THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FARM HOUSEHOLD SUPPORT AMENDMENT BILL 2005

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Agriculture, Fisheries and Forestry.)
GENERAL OUTLINE

1. The purpose of the *Farm Household Support Amendment Bill 2005* is to reinforce the structural adjustment focus of the *Farm Help - Supporting Families Through Change* programme.

2. It seeks to do this by strengthening the qualification provisions for entry to the Farm Help programme and enabling ongoing communication with Farm Help Re-establishment Grant recipients regarding their undertakings not to re-enter farming and to notify of a change of address.

3. These changes have emanated from the on-going monitoring of the programme’s performance, a mid-term evaluation of Farm Help and the Performance Audit of Key Agriculture Advancing Australia Programmes undertaken by the Australian National Audit Office in 2003. These changes will not affect eligibility for the ongoing Exceptional Circumstances Relief Payment programme.

4. The *Farm Household Support Amendment Bill 2005* will give effect to a number of proposed enhancements to the Farm Help programme, including:

   a) Amending the definition of farmer to ensure that the Farm Help programme and the Exceptional Circumstances Relief Payment are consistent in their definition of farmer, as a person who has a right or an interest in land used for the purposes of a farm enterprise.

   b) Amending the qualification of a farmer for Farm Help income support to define a ‘full time’ farmer for the purposes of Farm Help. That is a person who, for a continuous period of at least two years immediately before they apply for entry to the Farm Help programme, is a farmer, derived more than 50 per cent of his or her gross income from the farm enterprise, contributed more than 50 per cent of his or her capital on the farm enterprise and spent more than 50 per cent of his or her working hours in work on the farm enterprise.

   c) Inserting a discretion clause to ensure that there is provision for genuine farmers who cannot meet the 50 per cent of gross income requirement because of factors beyond their control, such as adverse seasonal conditions, market collapse or serious illness or disability, but who otherwise satisfy all the proposed criteria for being a full-time farmer.

   d) Inserting penalty provisions to enable the Secretary to notify persons who have been paid a re-establishment grant that they must inform Centrelink if they change their address, and/or if they or their partner re-enter farming within five years of being paid the re-establishment grant.

5. An instrument established under the *Farm Household Support Act 1992* will also be amended to implement the programme enhancements. Specifically, these will focus on amending the eligibility for the Farm Help *Advice and Training Grant* to ensure that it is only accessed by farmers who are ‘full time’ farmers for the purposes of Farm Help.

FINANCIAL IMPACT STATEMENT
6. Budget allocation for these proposed changes has been provided within existing appropriations for the Farm Help programme.

NOTES OF CLAUSES

Clause 1 – Short Title

7. This Bill is to amend the Farm Household Support Act 1992.

Clause 2 - Commencement

8. (1) specifies the commencement date for Provision 1 – Sections 1 to 3 and anything in this Act not elsewhere covered by this table, as the date the Farm Household Support Amendment Bill 2005 is proclaimed. The commencement date of Provision 2 – Schedule 1 is the day after proclamation as referred to in Column 2 of the table, to ensure that no person is disadvantaged by the date of proclamation.

9. (2) refers to additional information in column 3 that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

Clause 3 – Schedule(s)

10. Clause 3 provides that the amendments to any Act specified in a Schedule to the Act, and any other items in a Schedule, are amended or repealed according to the terms of the Schedule concerned. Any item in a schedule to this Act has effect according to its terms.

SCHEDULE 1 – Amendments relating to farm help income support and re-establishment grant

Part 1 – Amendments

Farm Household Support Act 1992

Item 1 – Subsection 3 (2) (definition of a farmer)

11. Item 1 repeals the definition and substitutes an amended definition to provide a consistent definition of farmer for the Farm Help programme and the Exceptional Circumstances Relief Payment. The definition of farmer is now a person who has a right or interest in the land used for the purposes of a farm enterprise. The eligibility criteria and focus of each programme differ. Farm Help has an adjustment focus, whereas Exceptional Circumstances Relief Payment is primarily a welfare programme.

12. Amending the definition has enabled the distinction between the target groups for the two programmes to be made in sections 8A and 8B (the “qualification” for Exceptional Circumstances Relief Payment and Farm Help respectively). The amended qualification has been developed to assist decision-makers, tribunals and the courts to make this distinction clear.
Item 2 – Subparagraph 8A(1)(b)(i)

13. This subparagraph repeals the previous subparagraph and separates criteria for a person to be qualified for the Exceptional Circumstances Relief Payment that were previously in the definition of farmer in subsection 3(2). A qualified farmer is required to contribute a ‘significant’ part of his or her labour and capital to the farm enterprise and derive a ‘significant’ part of his or her income from the farm enterprise. A qualified farmer is supposed to be at least 18, an Australian resident and in Australia. As previously mentioned, the use of ‘significant’ will remain unchanged for the Exceptional Circumstances Relief Payment as it is not intended to change eligibility arrangements for that programme through this Bill.

Item 3 – Paragraph 8B(1)(c)

14. This section repeals the previous paragraph and substitutes amended qualifications for Farm Help income support to clarify the definition of what a ‘significant’ labour or capital contribution, and ‘significant’ income may be. This substitutes (c) (i), (ii), (iii) and (iv) to ensure that for the purposes of Farm Help, for a continuous period of at least two years immediately before they apply for entry to the Farm Help programme, the applicant has been a farmer, has derived more than 50 per cent of his or her gross income from the farm enterprise, contributed more than 50 per cent of his or her capital to the farm enterprise and spent more than 50 per cent of his or her working hours in work on the farm enterprise. This clause will not affect ECRP customers, who suspended from Farm Help prior to 1 July 2004 and spent less than 6 months on Farm Help income support, who then apply for re-entry to the programme after the commencement of this Act.

15. These changes are to ensure that the Farm Help programme reaches its target recipients – that is supporting low income farmers who can no longer borrow against their assets to make changes to improve their financial situation. The changes are also to exclude hobby farmers and persons who cannot prove that for a continuous period of at least two years prior to the date of their application that they have been a farmer. They specifically exclude persons who derived less than 50 per cent of their gross income from the farm (except in specific circumstances detailed in subsection 8B(1A)), who spent less than 50 per cent of their working hours, or who invested less than 50 per cent of their capital on the farm enterprise. For the purposes of Farm Help, a person is considered to be employed full time if they are in paid work for at least 35 hours per week, or less if the number of hours constitute normal full time work for that industry.

Item 4 – After subsection 8B(1)

16. Subsection 8B(1A) refers to the exercise of discretion in cases where a person’s gross income during the qualifying period is significantly diminished by certain unforeseen events due to natural disaster, extreme seasonal conditions, market collapse or serious illness or disability.

17. The exercising of this criteria would be dependent on a determination in writing by the Secretary that the person’s gross income from the farm enterprise during the qualifying period is significantly diminished by:

(i) Drought, flood, bushfire or some other natural disaster.
(ii) An ‘unforeseeable extreme variation in seasonal norms’ such as situations where commodity production or prices have been severely damaged due to circumstances for which the farmer could not have prepared. An example of this could include, among others, the 2000 outbreak of orange rust in the sugar industry.

(iii) Market collapse, that is, a situation where an unforeseen external factor resulted in the sudden and total collapse of commodity prices or the exclusion of Australia from the global market for a particular commodity.

(iv) A serious illness or disability which had prevented the person from earning 50 per cent of their gross income from the farm enterprise.

8. The Secretary in this case carries the same definition as in the Act: the Secretary to the Department of Social Security. This determination will be made in close consultation with the Department of Agriculture, Fisheries and Forestry. The provisions will ensure that genuine farmers who have suffered a decline in farm cash flow or financial loss due to such circumstances, but who meet the criteria in 8B(1)(c)(i), (iii) and (iv), will not be excluded from assistance under Farm Help.

Item 5 – Subsection 41(4)

9. This item inserts ‘the earlier of’, to ensure that there is no ambiguity as to when the recipient must inform Centrelink of a change in circumstances.

Item 6 – After section 52AA

10. This item inserts section 52AB, which gives the Secretary in (1) the authority to give a notice to a re-establishment grant recipient to advise Centrelink if a specified event or change of circumstances occurs.

11. (2)(b) notes that the specified event or change in circumstances in (2)(a) would be an indication that the person, or the person’s partner, has acquired a right or interest in a farm enterprise within 5 years after receiving the Farm Help re-establishment grant. (2)(b) also notes that an event or change of circumstances is a change of address within 5 years after receiving the grant. It ensures that a person who receives a re-establishment grant should notify Centrelink of their change of address, to ensure that they and their partner comply with their undertaking not acquire a right or interest in a farm enterprise for a period of five years after receiving the grant. The provision outlines the way the notice must be given, the timeframe in which a person must respond in and the penalty for failing to do so. This penalty is up to 30 penalty units if a person refuses or fails to comply with a notice to inform that the person or their partner has acquired a right or interest in a farm enterprise. Failure to comply with a notice to advise of a change of address will attract a penalty of 20 penalty units.

12. 52AC gives the Secretary the power to require a re-establishment grant recipient to provide a statement about whether a person or their partner has acquired a right or interest in a farm enterprise within 5 years after receiving the grant. The provision outlines the way the notice must be given and the timeframe in which a person must respond. This penalty is up to 30 penalty units if a person refuses or fails to provide a statement that the person or their partner has acquired a right or interest in a farm enterprise within 5 years after receiving the grant.
Part 2 – Application and saving provisions

Item 7 – Definition

13. This refers to the principal act mentioned in Schedule 1 as the Farm Household Support Act 1992.

Item 8 – Farm help income support

14. This item notes that amendments made by items 1, 3 and 4 of this Schedule will be applicable to a person who makes a claim for Farm Help income support on or after the commencement of this item.

15. This item ensures that amendments in subitem (1) do not apply for the purposes of determining whether a person is qualified for Farm Help income support if a person has been granted the advice and training grant prior to Royal Assent of this Act. In this instance a person will have up to three months to undertake their activity plan and advice on financial outlook for them to be used to assist their qualification for farm help income support. If the person does not fulfil these requirements in the three months provided, they will have to qualify under the amendments made by items 1, 3 and 4 of this Schedule.

Item 9 – Exceptional circumstances relief payment

16. This item notes that amendments made by item 1 and 2 of this Schedule will be applicable to a person who makes a claim for Exceptional Circumstances Relief Payment on or after the commencement of this item.

Item 10 – Farm help re-establishment scheme

17. Paragraph (1) refers to amendments made by item 6 of this Schedule, which will apply to a claim for a re-establishment grant on or after commencement of this item.

18. Paragraph (2) refers to the insertion by item 5 of section 52AB and 52AC in this Schedule. Despite these, section 52A of the Farm Household Support Act 1992 and the instruments made under that section will continue to be in force on and after the commencement of those items where a claim for a re-establishment grant was made prior to the commencement of those items. This means that these provisions will not apply to a person who has received a re-establishment grant prior to the day after Royal Assent of this Act.