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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**FARM HOUSEHOLD SUPPORT AMENDMENT
(RELIEF MEASURES) BILL (NO. 1) 2020**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture, Drought and
Emergency Management, the Hon. David Littleproud MP)

FARM HOUSEHOLD SUPPORT AMENDMENT (RELIEF MEASURES) BILL (NO. 1) 2020

GENERAL OUTLINE

The Farm Household Support Amendment (Relief Measures) Bill (No. 1) 2020 (the Bill) introduces improvements to the Farm Household Allowance (FHA) program payment settings through amendments to the *Farm Household Support Act 2014* (the FHS Act).

The Bill is the government's final instalment in response to the independent review into the FHA program. The review was undertaken in 2018 and released in May 2019 (Rebuilding the FHA: a better way forward for supporting farmers in financial hardship).

The improvements in the Bill are in addition to those provided in the *Farm Household Support Amendment Act 2019*, the *Farm Household Support Amendment (Relief Measures) Act (No.1) 2019*, and the *Farm Household Support Amendment (Relief Measures) Act (No.2) 2019*.

The Bill makes two sets of amendments:

- The first set of amendments is to remove the provisions which give rise to business income reconciliation.
- The second set of amendments is to remove the 28 day time limit for conducting a farm financial assessment.

Removal of Business Income Reconciliation (Schedule 1)

Currently, FHA recipient's income estimate will be reconciled annually using personal and business income tax returns and full financial statements through a process called business income reconciliation (BIR). BIR determines whether a recipient receives a 'top up' payment or incurs a debt.

The Bill will remove the provisions enabling BIR to take place. This means, a person's rate of payment will be based on their current income. This amendment, along with the amendments made by *Farm Household Support Amendment (Relief Measures) Act (No. 2) 2019* to provide for a single rate of payment of FHA, will provide farmers with greater certainty of their rate of payment.

FHA recipients will no longer need to worry whether a debt is raised at the end of the year. Their income estimates will be used to determine eligibility throughout the year, and audit sampling of records will be undertaken.

Extending time limit for farm financial assessment (Schedule 2)

Currently, a farm financial assessment is required to be completed within 28 days of receiving a notice from Services Australia. This period can be extended by a further 28 days.

Removing the 28 day time period to complete the farm financial assessment provides flexibility and appropriate time to identify the most appropriate person to conduct the assessment. A period within which the person must have a farm financial assessment

completed is still required to be included in a written notice under section 85(2) of the FHS Act, taking into consideration the location of the FHA recipient and their farm, and the availability of a relevant person to conduct the assessment.

Consultation

Consultation was undertaken with the Department of the Prime Minister and Cabinet, the Attorney-General's Department, the Department of Social Services and Services Australia.

FINANCIAL IMPACT STATEMENT

Cost for the suite of changes to the FHA program is approximately \$127 million, which includes the measures in the Bill.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The full statement of compatibility with human rights is attached to this explanatory memorandum.

NOTES ON AMENDMENTS

Preliminary

Item 1 **Short Title**

Clause 1 provides the short title of the Act is the *Farm Household Support Amendment (Relief Measures) Act (No. 1) 2020*.

Item 2 **Commencement**

Subclause 2(1) provides that each provision of the Bill specified in column 1 of the table in that subclause will commence, or will be taken to have commenced, in accordance with column 2 of that table.

This item provides that Schedule 1 (removing business income reconciliation) of the Bill will commence on 1 July 2020. Schedule 2 (extending time limit for farm financial assessment) of the Bill will commence the day after the Bill receives the Royal Assent.

Item 3 **Schedules**

Item 3 provides that legislation specified in a Schedule to the Bill is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule has effect according to its terms. This is a technical provision to give operational effect to the amendments contained in the Schedules.

Schedule 1—Removing business income reconciliation

Overview

Currently, the FHS Act provides that the rate of FHA may be determined on the basis of an estimate by a person and their partner of their farm's income 12 months in advance. This estimate is reconciled against actual income at the end of the next financial year. A new determination of the person's rate of FHA is then made based on the farm's actual income. If the new determination reduces the rate of FHA payable for a period during which the farmer has already received FHA, resulting in an overpayment of FHA, there would be a debt to the Commonwealth of that amount.

The Bill will remove the provisions giving rise to business income reconciliation (BIR) starting 1 July 2020. This means, the rate of payment will be based on their current income. This, along with the amendments made by *Farm Household Support Amendment (Relief Measures) Act (No. 2) 2019* to provide for a single rate of payment of FHA, will provide greater certainty to FHA recipients on their rate of payment. It also means FHA recipients will no longer need to worry whether a debt is raised at the end of the financial year.

Farm Household Support Act 2014

Item 1 Subsection 5(1) (definition of *business income*)

Item 1 repeals the definition of 'business income' as it is redundant as a result of the amendments made by item 4 of Schedule 1 to remove Subdivision D of Division 8 of Part 2.

Item 2 Subsection 55(2)

Item 2 omits 'Subdivisions C and D', and substitute 'Subdivision C' from subsection 55(2) of the FHS Act. This is consequential to amendments made by item 4 of Schedule 1 to remove Subdivision D of Division 8 of Part 2, which gives rise to BIR.

Section 55 of the FHS Act provides how a rate of payment is worked out for a person who has turned 22.

Item 3 Subsection 60(2)

Item 3 omits 'Subdivisions C and D', and substitute 'Subdivision C' from subsection 60(2) of the FHS Act. This is consequential to amendments made by item 4 of Schedule 1 to remove Subdivision D of Division 8 of Part 2, which gives rise to BIR.

Section 60 of the FHS Act provides how a rate of payment is worked out for a person who has not turned 22.

Item 4 Subdivision D of Division 8 of Part 2

Item 4 repeals Subdivision D of Division 8 of Part 2 of the FHS Act. This Subdivision includes provisions which give rise to BIR.

Item 5 Saving provision

Item 5 provides saving provisions relating to the estimates of business income under Subdivision D of Division 8 of Part 2 of the FHS Act.

This item preserves the operation of the provisions in Subdivision D for the purposes of calculating the rate of FHA payable, and the amount of any debt relating to payments of FHA made, prior to the commencement of this Schedule, which is 1 July 2020.

Paragraph (a) provides that Subdivision D of Division 8 of Part 2 of the FHS Act continues to apply in relation to working out the rate of FHA for days occurring before the commencement of this Schedule.

Paragraph (b) of this item provides that Subdivision D of Division 8 of Part 2 of the FHS Act continues to apply in relation to working out amounts of farm household allowance paid in relation to days occurring before the commencement date that are debts due to the Commonwealth.

Schedule 2—Extending time limit for farm financial assessment

Overview

Currently, a farm financial assessment is required to be completed within 28 days of receiving a notice from Services Australia. This period can be extended by a further 28 days.

Removing the 28 day time period to complete the farm financial assessment provides case officers the ability to consider farmers and their partners' circumstances and provide them some flexibility in identifying the most appropriate person to conduct the assessment.

Farm Household Support Act 2014

Item 1 Paragraph 85(2)(d)

Item 1 removes the reference to '(of no more than 28 days) within which the person must have farm financial assessment conducted' and substitutes 'within which the person must have the farm financial assessment conducted' in paragraph 85(2)(d) the FHS Act. As a result of this amendment, paragraph 85(2)(d) still requires the farm financial assessment to be conducted by a certain period.

Item 2 Subsection 85(3)

Item 2 substitutes the reference to 'no more than 28 days' with 'a specified period' in subsection 85(3) of the FHS Act. As a result of this amendment, subsection 85(3) provides that the Secretary may, in writing extend the period under paragraph 85(2)(d) once.

Item 3 Application provisions

Clause 1 provides that the amendment made by item 1 of Schedule 2 applies in relation to notices given under subsection 85(2) of the FHS Act on or after the commencement of item 1.

Clause 2 provides that the amendment made by item 2 of Schedule 2 applies in relation to a notice given under subsection 85(2) of the FHS Act on or after the commencement of item 2, and a notice given under subsection 85(2) before the commencement, where no extension in relation to that notice had been given under subsection of the FHS Act before the commencement of that item.

As a result of the amendment made by clause 2, a decision on an extension request after commencement of Schedule 2 could relate to a notice issued prior to commencement of the schedule.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011.

Farm Household Support Amendment (Relief Measures) Bill (No. 1) 2020

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The Bill is the government's final instalment in response to the independent review into the FHA program. The review was undertaken in 2018 and released in May 2019 (Rebuilding the FHA: a better way forward for supporting farmers in financial hardship).

The improvements in the Bill are in addition to those provided in the *Farm Household Support Amendment Act 2019*, the *Farm Household Support Amendment (Relief Measures) Act (No.1) 2019*, and the *Farm Household Support Amendment (Relief Measures) Act (No.2) 2019*.

The Bill makes two sets of amendments:

- The first set of amendments is to remove the provisions which give rise to business income reconciliation.
- The second set of amendments is to remove the 28 day time limit for conducting a farm financial assessment.

Human rights implications

The Bill engages, or has the potential to engage, the following rights:

- Article 9 of the International Covenant on Economic, Social and Cultural Rights (the ICESCR)—right to social security
- Article 11(1) of the ICESCR—right to an adequate standard of living, including food, water and housing
- Article 12(1) of the ICESCR—right to health
- Article 6 of the ICESCR—right to work and rights in work

Right to social security

Article 9 of the ICESCR recognises the right to social security. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has stated that the term 'social security' in Article 9 encompasses the right to access and maintain benefits, whether in cash or in kind to secure protection from (a) lack of work related income; (b) unaffordable healthcare; or (c) insufficient family support.

The Bill seeks to remove the requirement to undertake business income reconciliation (BIR). It also removes the 28 day time period to conduct farm financial assessment (FFA) giving farmers and their partners more flexibility to identify the most appropriate person to conduct the FFA. It's important that the FFA is completed within a timeframe to ensure FHA is payable.

An FHA recipient is also automatically entitled to a Health Care Card, providing them with access to more affordable healthcare (refer to discussion below in relation to article 12(1) of the ICESCR). By increasing flexibility on the conduct of FFA, and removing BIR the Bill will engage and promote the right to social security.

Summary

The Bill engages and promotes the right to social security in Article 9 of the ICESCR.

Right to an adequate standard of living, including food, water and housing

Article 11(1) of the ICESCR recognises the right to an adequate standard of living, including food, water and housing. States have an obligation to ensure the availability and accessibility of the resources necessary for the progressive realisation of this right. The CESCR has stated that the core content of the right to adequate food implies both the availability and (economic and physical) accessibility of food.

Given that the livelihood of FHA recipients is subject to a range of factors beyond their control, the Bill seeks to promote this right by providing financial and social support to FHA recipients in times of hardship where they demonstrate a limited capacity to self-support. The Bill, together with recent changes made to the FHA program, seeks to provide for a single rate of payment of FHA, which provides farmers with greater certainty of their rate of payment.

Subject to eligibility criteria, FHA recipients are also entitled to additional rent assistance. The Bill makes it simpler for a person to access support through FHA and, as a result, indirectly protects the right to an adequate standard of housing.

Summary

The Bill engages and promotes the right to an adequate standard of living in Article 11(1) of the ICESCR.

Right to health

Article 12(1) of the ICESCR recognises the right of all individuals to enjoy the highest attainable standard of physical and mental health.

The CESCR has stated that this right is not confined to the right to health care. The CESCR considers that article 12 more broadly acknowledges that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions, and a healthy environment.

The Bill will make it simpler for FHA recipients to access FHA and remove unnecessary regulatory burden. FHA recipients are granted automatic access to a Health Care Card and, subject to eligibility criteria, other applicable mainstream social assistance measures.

The Health Care Card assists FHA recipients by allowing them to access health-related goods and services at a concessional rate. By making it simpler to access FHA and ancillary support and the health benefits, the Bill engages and promotes the right to health.

Summary

The Bill engages and promotes the right to health in Article 12(1) of the ICESCR.

Right to work

Article 6 of the ICESCR protects the right to work. Article 6(2) provides that, to achieve the full realisation of this right, States should take steps to include “technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual”.

While receiving payment, FHA recipients are able to access an activity supplement to undertake agreed training and assessment activities as prescribed in the recipient’s financial improvement agreement, including greater access to technical and vocational training. This in turn, will increase their access to work. As a result, the Bill engages and promotes the right to work contained in Article 6 of the ICESCR.

Summary

The Bill engages and promotes the right to work in Article 6 of the ICESCR.

Conclusion

The Bill is compatible with human rights because it promotes the protection of human rights.

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