Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008

No.  , 2008

(Agriculture, Fisheries and Forestry)

A Bill for an Act to amend the Farm Household Support Act 1992, and for other purposes
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*i*  *Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008*  
No.  , 2008
A Bill for an Act to amend the *Farm Household Support Act 1992*, and for other purposes

The Parliament of Australia enacts:

1 **Short title**

   This Act may be cited as the *Farm Household Support Amendment (Additional Drought Assistance Measures) Act 2008*.

2 **Commencement**

   This Act commences on the day on which it receives the Royal Assent.

3 **Schedule(s)**

   Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule.
concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Improved access to exceptional circumstances relief payment

Part 1—Amendments

Farm Household Support Act 1992

1 Subparagraph 6(1)(b)(i)

Omit all the words after “farm enterprises”, substitute “, or on farmers, farm enterprise workers, or their families; and”.

2 Section 6C

Before “Exceptional”, insert “(1)”.

3 At the end of section 6C

Add:

(2) Exceptional circumstances relief payment is not payable to a person who qualifies for the payment under subsection 8A(7) in respect of any period that is after 30 June 2009, or such later day as is prescribed.

4 At the end of section 8A

Add:

Qualification—small business operators supplying farmers, farm enterprise workers, or their families

(7) A person is qualified for exceptional circumstances relief payment in respect of a period beginning on or after 25 September 2007 (the relevant period) if:

(a) the person is an individual; and

(b) throughout the relevant period:

(i) the person carries on a small business in respect of which there is an ABN; and

(ii) the person has a right or interest in the small business; and
(iii) the person contributes a significant part of his or her labour and capital to the business; and
(iv) the person derives a significant part of his or her income from the business; and
(v) the person is an Australian resident; and
(c) the business is situated wholly or partly within a town or locality that, throughout the relevant period, is covered by a determination made by the Minister under this paragraph; and
(d) the town or locality is situated wholly or partly within an area that, throughout the relevant period, is covered by a declaration of exceptional circumstances (as referred to in paragraph 8(c) of the Rural Adjustment Act 1992); and
(e) the gross income of the business has been significantly reduced because of the effect of the exceptional circumstances in relation to which the declaration was made on farmers, farm enterprise workers, or their families.

Minister’s determination

(8) The Minister must not make a determination under paragraph (7)(c) in relation to a town or locality unless the Minister is satisfied that:
(a) the population of the town or locality is 10,000 or less; and
(b) the town or locality is substantially reliant on income derived from the supply of goods or services to farm enterprises, or to farmers, farm enterprise workers, or their families.

(9) A determination made by the Minister under paragraph (7)(c) is not a legislative instrument.

Note: The heading to subsection 8A(5) is altered by adding at the end “supplying farm enterprises”.

5 Subparagraphs 10(3)(a)(ii) and (iii)

After “8A(5)”, insert “or (7)”.

6 Subsection 12(7)

After “8A(5)”, insert “or (7)”.

7 Subsection 12(8)

After “8A(1)”, insert “or (7)”.

4 Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008 No. , 2008
8 At the end of section 12

Add:

(9) Exceptional circumstances relief payment is not payable to a person on the basis that the person qualifies for the payment under subsection 8A(7) if the person is receiving, or has received, the payment on the basis that the person qualifies or qualified for the payment under subsection 8A(1) or (5).

9 Paragraph 24A(1)(b)

Omit “;”, substitute “.”.

10 Paragraphs 24A(4)(a) and (b)

Repeal the paragraphs, substitute:

(a) beginning at the start of 1 July 2007; and
(b) ending at the end of 30 June 2009, or, if a later day is prescribed, at the end of that later day (the closing day);

Note: The heading to subsection 24A(4) is altered by omitting “$10,000” and substituting “$20,000”.

11 Paragraph 24A(5)(b) (formula)

Repeal the formula, substitute:

\[
\frac{20,000 - \text{Amount previously disregarded in that financial year}}{\text{Number of days remaining in that financial year}} \times \text{Number of days in the fortnight that fall within that financial year}
\]

12 Paragraph 24A(6)(b) (formula)

Repeal the formula, substitute:

\[
\left(\frac{20,000 \times \text{Total number of days in the period}}{365} - \frac{\text{Amount previously disregarded in the period}}{\text{Number of days remaining in the period}}\right) \times \frac{\text{Number of days in the fortnight that fall within the period}}{\text{Number of days remaining in the period}}
\]

13 Subsection 24AA(1)
After “8A(5)”, insert “or (7)”.  

14 Paragraph 24AA(5)(a)  
Repeal the paragraph.  

Note: The heading to subsection 24AA(5) is altered by omitting “$10,000” and substituting “$20,000”.

15 After paragraph 24AA(5)(b)  
Insert:  
(ba) the 2008-09 financial year; or

16 Paragraph 24AA(6)(b) (formula)  
Repeal the formula, substitute:  

\[
\frac{20,000 - \text{Amount previously disregarded in that financial year}}{\text{Number of days remaining in that financial year}} \times \text{Number of days in the fortnight that fall within that financial year}
\]

Note: The heading to subsection 24AA(7) is altered by omitting “$10,000” and substituting “$20,000”.

17 Paragraph 24AA(8)(b) (formula)  
Repeal the formula, substitute:  

\[
\left(\frac{20,000 \times \text{Total number of days in the period}}{365} - \text{Amount previously disregarded in the period}\right) \times \frac{\text{Number of days in the fortnight that fall within the period}}{\text{Number of days remaining in the period}}
\]

Social Security Act 1991

18 Subparagraphs 547F(2)(a)(i) and (b)(i)  
After “8A(5)”, insert “or (7)”.  

19 Subparagraphs 573E(2)(a)(i) and (b)(i)  
After “8A(5)”, insert “or (7)”.  

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6 Farm Household Support Amendment (Additional Drought Assistance Measures) Bill 2008 No. , 2008
Part 2—Application and transitional provisions

20 Definitions

In this Part:

commencing day means the day on which this Act commences.


Secretary has the same meaning as in the Principal Act.

21 Application of items 10 to 17 of this Schedule

The amendments made by items 10 to 17 of this Schedule apply in relation to exceptional circumstances relief payment that is paid on or after the commencing day in relation to periods that occur on or after 25 September 2007.

22 Transitional—amounts disregarded before commencing day

Amounts that were disregarded for the 2007-08 financial year under subsection 24A(5) or (6) or subsection 24AA(6) or (8) of the Principal Act before the commencing day are to be treated, after the commencing day, as if the amounts had been disregarded for that financial year under that subsection (as amended by this Schedule).

23 Transitional—person already receiving payment in the nature of exceptional circumstances relief payment

(1) This item applies if, immediately before the commencing day, a person is receiving a payment on the basis that the following are satisfied:

(a) qualification criteria that are the same as those in subsection 8A(7) of the Principal Act (as inserted by this Schedule);

(b) payability criteria that are the same as those in Division 2 of Part 2 of the Principal Act (as amended by this Schedule).

(2) The following apply:

(a) the person is taken to have made a proper claim for exceptional circumstances relief payment for the purposes of Part 3 of the Principal Act;

(b) the Secretary is taken to have made a determination under subsection 19(2) of the Principal Act, with effect from the
start of the commencing day, that the claim is granted at the
rate at which payment was received immediately before the
commencing day;
(c) the Secretary is taken to have made a determination in
writing under subsection 10(1) of the Principal Act (the
assets determination), with effect from the start of the
commencing day, that the value of the person’s assets does
not exceed the person’s asset value limit;
(d) unless sooner revoked, the assets determination continues to
have effect:
   (i) if the next determination in respect of the person’s
       assets takes effect less than 6 months after the
       commencing day—until that determination takes effect;
       or
   (ii) if subparagraph (i) does not apply—until the end of 6
       months from the commencing day.

(3) The Secretary may, by determination in writing, revoke or vary a
determination that:
   (a) because of paragraph (2)(b) of this item, the Secretary is
taken to have made under subsection 19(2) of the Principal
Act; or
   (b) because of paragraph (2)(c) of this item, the Secretary is
taken to have made under subsection 10(1) of the Principal
Act;
       in circumstances in which the Secretary could have revoked or varied a
determination actually made under those subsections.

(4) Sections 53 and 53A of the Principal Act apply in relation to a
determination under subitem (3) of this item in the same way as they
apply in relation to a determination under subsection 19(2) or 10(1) of
the Principal Act.

(5) A determination made under subitem (3) of this item is not a legislative
instrument.

24 Transitional—person applying for payment in the nature
of exceptional circumstances relief before commencing
day
(1) This item applies if, on or after 25 September 2007 and before the
commencing day, a person applies for a payment on the basis that the
following are satisfied:
   (a) qualification criteria that are the same as those in subsection
       8A(7) of the Principal Act (as inserted by this Schedule);
   (b) payability criteria that are the same as those in Division 2 of
       Part 2 of the Principal Act (as amended by this Schedule);
but is not receiving payment on that basis immediately before the
commencing day.

(2) On the commencing day, the person is taken to have made a proper
claim for exceptional circumstances relief payment for the purposes of
Part 3 of the Principal Act.
Part 3—Validation of certain past payments

25 Definitions

In this Part:

commencing day means the day on which this Act commences.

excess amount has the meaning given by subitem 27(1).

pre-commencement payment has the meaning given by subitem 26(1).


26 Past payments in the nature of exceptional circumstances relief payment

(1) This item applies if, before the commencing day, a person received a payment (a pre-commencement payment) on the basis that the following were satisfied in respect of a period starting on or after 25 September 2007 and ending before the commencing day:

(a) qualification criteria that are the same as those in subsection 8A(7) of the Principal Act (as inserted by this Schedule);

(b) payability criteria that are the same as those in Division 2 of Part 2 of the Principal Act (as amended by this Schedule).

(2) A pre-commencement payment may be recovered by the Commonwealth from the person to whom the payment was made as a debt due to the Commonwealth.

(3) A person to whom a pre-commencement payment was made is entitled, on the commencement of this item, to be paid by the Commonwealth an amount equal to the amount of the debt due to it by the person under subitem (2).

(4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (2) against an amount that is payable to that person under subitem (3).

(5) The Commonwealth may set-off classes of debt under subsection (4).

(6) If:

(a) a pre-commencement payment has been paid to a person in respect of a period; and

(b) the person did not satisfy, in respect of that period:
(i) qualification criteria that are the same as those in subsection 8A(7) of the Principal Act (as inserted by this Schedule); and

(ii) payability criteria that are the same as those in Division 2 of Part 2 of the Principal Act (as amended by this Schedule);

the pre-commencement payment may be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

(7) If:

(a) a pre-commencement payment has been paid to a person in respect of a period; and

(b) the amount of the pre-commencement payment (the paid amount) is greater than the amount (the payable amount) that would have been payable to the person in respect of that period had the payment been calculated by applying section 24AA of the Principal Act (as amended by this Schedule) to the person as if the person were qualified for exceptional circumstances relief payment under subsection 8A(7) of that Act (as inserted by this Schedule);

an amount equal to the difference between the paid amount and the payable amount may be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

(8) A debt that is recoverable under subitem (6) or (7) is, for the purposes of sections 1227A and 1231A of the Social Security Act 1991, taken to be a debt that is recoverable under section 56 of the Principal Act in respect of an amount of exceptional circumstances relief payment.

(9) Subitems (6) and (7) do not, by implication, affect the recovery or set-off of overpayments of exceptional circumstances relief payment under the Principal Act.

27 Rate of past payments of exceptional circumstances relief payment

(1) This item applies if, before the commencing day:

(a) a person received a payment on the basis that, in respect of a period starting on or after 25 September 2007 and ending before the commencing day, the person satisfied:

(i) the qualification criteria in subsection 8A(1) or (5) of the Principal Act; and
(ii) the payability criteria in Division 2 of Part 2 of the Principal Act; and
(b) the payment was calculated using a formula that is the same as that in subsection 24A(5) or (6) or subsection 24AA(6) or (8) of the Principal Act as amended by this Schedule; and
(c) had the payment been calculated using the formula in that subsection as in force before the commencing day, all or some of the payment (the *excess amount*) would not have been payable to the person.

(2) An excess amount may be recovered by the Commonwealth from the person to whom the payment was made as a debt due to the Commonwealth.

(3) A person to whom an excess amount was paid is entitled, on the commencement of this item, to be paid by the Commonwealth an amount equal to the amount of the debt due to it by the person under subitem (2).

(4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (2) against an amount that is payable to that person under subitem (3).

(5) The Commonwealth may set-off classes of debt under subsection (4).

(6) If:
(a) an excess amount has been paid to a person in respect of a period; and
(b) the person did not satisfy, in respect of that period:
(i) the qualification criteria in subsection 8A(1) or (5) of the Principal Act; and
(ii) the payability criteria in Division 2 of Part 2 of the Principal Act;
the excess amount may be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

(7) If:
(a) an excess amount has been paid to a person as, or as part of, a payment mentioned in subitem (1) in respect of a period; and
(b) an error was made when calculating the payment in respect of that period using a formula that is the same as that in
subsection 24A(5) or (6) or subsection 24AA(6) or (8) of the Principal Act as amended by this Schedule; and
(c) the excess amount (the paid amount) is greater than the excess amount (the payable amount) that would have been paid as, or as part of, the payment in respect of that period had the error not been made;

an amount equal to the difference between the paid amount and the payable amount may be recovered by the Commonwealth from the person as a debt due to the Commonwealth.

(8) A debt that is recoverable under subitem (6) or (7) is, for the purposes of sections 1227A and 1231A of the Social Security Act 1991, taken to be a debt that is recoverable under section 56 of the Principal Act in respect of an amount of exceptional circumstances relief payment.

(9) Subitems (6) and (7) do not, by implication, affect the recovery or set-off of overpayments of exceptional circumstances relief payment under the Principal Act.

(10) Despite subitems (2) and (3), if, before the commencing day, an amount was disregarded for the 2007-08 financial year in a calculation that used a formula that is the same as that in subsection 24A(5) or (6) or subsection 24AA(6) or (8) of the Principal Act as amended by this Schedule, then the amount is to be treated, after the commencing day, as if it had been disregarded for that financial year under that subsection.


(1) If, before the commencing day, a thing (other than the payment of money) was done:
(a) as if a pre-commencement payment or an excess amount were exceptional circumstances relief payment under the Principal Act; and
(b) as if either or both of the Social Security Act 1991 and the Social Security (Administration) Act 1999 operated in relation to the payment;
then the thing is, for all purposes, taken to be as valid, and always to have been as valid, as it would have been if the pre-commencement payment or excess amount had been exceptional circumstances relief payment under the Principal Act as amended by this Schedule and the Social Security Act 1991 and the Social Security (Administration) Act 1999 had operated.

(2) If an amount of money has been paid by the Commonwealth because a thing referred to in subitem (1) was done, the amount may be recovered by the Commonwealth from the person to whom the amount was paid as a debt due to the Commonwealth.

(3) A person to whom an amount referred to in subitem (2) was paid is entitled, on the commencement of this item, to be paid by the Commonwealth an amount equal to the amount of the debt due to it by the person under subitem (2).

(4) The Commonwealth may set-off the amount of a debt due to it by a person under subitem (2) against an amount that is payable to that person under subitem (3).

(5) The Commonwealth may set-off classes of debt under subsection (4).

29 Appropriation

The Consolidated Revenue Fund is appropriated for the purpose of payments under subitems 26(3), 27(3) and 28(3).
Schedule 2—Portability of exceptional circumstances relief payment

Farm Household Support Act 1992

1 Sub-subparagraph 8A(1)(b)(i)(F)
   Repeal the sub-subparagraph.

2 Subparagraph 8A(5)(b)(vi)
   Repeal the subparagraph.

3 After section 49
   Insert:

49A Automatic termination—overseas absence

   (1) This section applies if:
      (a) a person is continuously absent from Australia throughout a period (the period of absence); and
      (b) either:
         (i) immediately before the period of absence started, the person was receiving exceptional circumstances relief payment; or
         (ii) during the period of absence, the person’s claim for such a payment is granted.

   (2) Exceptional circumstances relief payment ceases to be payable to the person if, were the payment newstart allowance and Part 4.2 of the Social Security Act 1991 applied, it would not be payable to the person because of that Part.

   (3) Exceptional circumstances relief payment ceases to be payable on the first day that it would not be payable to the person because of that Part.

   (4) For the purposes of this section, the Secretary may exercise any powers in relation to exceptional circumstances relief payment that the Secretary referred to in Part 4.2 of the Social Security Act 1991
may exercise in relation to that Part in relation to newstart allowance.

(5) If regulations made under this section specify a purpose for the purposes of paragraph 1212B(c) of the *Social Security Act 1991*, the Secretary is to exercise the powers referred to in subsection (4) as if the purpose specified were a purpose specified in regulations made under that paragraph.

**4 Application of amendments**

The amendments made by items 1 to 3 of this Schedule apply in relation to absences from Australia that start on or after the commencement of this item.