THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

FARM HOUSEHOLD SUPPORT AMENDMENT (ADDITIONAL DROUGHT ASSISTANCE MEASURES) BILL 2008

EXPLANATORY MEMORANDUM

(Circulated by the authority of the Minister for Agriculture, Fisheries and Forestry, the Hon. Tony Burke MP)
FARM HOUSEHOLD SUPPORT AMENDMENT (ADDITIONAL DROUGHT ASSISTANCE MEASURES) BILL 2008

OUTLINE

The purpose of the Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008 is to introduce new eligibility criteria for the Exceptional Circumstances Relief Payment. The Bill will increase the maximum allowable income exemption for the Exceptional Circumstances Relief Payment, extend this support to more small business operators and allow farmers to continue to receive the Exceptional Circumstances Relief Payment whilst absent from Australia for specific family or humanitarian reasons.

Exceptional Circumstances assistance is the Australian Government’s primary mechanism for providing support to drought-affected farmers and agriculture-dependent small business operators. It provides targeted “safety net” income support to farmers in regions experiencing severe and prolonged downturns in income due to rare and severe events, typically climatic events such as the current drought. It also provides similar assistance to small businesses that are dependent on these farmers’ enterprises for 70 per cent or more of their gross business turnover. Extension of this support recognises the particularly severe and prolonged drought that has extended across much of Australia since 2002. Farm families are increasingly seeking work off-farm to keep their business solvent. Drought conditions are directly affecting the viability of local businesses in small towns that are dependent on agricultural incomes.

The Bill will enhance accessibility to the Exceptional Circumstances Relief Payment and ancillary benefits for farmers and agriculture-dependent small business operators. The amendments will increase the salary and wages the applicant and their partner can earn outside the primary business that are exempt from the income test from $10,000 to $20,000. The Bill also amends the eligibility criteria for the Exceptional Circumstances Relief Payment to include the operators of small businesses that are located in towns that are substantially reliant on farm income, have a population of 10,000 or less and are wholly or partially located in an Exceptional Circumstances declared area. The small business must also demonstrate a significant downturn in business because of the drought.

The assistance for farmers and agriculture-dependent small businesses is, to the greatest extent possible, intended to be consistent with the “safety net” welfare assistance provided to other members of the Australian community. However, there are some inconsistencies between the Exceptional Circumstances Relief Payment and the provisions of mainstream welfare programs.
Under the *Farm Household Support Act, 1992* individuals are required to be “in Australia” to be eligible for the Exceptional Circumstances Relief Payment. Consequently, if a current recipient of the Exceptional Circumstances Relief Payment, farmer or small business operator travels overseas for any period (no matter how short or for what reason), their Exceptional Circumstances Relief Payment terminates. Other welfare assistance, such as the Newstart Allowance (on which the Exceptional Circumstances Relief Payment is primarily modelled), has some flexibility to allow the recipient to keep receiving their payment while travelling overseas.

The proposed amendments change the requirement that farmers and agriculture-dependent small business operators be “in Australia” to receive the Exceptional Circumstances Relief Payment, by allowing exemptions for a limited number of reasons. These amendments will bring this provision in line with the Newstart Allowance by applying Part 4.2 of the *Social Security Act 1991*. This allows exemptions for eligible medical treatments, acute family crises and humanitarian or other reasons, including custodial, criminal (other than criminal proceedings in respect of a crime alleged to have been committed by the person) or legal proceedings, adoption of children or other reasons as specified in the Social Security Regulations 2004 (currently limited to competitors selected for the Australian Para-Olympic Team). There is capacity for the Secretary to seek further approved reasons for absence by regulation should the need arise in the future.

**FINANCIAL IMPACT STATEMENT**

The amendments are an additional cost to the government. A budget allocation of $85 million was approved by the Parliament for the Department of Agriculture, Fisheries and Forestry portfolio 2007-2008 appropriations to cover this cost.
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NOTES ON CLAUSES

Section 1 – Short Title

This clause provides for the Act to be cited as the Farm Household Support Amendment (Additional Drought Assistance Measures) Act 2008.

Section 2 – Commencement

Clause 2 provides for the commencement of the Act.

Section 3 – Schedules

This section provides that each Act referred to in the Schedules is amended or repealed in accordance with the applicable items in the Schedules concerned, and also provides that any other item in the Schedules have effect according to their terms.

Schedule 1 – Improved access to exceptional circumstances relief payment

Paragraph 1

This item allows for a broader definition of dependent small business.

Paragraph 3

This item extends the period that a person is eligible for the Exceptional Circumstances Relief Payment from 30 June 2008 until 30 June 2009.

Paragraph 4

Qualification

This item defines a new category of eligible small business operators in small towns reliant on agricultural activity for their income and specifies the commencement date of these amendments. It also specifies the additional eligibility criteria for the Exceptional Circumstances Relief Payment that the small business operators must satisfy.

Minister’s determination

This item outlines the criteria the Minister must use when making a determination as to whether a town or location meets the requirements for small businesses to be eligible for Exceptional Circumstances Relief Payments.
Paragraph 8

The amendments create another way in which a person can be eligible for the Exceptional Circumstances Relief Payment. This item prevents an applicant from claiming multiple entitlements when they meet more than one set of eligibility criteria.

Paragraphs 11, 12, 16 and 17

These paragraphs change the formula to recognise the new income exemption threshold of $20 000 for off-farm and non-business salaries when calculating payment rates.

Sub Section 13

This item makes the Exceptional Circumstances Relief Payment payable to small business operators as defined in paragraph 4.

Subparagraphs 18 and 19

These items provide for consequential amendments to the Social Security Act 1991 to ensure that the newly eligible small business operators receive the same entitlements under the Social Security Act 1991 as other recipients of Exceptional Circumstances Relief Payments. This relates to the provision of Austudy and Youth Allowance means test concessions.

Part 2 – Application and transitional provisions

Paragraph 21

This item confirms that the amendments to the entitlement and rate of payment for the Exceptional Circumstances Relief Payment are effective from the 25 September 2007.

Paragraph 22

This item ensures that off-farm and non-business salaries earned before the commencing day of these amendments are disregarded for the purposes of calculating payment rates.

Paragraph 23

This provision validates a claim for payment by an applicant who has received payments after 25 September 2007, the date on which the government agreed the changed eligibility criteria should apply, and before the commencing day under the criteria specified in paragraph 4. It allows for their payments to continue uninterrupted after the commencing day.
Paragraph 24

This provision validates a claim for payment by an applicant who had not yet received a payment but had lodged a claim after 25 September 2007 and before the commencing day. Where that claim satisfies the requirements of paragraph 4, the applicant can commence receiving payments after the enactment of the amendments without reapplying for the payment.

Part 3 – Validation of certain past payments

Part 3 allows the Commonwealth to account for payments made prior to the commencing day (where those payments were made subject to the provisions of the amendments) as if they had been made after the commencing day. The structure of clauses 26, 27 and 28 make all the payments made a debt to the Commonwealth that only has to be repaid if a recipient is later found not to have satisfied the eligibility criteria at the time they made the claim for payment.

Paragraph 26 (1)

This subclause defines all payments made prior to the commencing day under the September 2007 revised criteria as outlined in paragraph 4 as "pre commencement payments".

Paragraph 26 (2)

This subclause makes all pre-commencement payments a debt to the Commonwealth.

Paragraph 26 (3)

This Subclause entitles all recipients of a pre-commencement payment to a prospective amount of money that is equal to the amount they received as a pre commencement payment.

Paragraph 26 (4) and (5)

These items allow the Commonwealth to set-off the appropriated entitlement to the debt created in Sub-section 2 in order to satisfy that debt in full.

Paragraph 26 (6) (7)

These items give the Commonwealth the power to recover any payment or part of a payment if the person who received that money is later found to have been ineligible for all or part of the pre-commencement payment that they received.

Paragraph 26 (8) and (9)

These items refer to the normal operation of the Act by specifying the way in which Centrelink handles the collection of debts to the Commonwealth.
Rate of Past payment of exceptional circumstances relief payment

Paragraph 27

This section gives the Commonwealth the power to recover any excess amounts paid to a person under powers created in Section 26.

Ancillary benefits relating to the Social Security Act 1991 or the Social Security (Administration) Act 1999

Paragraph 28

This item makes ancillary benefits (for example means test concessions for a Health Care Card, Youth Allowance and Austudy) provided under the Social Security Act 1991 or the Social Security (Administration) Act 1999 prior to the commencing day under the September 2007 revised criteria as outlined in paragraph 4 valid. It also gives the Commonwealth the power to recover a debt incurred by a person who has incorrectly received ancillary benefits under the powers created in Section 26.

Appropriation

Paragraph 29

This item appropriates money from the Consolidated Revenue Fund to make payments under Sections 26, 27 and 28.

Schedule 2 – Portability of exceptional circumstances relief payment

This schedule changes the requirement that recipients be in Australia to receive the Exceptional Circumstances Relief. It applies the provisions contained in Section 4.2 of the Social Security Act 1991, which continues a person’s entitlement to payment for restricted family and humanitarian reasons, as well as other reasons by regulation (currently only participation in the Para-Olympics). This section also allows the Secretary of the Department of Agriculture, Fisheries and Forestry to define other approved absences by regulation.

Application of Amendments

This item applies to a recipient who is absent from Australia for a reason not covered under the exemptions and it will apply on or after the commencement of this item.