed for carrying out or giving effect to this Act.

(2) A regulation may create an offence punishable by a penalty not exceeding \$500.

### When Act ceases to have effect

59. Unless repealed earlier, this Act ceases to have effect at the end of 31 December 2000.

## PART 11—AMENDMENTS OF THE SOCIAL SECURITY ACT 1991 30

### Amendments of the *Social Security Act 1991*

60. The *Social Security Act 1991* is amended as set out in the Schedule.

**SCHEDULE**

Section 60

**AMENDMENTS OF THE SOCIAL SECURITY ACT 1991**

**Subsection 23(1)—definition of officer:**

Insert “or the *Farm Household Support Act 1992*” after “this Act” (wherever occurring).

**Paragraph 26(4)(c):**

Omit “30 November 1993”, substitute “the commencement of the *Farm Household Support Act 1992*”.

**After subsection 26(5):**

Insert:

“(5A) A RAS authority must not certify that a person is a financial hardship farmer unless, at all times on and after the day on which the *Farm Household Support Act 1992* commenced, a certificate under subsection (1) has been in force in respect of the person.”.

**Subsection 1131(2):**

Insert “(other than payments under the *Farm Household Support Act 1992*)” after “payments”.

**Paragraph 1234A(1)(a):**

Omit “or the 1947 Act”, substitute “, the 1947 Act or the *Farm Household Support Act 1992*”.

**After paragraph 1239(1)(b):**

Insert:

“or (c) a decision of an officer under the *Farm Household Support Act 1992*;”.

**After subsection 1239(2):**

Insert:

“(2A) Subsection (1) does not apply to a decision made by the Minister for Primary Industries and Energy or the Secretary to the Department of Primary Industries and Energy under the *Farm Household Support Act 1992*.”.

**After paragraph 1240(1)(b):**

Insert:

“or (c) a decision of an officer under the *Farm Household Support Act 1992*;”.

**Subsection 1240(2):**

Add at the end:

“; or (c) the Minister for Primary Industries and Energy or the Secretary to the Department of Primary Industries and Energy under the *Farm Household Support Act 1992*.”.

## SCHEDULE—continued

**Subsection 1245(1):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**After paragraph 1247(1)(b):**

Insert:

“(ba) a decision of an officer under the *Farm Household Support Act 1992*; or”.

**After paragraph 1250(1)(ac):**

Insert:

“(ad) of the Minister for Primary Industries and Energy or the Secretary to the Department of Primary Industries and Energy under the *Farm Household Support Act 1992*; or”.

**Subsection 1263(1):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**Paragraph 1279(1)(a):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**After paragraph 1279(5)(a):**

Insert:

“(ab) the provisions of the *Farm Household Support Act 1992* or the regulations made under that Act; or”.

**Subsection 1282(1):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**Subsection 1305(1):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**Paragraph 1306(1)(a):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**Subsection 1312(1):**

(a) Insert “or the *Farm Household Support Act 1992*” after “this Act” (first occurring).

(b) Omit “or the 1947 Act”, substitute “, the 1947 Act or the *Farm Household Support Act 1992*”.

**Section 1313:**

(a) Insert “or the *Farm Household Support Act 1992*” after “of this Act”.

(b) Omit “or the 1947 Act”, substitute “, the 1947 Act or the *Farm Household Support Act 1992*”.

**SCHEDULE**—continued

**Paragraph 1314(1)(a):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.

**Subsection 1314(4):**

Insert “or the *Farm Household Support Act 1992*” after “this Act”.



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