



# **Farm Household Support Act 2014**

**No. 12, 2014**

**An Act to provide financial assistance to farmers  
and their partners, and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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# Farm Household Support Act 2014

No. 12, 2014

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## **An Act to provide financial assistance to farmers and their partners, and for related purposes**

[Assented to 28 March 2014]

The Parliament of Australia enacts:

### **Part 1—Preliminary**

#### **1 Short title**

This Act may be cited as the *Farm Household Support Act 2014*.

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Section 2

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**2 Commencement**

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 and 2 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	28 March 2014
2. Sections 3 to 89	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 July 2014 (see F2014L00554)
3. Parts 5 and 6	At the same time as the provision(s) covered by table item 1.	28 March 2014

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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

**3 Object of this Act**

The object of this Act is to improve the financial situation of farmers and their partners, who need financial assistance, by providing them with financial assistance that consists of:

- (a) farm household allowance for up to 3 years; and
- (b) funding to engage in certain activities; and

- (c) funding to obtain a farm financial assessment.

#### 4 Simplified outline of this Act

This Act provides financial assistance to certain farmers and their partners.

The assistance is available to farmers, and partners of farmers, who contribute significant labour and capital to a farm enterprise that has a significant commercial purpose or character.

The payments that are available under this Act are:

- (a) farm household allowance for up to 3 years; and
- (b) funding (called the activity supplement) for undertaking activities such as receiving training or advice, or undertaking study; and
- (c) funding (called the farm financial assessment supplement) to pay for an assessment of the financial position of a person and a relevant farm enterprise.

The rules dealing with how to make claims, how payments are made and review of decisions relating to payments under this Act are found in the Social Security Act and the Social Security Administration Act.

#### 5 Definitions

- (1) In this Act:

**3 years or less** has the meaning given by subsection 6(3).

**activity supplement** means the supplement payable under Part 3.

**allowable absence** has the meaning given by subsection 53(1).

**Benefit Rate Calculator B** means the Benefit Rate Calculator B in Part 3.6 of the Social Security Act.

**business income** has the meaning given by subsection 68(3).

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***conduct failure*** has the meaning given by section 73.

***cumulative period of farm household allowance*** has the meaning given by subsection 6(1).

***farm asset*** has the meaning given by subsection 35(1).

***farm enterprise*** means an enterprise carried on within any of the agricultural, horticultural, pastoral, apicultural or aquacultural industries.

***farmer*** means an individual who:

- (a) has a right or interest in land; and
- (b) uses the land wholly or mainly for the purposes of a farm enterprise.

***farm financial assessment*** is an assessment of:

- (a) the financial position of:
  - (i) the farm enterprise; and
  - (ii) the person for whom the assessment is conducted; and
- (b) options to improve that person's financial position.

***farm financial assessment supplement*** means the supplement payable under Division 3 of Part 4.

***farm household allowance*** means the allowance payable under Part 2.

***financial improvement agreement*** means an agreement entered into under Division 3 of Part 2.

***liquid assets test waiting period*** means the liquid assets test waiting period under section 44.

***maximum amount of activity supplement*** means the maximum amount of activity supplement prescribed by, or worked out in accordance with, Minister's rules made for the purposes of paragraph 82(1)(a).

***maximum exemption period*** has the meaning given by section 32.

***Minister's rules*** means the rules made under subsection 106(1).

***newly arrived resident's waiting period*** means a newly arrived resident's waiting period under section 42.

***non-farm asset*** has the meaning given by subsection 35(3).

***ordinary waiting period*** means an ordinary waiting period under section 40.

***period of absence*** has the meaning given by section 50.

***portability period*** has the meaning given by subsection 53(2).

***prescribed adviser*** means a person who is prescribed by the Minister's rules for the purposes of this definition.

***qualification failure*** has the meaning given by section 71.

***registered training organisation*** has the same meaning as in the *National Vocational Education and Training Regulator Act 2011*.

***Secretary*** means the Secretary of the Department.

***Secretary's rules*** means the rules made under subsection 106(2).

***service provider*** for an activity means the person who provides the activity.

***Social Security Act*** means the *Social Security Act 1991*.

***Social Security Administration Act*** means the *Social Security (Administration) Act 1999*.

***Social Security Department*** means the Department administered by the Social Security Minister.

***Social Security Minister*** means the Minister administering the *Data-matching Program (Assistance and Tax) Act 1990*.

***Social Security Secretary*** means the Secretary of the Social Security Department.

***this Act*** includes the Minister's rules and the Secretary's rules.

***value*** includes the meaning given by section 36.

Section 6

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***waiting period*** means:

- (a) an ordinary waiting period; or
- (b) a newly arrived resident's waiting period; or
- (c) a liquid assets test waiting period.

***Youth Allowance Rate Calculator*** means the Youth Allowance Rate Calculator in Part 3.5 of the Social Security Act.

*Expressions used in the Social Security Act*

- (2) An expression that is used in the Social Security Act or a part of that Act has the same meaning, when used in this Act, as in that Act or part (subject to subsection (1) and Part 5 of this Act).
- (3) The Minister's rules may prescribe expressions to which subsection (2) does not apply.

**6 Meaning of *cumulative period of farm household allowance and 3 years or less***

- (1) A person's ***cumulative period of farm household allowance*** is the total number of days for which farm household allowance is payable to the person.
- (2) In working out that total number:
  - (a) the days do not have to be consecutive days; and
  - (b) every day for which farm household allowance is payable to the person is to be counted.

Note: For paragraph (2)(b) for example, all days for which farm household allowance is payable are counted even if:

- (a) the person qualifies for the allowance under section 8 for some of those days and under section 9 for others; or
- (b) the person qualifies under section 9 as a partner of a farmer, and also later qualifies under that section as a result of being the partner of a different farmer.

*Meaning of 3 years or less*

- (3) A person's cumulative period of farm household allowance is ***3 years or less*** if the total number of days for which farm household allowance is payable to the person is 1095 days or fewer.

*When farm household allowance is payable for a day*

- (4) Farm household allowance is payable to a person for a day if:
  - (a) the person qualifies for the allowance on the day; and
  - (b) no provision of this or any other Act applies resulting in the allowance not being payable to the person for the day.

## **Part 2—Farm household allowance**

### **Division 1—Simplified outline of this Part**

#### **7 Simplified outline of this Part**

Farm household allowance is payable to certain farmers and their partners. A person must qualify for farm household allowance for the allowance to be payable. The allowance is payable for a cumulative period of up to 3 years.

To qualify for the allowance as a farmer, a person must contribute significant labour and capital to a farm enterprise that has a significant commercial purpose or character. The partner of such a person may also qualify for the allowance.

Another requirement for a person to qualify for the allowance is that the person is willing to enter into a financial improvement agreement. A financial improvement agreement sets out the activities that the person must do for the purposes of the activity test (which is a test that a person to whom the allowance is payable is generally required to satisfy). The kinds of activities that may be set out in a financial improvement agreement include receiving training or advice from an appropriately qualified person, or undertaking study.

In certain circumstances, a person may be exempt from the activity test (for example, during periods that are essential to the operation of the farm or if a person is temporarily incapacitated).

Even if a person qualifies for farm household allowance, the allowance may not be payable (such as where the value of the person's assets exceeds a certain limit, where the person receives other support under the Social Security Act or where the person is subject to a waiting period).



Farm household allowance may continue to be payable during a person's period of absence from Australia. (The period is generally no longer than 6 weeks.)

A person's rate of farm household allowance depends on the age of the person. For a person who has not turned 22, the rate is worked out using the Youth Allowance Rate Calculator in the Social Security Act. Otherwise, the rate is worked out using the Benefit Rate Calculator B in that Act (which is also used to work out newstart allowance). Some modifications are made to the Calculators for the purposes of farm household allowance.

There are certain obligations imposed on a person to whom farm household allowance is payable. Farm household allowance may cease to be payable to a person who fails to comply with these obligations.

The rules dealing with how to make claims, how payments are made and review of decisions relating to farm household allowance are found in the Social Security Act and the Social Security Administration Act. (This is because Part 5 of this Act applies and modifies the Social Security Act and the Social Security Administration Act in relation to farm household allowance.)

**Part 2** Farm household allowance

**Division 2** Basic qualifications of farmers and their partners for farm household allowance

Section 8

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**Division 2—Basic qualifications of farmers and their partners for farm household allowance**

**8 Qualification of farmers for farm household allowance**

A person is qualified for farm household allowance for a period if throughout the period:

- (a) the person is a farmer; and
- (b) the person contributes a significant part of his or her labour and capital to a farm enterprise; and
- (c) the farm enterprise has a significant commercial purpose or character; and
- (d) the land that is used for the purposes of the farm enterprise is in Australia; and
- (e) the person has turned 16; and
- (f) the person is an Australian resident, and is in Australia; and
- (g) either:
  - (i) the person has indicated, in writing, that the person is willing to enter into, and comply with, a financial improvement agreement; or
  - (ii) a financial improvement agreement is in force in relation to the person; and
- (h) the person's cumulative period of farm household allowance is 3 years or less.

Note 1: For paragraph (b), see section 11 if a person is exempt from the activity test under section 31 (temporary incapacity).

Note 2: Paragraph (f) is subject to Division 7 (overseas portability).

Note 3: This section is subject to section 12 (no effective control of farm enterprises).

**9 Qualification of farmers' partners for farm household allowance**

A person is qualified for farm household allowance for a period if throughout the period:

- (a) the person is not qualified for farm household allowance under section 8; and
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- (b) the person is a member of a couple; and
- (c) the person's partner is a farmer; and
- (d) the farmer contributes a significant part of his or her labour and capital to a farm enterprise; and
- (e) the farm enterprise has a significant commercial purpose or character; and
- (f) the land that is used for the purposes of the farm enterprise is in Australia; and
- (g) the farmer resides in Australia; and
- (h) the person is an Australian resident, and is in Australia; and
- (i) either:
  - (i) the person has indicated, in writing, that the person is willing to enter into, and comply with, a financial improvement agreement; or
  - (ii) a financial improvement agreement is in force in relation to the person; and
- (j) the person's cumulative period of farm household allowance is 3 years or less.

Note 1: For paragraph (d), see section 11 if a person is exempt from the activity test under section 31 (temporary incapacity).

Note 2: Paragraph (h) is subject to Division 7 (overseas portability).

Note 3: This section is subject to sections 10 (grace period for farmers' partners) and 12 (no effective control of farm enterprises).

## 10 Grace period for farmers' partners

- (1) This section applies if:
  - (a) a person was qualified for farm household allowance under section 9 as a partner of a farmer; and
  - (b) the person would (apart from this section) have ceased to be qualified for farm household allowance on a day (the ***grace period start day***) only because:
    - (i) the person ceased to be a member of a couple on that day; or
    - (ii) the person's partner was in gaol or undergoing psychiatric confinement on that day, and could not contribute a significant part of his or her labour or

**Part 2** Farm household allowance

**Division 2** Basic qualifications of farmers and their partners for farm household allowance

**Section 11**

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capital to a farm enterprise as a result of the imprisonment or confinement.

- (2) The person remains qualified under section 9 for farm household allowance for the period:
- (a) starting on the grace period start day; and
  - (b) ending on the earlier of the following days:
    - (i) the day the person otherwise ceases to be qualified for farm household allowance under that section;
    - (ii) the day that is 14 weeks after the grace period start day.

**11 Persons with temporary incapacity exemption may be taken to meet the labour requirement**

A person who is exempt from the activity test under section 31 (temporary incapacity) for a period is taken to contribute a significant part of his or her labour to a farm enterprise during the period if the person contributed a significant part of his or her labour to the farm enterprise immediately before becoming incapacitated.

**12 Persons not qualified if Secretary determines that they do not effectively control farm enterprises**

- (1) A person is not qualified, or ceases to be qualified, for farm household allowance for a period if the Secretary determines that:
- (a) during the period:
    - (i) for a person who qualifies under section 8 as a farmer—the person is not effectively in control of the farm or farm enterprise in relation to which the person claims the allowance; or
    - (ii) for a person who qualifies under section 9 as a partner of a farmer—the farmer is not effectively in control of the farm or farm enterprise in relation to which the person claims the allowance; and
  - (b) farm household allowance should not be payable to the person for the period.

Note        Some examples of cases in which the Secretary may consider that a person is not effectively in control of a farm or farm enterprise are when a mortgagee has taken possession of a farm, when a person is a bankrupt or when an eviction notice has been served on a person in respect of a farm.

- (2) A person may effectively be in control of a farm enterprise that is a designated private trust even if the person does not pass the control test in relation to the farm enterprise under section 1207V of the Social Security Act.

### **13 Determination of matters relating to qualification for farm household allowance**

- (1) The Secretary's rules may prescribe matters the Secretary must take into account in deciding whether the requirement in paragraph 8(b) or (c), or paragraph 9(d) or (e), is met.
- (2) To avoid doubt, the Secretary's rules do not limit the matters the Secretary may take into account in deciding whether the requirement is met.

## **Division 3—Financial improvement agreements**

### **14 Requirement to enter financial improvement agreement**

- (1) The Secretary may require a person to enter a financial improvement agreement if:
  - (a) such an agreement is not already in force in relation to the person; and
  - (b) either:
    - (i) the person is receiving, or has made a claim for, farm household allowance; or
    - (ii) the Department is contacted by or on behalf of the person in relation to a claim for farm household allowance.
- (2) The Secretary may require a person to enter into another financial improvement agreement if a financial improvement agreement is already in force in relation to the person.

Note: The earlier financial improvement agreement is cancelled in accordance with section 17.

#### *Giving notice of requirement*

- (3) The Secretary must give a person who is required to enter a financial improvement agreement written notice of:
  - (a) the requirement; and
  - (b) the places and times at which the agreement is to be negotiated; and
  - (c) the period (of not more than 28 days) within which the person must comply with the notice; and
  - (d) a description of consequences that may apply if the person does not comply with the notice.

Note: For the consequences that may apply if the person does not comply with the notice, see sections 71 and 72.

- (4) The Secretary may, in writing, extend the period under paragraph (3)(c) once by no more than 28 days.

*Form of financial improvement agreement*

- (5) A financial improvement agreement must be in a form approved by the Secretary.

**15 Terms of financial improvement agreement**

- (1) A financial improvement agreement that is in force in relation to a person is to contain one or more terms (the *requirements*) that:
- (a) require the person to undertake activities for the purposes of the activity test; and
  - (b) the Secretary regards as suitable for the person.

Note: For the activities that may be undertaken, see section 19.

- (2) A financial improvement agreement must not contain a requirement of a kind prescribed by the Secretary's rules for the purposes of this subsection.
- (3) To avoid doubt, the Secretary's rules do not limit the Secretary's discretion to exclude other kinds of requirements from a particular financial improvement agreement under subsection (1).

*Optional terms*

- (4) A financial improvement agreement may also contain one or more terms that the person may, but is not required to, comply with.

**16 Approval of requirements**

- (1) The requirements in a financial improvement agreement are to be approved by the Secretary.
- (2) In considering whether to approve the requirements in a financial improvement agreement that will be in force in relation to a person, the Secretary is to have regard to:
- (a) the person's capacity to comply with the requirements; and
  - (b) the person's needs.

**Section 17**

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*Matters to take into account in determining person's capacity to comply with requirements*

- (3) In having regard to a person's capacity to comply with the requirements in a financial improvement agreement, the Secretary is to take into account the following matters:
- (a) the person's education, experience, skills and age;
  - (b) the impact of any disability, illness, mental health condition or physical condition of the person on the person's ability to participate in activities;
  - (c) the participation opportunities available to the person;
  - (d) the family and caring responsibilities of the person, including whether:
    - (i) the person is a registered and active foster carer of a child; or
    - (ii) the person is a home educator or distance educator of a child; or
    - (iii) a child lives with the person under a family law order, or other document that is prepared or accepted by an authority of a State or Territory that has responsibility for the wellbeing of children; or
    - (iv) there are 4 or more children (which may include secondary pupil children), and the person is the principal carer or main supporter of the children;
  - (e) the length of travel time required to comply with the requirements;
  - (f) the financial costs (such as travel costs) of complying with the requirements, and the person's capacity to pay for such costs;
  - (g) the state of the local labour market and the transport options available to the person in accessing that market;
  - (h) any other matters that the Secretary or the person considers relevant in the circumstances.

**17 Variation, cancellation and review**

A financial improvement agreement that is in force in relation to a person:

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- (a) may be varied (in negotiation with the person); and
- (b) must be cancelled by the Secretary if the person enters into another financial improvement agreement; and
- (c) may be reviewed from time to time by the Secretary on request or on his or her own initiative; and
- (d) may be cancelled by the Secretary after a review under paragraph (c).

### **18 Notification of circumstances preventing or affecting compliance**

- (1) A person must notify the Secretary of any circumstance preventing or affecting the person's capacity to comply with the requirements in a financial improvement agreement that is in force in relation to a person.

Note: For the consequences of failing to comply with this section, see sections 71 and 72.

- (2) The person must notify the Secretary under subsection (1) within 14 days of the circumstance occurring.
- (3) The Secretary may determine, in writing, that this section does not apply if the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to give the notification.

## Division 4—The activity test

### 19 The activity test

#### *Undertaking activities*

- (1) A person satisfies the activity test for a period if the person satisfies the Secretary that, throughout the period, the person is complying with requirements in the person's financial improvement agreement for the person to undertake any of the following activities for the purposes of the activity test:
  - (a) participating in training in accordance with section 20;
  - (b) receiving advice in accordance with section 20;
  - (c) undertaking study;
  - (d) actively seeking, or being willing to undertake, paid work in Australia (other than paid work that is unsuitable to be undertaken by the person);
  - (e) undertaking any other activity.

Note 1: For determining whether work is unsuitable, see section 21.

Note 2: A person may qualify for the activity supplement by undertaking activities for the purposes of the activity test (see Part 3).

#### *Meeting prescribed conditions*

- (2) Alternatively, a person satisfies the activity test for a period if the person satisfies the Secretary that, throughout the period, the person satisfies any conditions prescribed by the Secretary's rules for the purposes of this subsection.

### 20 Training and advice to be provided by appropriately qualified person

- (1) Training must be provided by a person or body who:
  - (a) is a registered training organisation; or
  - (b) has been approved, in writing, by the Secretary.
- (2) For the purposes of Part 4 of the Social Security Administration Act (as it applies because of Part 5 of this Act), a decision made

under paragraph (1)(b) is taken not to be a decision under the social security law.

- (3) Advice must be provided by a person who:
- (a) has a qualification:
    - (i) in a relevant field from a tertiary institution; and
    - (ii) that is recognised by a professional institution or body; and
  - (b) is independent from:
    - (i) the person (the *recipient*) to whom the advice is provided; and
    - (ii) if the recipient is a member of a couple—the partner of the recipient; and
  - (c) does not have any right or interest in:
    - (i) the farm; or
    - (ii) any asset that is owned by the recipient, the partner of the recipient or the farm enterprise.

## **21 Determining whether work is unsuitable**

- (1) This section applies in determining whether work is unsuitable to be undertaken by a person for the purposes of paragraph 19(1)(d).

### *Matters to be taken into account*

- (2) The Secretary must take into account the following matters:
- (a) any other employment of the person that does not relate to the relevant farm;
  - (b) the person's education, experience, skills and age, and whether the employer for the work referred to in subsection (1) would provide training;
  - (c) any disability, illness, mental health condition or physical condition of the person;
  - (d) any family or caring responsibilities of the person;
  - (e) if the person is a farmer—the workload associated with the operation of the farm;
  - (f) any other matters that the Secretary considers relevant in the circumstances.

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*When work is unsuitable*

- (3) Despite subsection (2), particular paid work is unsuitable to be undertaken by a person if in the Secretary's opinion:
- (a) the conditions in which the work would be performed would constitute a risk to health or safety and would contravene a law of the Commonwealth, a State or a Territory relating to occupational health and safety; or
  - (b) the terms and conditions for the work would be less generous than the applicable statutory conditions; or
  - (c) commuting between the person's home and the place of work would be unreasonably difficult; or
  - (d) the work would require enlistment in the Defence Force or the Reserves; or
  - (e) the work would require the person to move from a home in a place to a home in another place; or
  - (f) performing the work would jeopardise the current employment, or the employment prospects, of the person's partner; or
  - (g) the educational, cultural or religious background of the person makes it unreasonable for the person to perform the work; or
  - (h) it is more appropriate for the person to participate in training, receive advice or undertake study than to perform the work; or
  - (i) the person would suffer severe financial hardship if the person were to perform the work.

*Determination of additional matters*

- (4) The Secretary's rules may prescribe matters that the Secretary must take into account in deciding whether, for the purposes of paragraph (2)(f), particular paid work is unsuitable to be undertaken by a person.
- (5) To avoid doubt, the Secretary's rules do not limit the matters that the Secretary may take into account in deciding whether particular paid work is unsuitable to be undertaken by a person.

## **Division 5—Exemptions from the activity test**

### **Subdivision A—General exemptions determined by the Secretary**

#### **22 Determination of exemption by Secretary**

- (1) A person is exempt from the activity test for a period if the Secretary makes a determination under this Subdivision.
- (2) The Secretary may revoke a determination under this Subdivision if the Secretary is satisfied that the grounds on which the determination was made no longer exist.
- (3) Subsection (2) does not affect any operation that subsection 33(3) of the *Acts Interpretation Act 1901* has in relation to a determination under this Subdivision.

#### **23 Essential farm activities**

- (1) A farmer who qualifies for farm household allowance under section 8 is exempt from the activity test for a period if the Secretary is satisfied that requiring the farmer to satisfy the activity test during the period would prevent the farmer from undertaking activities that are essential to the operation of the farm.
- (2) The Secretary may, in writing, determine the period during which the farmer is exempt.
- (3) The period must not exceed 6 weeks (and must not be extended).
- (4) The Secretary may not exempt a farmer under this section from the activity test if, during the previous 12 months, the farmer has already been exempt under this section for 2 other periods (irrespective of the length of the periods, or whether farm household allowance was payable during the periods).

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**24 Domestic violence etc.**

- (1) The Secretary may make a determination in relation to a person for a period if the Secretary is satisfied that:
- (a) the person:
    - (i) is the principal carer of one or more children; and
    - (ii) was subjected to domestic violence in the 26 weeks before the making of the determination; or
  - (b) the person is the principal carer of one or more children, and there are special circumstances relating to the person's family that make it appropriate to make the determination.

*Determination of matters Secretary must take into account*

- (2) The Secretary's rules may prescribe matters that the Secretary must take into account in deciding whether there are special circumstances relating to a person's family that make it appropriate to make a determination.
- (3) To avoid doubt, the Secretary's rules do not limit the matters that the Secretary may take into account in deciding whether to make a determination under paragraph (1)(b).

*Period of determination*

- (4) If a determination is made on grounds referred to in paragraph (1)(a) (or on grounds that include those grounds), the period that the Secretary determines must be 16 weeks.
- (5) Otherwise, the period that the Secretary determines must be the lesser of:
- (a) the period that the Secretary considers to be appropriate; or
  - (b) 16 weeks.
- (6) A period referred to in subsection (4) or (5) may be followed by one or more other periods (each of those other periods not exceeding 16 weeks) determined in relation to the person.

## **25 People with disabled children**

- (1) The Secretary may make a determination in relation to a person for a period if the Secretary is satisfied that the person is the principal carer of one or more children:
  - (a) who have a disability, illness, mental health condition or physical condition; and
  - (b) whose care needs are such that the person should not be required to satisfy the activity test for the period.

### *Period of determination*

- (2) The period that the Secretary determines must be the lesser of:
  - (a) the period that the Secretary considers to be appropriate; or
  - (b) 12 months.
- (3) The period determined by the Secretary in relation to a person may be followed by one or more other periods (each of those other periods not exceeding 12 months) determined in relation to the person.

## **26 Inclusion in prescribed class**

- (1) The Secretary may make a determination in relation to a person for a period if the Secretary is satisfied that:
  - (a) the person is in a class of persons prescribed by the Secretary's rules for the purposes of this subsection; and
  - (b) the person's circumstances are such that the person should not be required to satisfy the activity test for the period.

### *Period of determination*

- (2) The period that the Secretary determines must be the lesser of:
  - (a) the period that the Secretary considers to be appropriate; or
  - (b) 12 months.
- (3) The period determined by the Secretary in relation to a person may be followed by one or more other periods (each of those other periods not exceeding 12 months) determined in relation to the person.

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**27 Exemption where requirement for person to satisfy the activity test would be unreasonable**

The Secretary may make a determination in relation to a person for a period if the Secretary is satisfied that, having regard to all the relevant factors, including the following, it would be unreasonable to expect the person to satisfy the activity test for that period:

- (a) the location of offices of the Department or the Human Services Department;
- (b) difficulties with transport and communication;
- (c) the educational, cultural or religious background of the person.

**28 Special circumstances**

- (1) The Secretary may make a determination in relation to a person for a period if:
  - (a) the Secretary is satisfied that special circumstances, beyond the person's control, exist; and
  - (b) the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to satisfy the activity test for that period.

*Period of determination*

- (2) The period must not exceed 13 weeks (and must not be extended).

**Subdivision B—Automatic general exemptions**

**29 Members of Defence Reserves**

A person is exempt from the activity test for a period if the person is attending a training camp during the period as a member of the Reserves.

**30 Prenatal and postnatal exemption**

- (1) A pregnant woman is exempt from the activity test for the period that:
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- (a) starts 6 weeks before the woman's expected date of confinement; and
  - (b) ends on the day the woman gives birth to the child (whether or not the child is born alive).
- (2) If a woman gives birth to a child (whether or not the child is born alive), the woman is exempt from the activity test for the period that:
- (a) starts on the day she gives birth to the child; and
  - (b) ends 6 weeks after that day.

### **Subdivision C—People temporarily incapacitated**

#### **31 Temporarily incapacitated person exempt from the activity test**

- (1) A person is exempt from the activity test for a period if:
- (a) throughout the period, because of sickness or an accident, the person is incapacitated and cannot undertake any activities for the purposes of the activity test for more than 8 hours a week; and
  - (b) in the Secretary's opinion, no activities are of a kind that the person could be reasonably expected to undertake for the purposes of the activity test for more than 8 hours a week; and
  - (c) the incapacity is caused wholly, or virtually wholly, by a medical condition arising from the sickness or accident; and
  - (d) the incapacity is, or is likely to be, of a temporary nature; and
  - (e) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner, in a form approved by the Secretary, stating:
    - (i) the medical practitioner's diagnosis; and
    - (ii) the medical practitioner's prognosis; and
    - (iii) that the person is incapacitated and cannot undertake any activities for the purposes of the activity test for more than 8 hours a week; and
    - (iv) the period for which the person is incapacitated; and

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- (f) the Secretary is satisfied that the incapacity has not been brought about with a view to obtaining an exemption from the activity test.

Note: A person who is exempt from the activity test under this section may still be taken to contribute a significant part of his or her labour to a farm enterprise (see section 11).

*Requirements for making decisions*

- (2) The Secretary must comply with any requirements prescribed by the Minister's rules in deciding the following:
  - (a) whether paragraph (1)(a), (c) or (d) applies to a person for a period;
  - (b) whether, for the purposes of paragraph (1)(b), an activity is of a kind that a person could be reasonably expected to undertake.

**32 Time limit for exemption—end of person's maximum exemption period**

*Cessation of exemption*

- (1) A person ceases to be exempt under section 31 from the activity test if the person's maximum exemption period ends.

*Maximum exemption period*

- (2) A person's **maximum exemption period** is:
  - (a) if the person has, whether before or after the commencement of this section, given the Secretary a medical certificate for the purpose of enabling the Secretary to decide whether the person was required to satisfy the activity test—the lesser of the following periods:
    - (i) the period stated in the certificate as the period for which the person would be incapacitated and could not undertake any activities for the purposes of the activity test for more than 8 hours a week;
    - (ii) the period of 13 weeks that started or starts on the first day of the period so stated in the certificate; or

- (b) otherwise—the period of 4 weeks that started or starts on the day determined by the Secretary to have been the day on which the person’s incapacity began.

*Extension of maximum exemption period*

- (3) The Secretary may extend a person’s maximum exemption period if:
    - (a) both of the following apply:
      - (i) the person has, whether before or after the commencement of this section, given the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 31(1)(e) and is in accordance with the form approved for the purposes of that paragraph;
      - (ii) the Secretary is satisfied that the person’s incapacity will continue after the end of the person’s maximum exemption period; or
    - (b) both of the following apply:
      - (i) within 14 days after the end of the person’s maximum exemption period the person gives the Secretary a certificate of a medical practitioner that states the matters listed in paragraph 31(1)(e) and is in accordance with a form approved for the purposes of that paragraph;
      - (ii) the Secretary is satisfied that the person’s incapacity has continued after the end of the person’s maximum exemption period and that the incapacity will continue.
  - (4) The extension of the maximum exemption period under subsection (3) must not be more than the lesser of the following periods:
    - (a) the period stated in the certificate as the period for which the person will be incapacitated;
    - (b) 13 weeks.
  - (5) The Secretary may extend a person’s maximum exemption period, by no more than 4 weeks, if:
    - (a) all of the following apply:
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- (i) the person gives the Secretary written evidence (other than a certificate referred to in subparagraph (3)(a)(i)) that the person's incapacity will continue after the end of the person's maximum exemption period;
  - (ii) the Secretary is satisfied that the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in subparagraph (3)(a)(i) before the end of the maximum exemption period;
  - (iii) the Secretary is satisfied that person's incapacity will continue after the end of the person's maximum exemption period; or
- (b) all of the following apply:
- (i) within 14 days after the end of the person's maximum exemption period the person gives the Secretary written evidence (other than a certificate referred to in subparagraph (3)(b)(i)) that the person's incapacity will continue after the end of the person's maximum exemption period;
  - (ii) the Secretary is satisfied that the person's circumstances make it unreasonable to expect the person to obtain a certificate referred to in subparagraph (3)(b)(i);
  - (iii) the Secretary is satisfied that the person's incapacity has continued after the end of the person's maximum exemption period and that the incapacity will continue; or
- (c) all of the following apply:
- (i) the person has, whether before or after the commencement of this section, given the Secretary a certificate referred to in subparagraph (3)(a)(i) before the end of the person's maximum exemption period;
  - (ii) before the end of the person's maximum exemption period, the Secretary does not satisfy himself or herself that the person's incapacity will continue after the end of that period;
  - (iii) the sole or dominant cause of the Secretary failing to satisfy himself or herself is an act or omission of an officer of the Department.

## **Division 6—Payability**

### **Subdivision A—Situations where allowance not payable (assets test)**

#### **33 Non-farm assets value limit**

Farm household allowance is not payable to a person if the value of the person's non-farm assets exceeds:

- (a) if the person is a member of a couple—the person's assets value limit worked out under item 2 of the table in subsection 611(2) of the Social Security Act as if the family situation described in that item applied to the person; or
- (b) otherwise—the person's assets value limit worked out under item 1 of that table.

#### **34 Farm assets value limit**

Farm household allowance is not payable to a person if the value of the person's farm assets exceeds \$2.55 million.

Note 1: This limit is indexed annually each 1 July in line with CPI increases (see Part 5 of this Act).

Note 2: Sections 1131 and 1132 of the Social Security Act (about accessing financial hardship rules if the assets test prevents payment of a benefit) apply to farm household allowance (see Part 5 of this Act).

#### **35 Meaning of *farm assets* and *non-farm assets***

- (1) A *farm asset* is:
  - (a) a right or interest in land used wholly or mainly for the purposes of a farm enterprise; or
  - (b) a right or interest in livestock, crop, plant or equipment that:
    - (i) is produce of a farm enterprise; or
    - (ii) is used wholly or mainly for the purposes of a farm enterprise;other than any livestock, crop, plant or equipment leased out by the farm enterprise; or

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- (c) so much of a loan to which subsection (2) applies as:
  - (i) is used to purchase a right or interest covered by paragraph (a) or (b); and
  - (ii) remains unpaid.

Note: This means that liquid assets such as cash and bank deposits, and investments such as shares, cannot be farm assets.

- (2) This subsection applies to a loan at a particular time if:
  - (a) it was made by a beneficiary of a trust to the trustee of the trust, or by a shareholder of a company to the company; and
  - (b) the outstanding amount of the principal of the loan exceeds, at that time, the total value of all the financial investments:
    - (i) the trustee has in the capacity of trustee; or
    - (ii) the company has.

- (3) A **non-farm asset** is an asset other than a farm asset.

Note 1: A farm management deposit (within the meaning of the *Income Tax Assessment Act 1997*) is an example of a non-farm asset.

Note 2: The value of the person's principal home (if any) is not counted for the purposes of this Subdivision because of Division 1 of Part 3.12 of the Social Security Act.

### 36 Meaning of *value of assets*

- (1) For a person who is a member of a couple:
  - (a) the **value** of the person's assets includes the value of the partner's assets; and
  - (b) the **value** of the person's assets of a particular kind includes the value of the partner's assets of that kind.
- (2) The **value** of a person's farm assets includes so much of an amount as is, because of the ownership of a farm asset, included in the value of the person's assets under Part 3.18 (means test treatment of private companies and trusts) of the Social Security Act (as that Part applies because of Part 5 of this Act).
- (3) The **value** of a person's non-farm assets includes so much of an amount as is, because of the ownership of a non-farm asset, included in the value of the person's assets under Part 3.18 (means

test treatment of private companies and trusts) of the Social Security Act (as that Part applies because of Part 5 of this Act).

- (4) The **value** of a person's non-farm assets includes so much of an amount as is, because of a disposal of an asset, included in the value of the person's assets under Division 2 of Part 3.12 of the Social Security Act (as that Division applies because of Part 5 of this Act).

Note: Division 2 of Part 3.12 of that Act includes in the value of a person's assets an amount if an asset is destroyed, disposed of (for example, by gift) or if its value is diminished in certain ways. If the asset was a farm asset, the amount will be included in the value of the person's non-farm assets.

### **Subdivision B—Situations where allowance not payable (general)**

#### **37 Farm household allowance not payable if allowance rate nil**

- (1) Farm household allowance is not payable to a person if the person's allowance rate would be nil.
- (2) However, subsection (1) does not apply to a person if the person's rate would be nil merely because the person has been paid an advance pharmaceutical allowance under the social security law.

#### **38 Multiple entitlement exclusion**

- (1) This section sets out when farm household allowance is not payable to a person because the person receives another pension, benefit, supplement or allowance.
- (2) The allowance is not payable if:
- (a) the person is already receiving age pension, a service pension or income support supplement; or
  - (b) a social security pension, another social security benefit, a service pension or income support supplement becomes payable to the person.

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- (3) For the purposes of paragraph (2)(b), the allowance is not payable from (and including) the day the pension, benefit or supplement becomes payable.

*Receipt of veterans benefits*

- (4) The allowance is not payable if:
- (a) the person is an armed services widow or armed services widower; and
  - (b) either:
    - (i) the person is receiving a pension under Part II or IV of the Veterans' Entitlements Act at a rate determined under or by reference to subsection 30(1) of that Act; or
    - (ii) the person is receiving the weekly amount mentioned in paragraph 234(1)(b) of the MRCA (including a reduced weekly amount because of a choice under section 236 of the MRCA) or has received a lump sum mentioned in subsection 236(5) of the MRCA.
- (5) Despite subparagraph (4)(b)(i) of this section, farm household allowance is payable to the person if:
- (a) the person is a woman who has been receiving the pension under Part II or IV of the Veterans' Entitlements Act continuously since before 1 November 1986; and
  - (b) before 1 November 1986 the woman was also receiving a social security benefit.

*Receipt of payments for other educational etc. schemes*

- (6) The allowance is not payable for a period if a payment has been or may be made in respect of the person for that period under:
- (a) a prescribed educational scheme other than the ABSTUDY Scheme; or
  - (b) the ABSTUDY Scheme, to the extent that it applies to full-time students; or
  - (c) the scheme to provide an allowance known as:
    - (i) the Maintenance Allowance for Refugees; or
    - (ii) the Adult Migrant Education Program Living Allowance; or



- (iii) the English as a Second Language Allowance, to the extent that it applies to full-time students.
- (7) Despite subsection (6), the Secretary may determine that farm household allowance is payable to the person for:
  - (a) a period before the person starts a full-time course of education; or
  - (b) a period of 3 weeks starting on the day the person starts a full-time course of education if:
    - (i) the person was receiving farm household allowance immediately before starting the course; and
    - (ii) an application is made for a payment in respect of the person under the ABSTUDY Scheme.

### **Subdivision C—Situations where allowance not payable (waiting periods)**

#### **39 Waiting periods**

- (1) Farm household allowance is not payable to a person while the person is subject to a waiting period.
- (2) A person may be subject to the following waiting periods:
  - (a) an ordinary waiting period (see sections 40 and 41);
  - (b) a newly arrived resident's waiting period (see sections 42 and 43);
  - (c) a liquid assets test waiting period (see sections 44 and 45).

#### **40 Ordinary waiting period**

- (1) A person is subject to an ordinary waiting period unless:
  - (a) at some time in the 13 weeks immediately before the person's start day, the person received an income support payment; or
  - (b) the following conditions apply:
    - (i) the person is a member of a couple;
    - (ii) the person's partner dies;

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- (iii) immediately before the partner's death, the person was receiving a partner allowance;
- (iv) the person claims a farm household allowance within the period of 4 weeks that starts on the day after the partner dies.

Note: The Secretary may waive all or part of the waiting period (see section 46).

- (2) However, subsection (1) does not apply to a person who:
  - (a) is undertaking an activity prescribed by the Secretary's rules for the purposes of this subsection; and
  - (b) has been exempted from the application of subsection (1) by the Secretary.

**41 Duration of ordinary waiting period**

- (1) A person's ordinary waiting period is (subject to subsection (2)) 7 days starting from the person's start day.

Note: If the person is subject to a newly arrived resident's waiting period, the newly arrived resident's waiting period runs concurrently with the ordinary waiting period.

- (2) For a person for whom farm household allowance is not payable because the person is subject to a liquid assets test waiting period, the ordinary waiting period is 7 days starting from the day after the end of the liquid assets test waiting period.

**42 Newly arrived resident's waiting period**

- (1) A person is (subject to subsection (2)) subject to a newly arrived resident's waiting period if the person has not been an Australian resident and in Australia for a period of, or periods totalling, 104 weeks.

Note: If the person is subject to a liquid assets test waiting period, the liquid assets test waiting period runs concurrently with the newly arrived resident's waiting period.

*Exceptions*

- (2) The following persons are not subject to a newly arrived resident's waiting period:
- (a) a person who is already subject to a newly arrived resident's waiting period (within the meaning of this Act or the Social Security Act);
  - (b) a person who has already served a newly arrived resident's waiting period (within the meaning of this Act or the Social Security Act);
  - (c) a person who has a qualifying residence exemption for a farm household allowance;
  - (d) a person who, immediately before this section commenced, held a valid designated temporary entry permit for a continuous period of at least 26 weeks;
  - (e) a person in relation to whom all of the following apply:
    - (i) immediately before this section commenced, the person held a valid designated temporary entry permit for a continuous period (the *permit period*) of less than 26 weeks;
    - (ii) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*;
    - (iii) the period during which that permit continued to be in force as a temporary visa together with the permit period is at least 26 weeks;
  - (f) a person who:
    - (i) has previously entered Australia before 1 January 1993; and
    - (ii) held a permanent entry permit granted under the *Migration Act 1958* as then in force, or a permanent visa, before the person's last departure from Australia;
  - (g) a person in relation to whom all of the following apply:
    - (i) the person is a New Zealand citizen;
    - (ii) the person was an Australian resident on 1 February 2000;

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- (iii) when the person claimed farm household allowance the person had been an Australian resident for the 12 months immediately preceding the claim, or continuously present in Australia for the 6 months immediately preceding the claim;
- (h) a person in relation to whom all of the following apply:
  - (i) the person is the principal carer of one or more children;
  - (ii) the person is not a member of a couple;
  - (iii) the person was not a lone parent at the start of the person's current period as an Australian resident.

**43 Duration of newly arrived resident's waiting period**

- (1) A person's newly arrived resident's waiting period:
  - (a) starts on the day the person first became an Australian resident; and
  - (b) ends (subject to subsection (2)) when the person has been an Australian resident and in Australia for a period of, or periods totalling, 104 weeks.
- (2) If:
  - (a) immediately before this section commenced, the person held a valid designated temporary entry permit; and
  - (b) that permit was continued in force as a temporary visa by regulations made under the *Migration Reform Act 1992*; and
  - (c) that temporary visa was in force immediately before the person was granted his or her permanent visa;the newly arrived resident's waiting period ends 26 weeks after the day on which the designated temporary entry permit was granted to the person.

**44 Liquid assets test waiting period**

- A person is subject to a liquid assets test waiting period if:
- (a) the value of the person's liquid assets exceeds the person's maximum reserve on the day the person claims farm household allowance; and

- (b) neither the person nor the person's partner was, at any time during the 12 months immediately before that day, already serving a liquid assets test waiting period (within the meaning of this Act or the Social Security Act).

Note: The Secretary may waive all or part of the waiting period (see section 46).

#### **45 Duration of liquid assets test waiting period**

- (1) The first day of a person's liquid assets test waiting period is the day the person claims farm household allowance.
- (2) The liquid assets test waiting period is the following number of weeks, rounded down to the nearest whole number and not more than 13, worked out on the first day of that period:

$$\frac{\text{Adjusted value of person's liquid assets} - \text{Person's maximum reserve}}{\text{Divisor}}$$

where:

*divisor* means:

- (a) if the person is not a member of a couple and does not have a dependent child—\$500; or
- (b) otherwise—\$1,000.

#### **46 Waiver for severe financial hardship**

- (1) The Secretary may waive all or part of a person's ordinary waiting period, or liquid assets test waiting period, if the Secretary is satisfied that the person:
- (a) would otherwise be in severe financial hardship because of substantiated unavoidable or reasonable expenditure to be incurred during the period; or
- (b) is in severe financial hardship because of substantiated unavoidable or reasonable expenditure incurred during that period.
- (2) The Secretary's rules may set out ways for substantiating unavoidable or reasonable expenditure.

#### **47 Effect of being subject to more than one waiting period**

To avoid doubt, if a person is subject to more than one waiting period under this Subdivision, a farm household allowance is not payable to the person until those waiting periods have ended.

#### **Subdivision D—Other situations where farm household allowance not payable**

#### **48 Seasonal workers**

- (1) This section applies if, at any time during the 6 months immediately before the day a person lodges a claim for farm household allowance, the person, or, if the person is a member of a couple, the person or the person's partner, has been engaged in seasonal work.
- (2) Farm household allowance is not payable to a person who is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under the Social Security Act) for the person's seasonal work preclusion period.
- (3) Despite subsection (2), the Secretary may determine that a person is not subject to the whole, or any part, of the preclusion period if the Secretary is satisfied that the person is in severe financial hardship because the person has incurred substantiated unavoidable or reasonable expenditure while the person is subject to a seasonal work preclusion period (whether in relation to the claim referred to in subsection (1) or any other claim under the Social Security Act).
- (4) The Secretary's rules may set out ways for substantiating unavoidable or reasonable expenditure.

## **Division 7—Overseas portability**

### **49 Division does not affect need for qualification**

To avoid doubt, nothing in this Division confers a right on a person to continue to be paid farm household allowance if the person is not qualified for the payment (even if the person's failure to qualify is related to the absence).

### **50 Persons to whom Division applies**

This Division applies (subject to section 52 (amounts added to rate)) to a person during a period (the *period of absence*) throughout which the person is continuously absent from Australia, if:

- (a) the person was receiving farm household allowance immediately before the period of absence commenced; or
- (b) the person's claim for such a payment is granted under the Social Security Administration Act during the period of absence.

### **51 Farm household allowance portable**

- (1) A person's right to continue to be paid farm household allowance, throughout the person's portability period for farm household allowance, is not affected merely by the period of absence.
- (2) However, farm household allowance is not payable to the person throughout any of the period of absence that occurs after the end of the person's portability period.

*Reserve service*

- (3) A person's right to continue to be paid farm household allowance is not affected throughout so much of the period of absence as is for the purposes of undertaking Reserve service.

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**52 Amounts added to rate**

During the period of absence, rent assistance and pharmaceutical allowance are not to be added to the person's rate worked out in accordance with Division 8 after the end of the person's portability period for farm household allowance.

**53 Meaning of *allowable absence* and *portability period***

*Meaning of allowable absence*

- (1) An absence is an ***allowable absence*** in relation to farm household allowance at a particular time if, at that time, it is a temporary absence (of no longer than 6 weeks) for any of the following purposes:
  - (a) to seek eligible medical treatment;
  - (b) to attend to an acute family crisis;
  - (c) for a humanitarian purpose.

*Meaning of portability period*

- (2) A person's ***portability period*** for farm household allowance, in relation to the period of absence, is the period:
  - (a) beginning at the commencement of the period of absence; and
  - (b) ending (subject to section 54) at the earlier of the following times:
    - (i) the first time during the period of absence at which the absence is not an allowable absence in relation to the payment;
    - (ii) the end of 6 weeks.

Note: People are required (under the Social Security Administration Act) to notify changes in circumstances.

**54 Secretary may extend the portability period**

- (1) The Secretary may extend a portability period if the Secretary is satisfied that the person who is not in Australia during the period is absent because:
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- (a) the person is unable to return to Australia because of any of the following events:
    - (i) a serious accident involving the person or a family member of the person;
    - (ii) a serious illness of the person or a family member of the person;
    - (iii) the hospitalisation of the person or a family member of the person;
    - (iv) the death of a family member of the person;
    - (v) the person's involvement in custody proceedings in the country in which the person is located;
    - (vi) a legal requirement for the person to remain outside Australia in connection with criminal proceedings (other than criminal proceedings in respect of a crime alleged to have been committed by the person);
    - (vii) robbery or serious crime committed against the person or a family member of the person;
    - (viii) a natural disaster in the country in which the person is located;
    - (ix) political or social unrest in the country in which the person is located;
    - (x) industrial action in the country in which the person is located;
    - (xi) a war in the country in which the person is located; or
  - (b) under the Medical Treatment Overseas Program administered by the Minister who administers the *National Health Act 1953*, financial assistance is payable in respect of the person's absence from Australia.
- (2) The Secretary must not extend the person's portability period under paragraph (1)(a) unless:
- (a) the event occurred or began during the period of absence; and
  - (b) if the event is political or social unrest, industrial action or war—the person is not willingly involved in, or willingly participating in the event.

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- (3) If the Secretary extends a person's portability period under subsection (1), the person's portability period for farm household allowance, for the purposes of this Division, is the extended period.

## **Division 8—Rate of farm household allowance**

### **Subdivision A—Persons who have turned 22**

#### **55 How to work out the rate of a person’s farm household allowance**

- (1) The rate of farm household allowance for a person who has turned 22 is to be worked out using Benefit Rate Calculator B.

Note: Section 93 of this Act has the effect that a reference in Benefit Rate Calculator B to newstart allowance is taken to include a reference to farm household allowance.

- (2) This section has effect subject to this Subdivision and Subdivisions C and D.
- (3) To avoid doubt, sections 644AAA to 653A of the Social Security Act do not apply to the rate of farm household allowance for a person.

#### **56 Maximum basic rate**

Module B of Benefit Rate Calculator B applies in relation to the rate of farm household allowance for a person who has turned 22 as if point 1068-B5 of Benefit Rate Calculator B did not apply.

#### **57 Pension supplement does not apply**

The following do not apply in relation to the rate of farm household allowance for a person who has turned 22:

- (a) step 1A of the method statement in point 1068-A1 of Benefit Rate Calculator B;
- (b) Module BA of Benefit Rate Calculator B.

#### **58 Clean energy supplement**

Module C of Benefit Rate Calculator B applies in relation to the rate of farm household allowance for a person who has turned 22 as if the person:

- (a) has not reached pension age; and
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(b) is not covered by point 1068-B5 of Benefit Rate Calculator B.

Note: Quarterly clean energy supplement is not payable to a recipient of farm household allowance (see section 94).

**59 Pharmaceutical allowance**

Module D of Benefit Rate Calculator B applies in relation to the rate of farm household allowance for a person who has turned 22 as if paragraph 1068-D2B(a) and point 1068-D3 of Benefit Rate Calculator B did not apply.

**Subdivision B—Persons who have not turned 22**

**60 How to work out the rate of a person's farm household allowance**

- (1) The rate of farm household allowance for a person who has not turned 22 is to be worked out using the Youth Allowance Rate Calculator, as if the person:
  - (a) were independent within the meaning of section 1067A of the Social Security Act; and
  - (b) were not an accommodated independent person within the meaning of section 1067B of that Act; and
  - (c) were not a long term income support student within the meaning of section 1067F of that Act.

Note 1: Section 93 of this Act has the effect that a reference in the Youth Allowance Rate Calculator to youth allowance is taken to include a reference to farm household allowance.

Note 2: As the person is taken to be independent, the parental income test and the family actual means test (Modules F and G of the Youth Allowance Rate Calculator) will not apply.

- (2) This section has effect subject to this Subdivision and Subdivisions C and D.
- (3) To avoid doubt, sections 556A to 559J of the Social Security Act do not apply to the rate of farm household allowance for a person.

### **61 Maximum basic rate**

Module B of the Youth Allowance Rate Calculator applies in relation to the rate of farm household allowance for a person who has not turned 22 as if point 1067G-B3A of the Youth Allowance Rate Calculator did not apply.

### **62 Clean energy supplement**

Module BA of the Youth Allowance Rate Calculator applies in relation to the rate of farm household allowance for a person who has not turned 22 as if the person is not covered by point 1067G-B3A of the Youth Allowance Rate Calculator.

Note: Quarterly clean energy supplement is not payable to a recipient of farm household allowance (see section 94).

### **63 Pharmaceutical allowance**

Module C of the Youth Allowance Rate Calculator applies in relation to the rate of farm household allowance for a person who has not turned 22 as if:

- (a) paragraph 1067G-C1(a) of the Youth Allowance Rate Calculator did not apply; and
- (b) the reference in paragraph 1067G-C2A(b) of the Youth Allowance Rate Calculator to a new apprentice were omitted.

### **64 Youth disability supplement does not apply**

The following do not apply in relation to the rate of farm household allowance for a person who has not turned 22:

- (a) step 2A of the method statement in point 1067G-A1 of the Youth Allowance Rate Calculator;
- (b) Module D of the Youth Allowance Rate Calculator.

### **65 Student income bank does not apply**

Module J of the Youth Allowance Rate Calculator does not apply in relation to the rate of farm household allowance for a person who has not turned 22.

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**Subdivision C—Income test**

**66 Deemed income from financial assets**

For the purpose of applying Division 1B of Part 3.10 of the Social Security Act in working out the rate of farm household allowance for a person, if:

- (a) the person is a beneficiary of a trust, or a shareholder of a company; and
- (b) the person makes a loan to the trustee of the trust, or to the company; and
- (c) the loan relates to a farm asset that:
  - (i) the trustee has in the capacity of trustee; or
  - (ii) the company has; and
- (d) the outstanding amount of the principal of the loan exceeds the total value of all the financial investments:
  - (i) the trustee has in the capacity of trustee; or
  - (ii) the company has;

the loan is taken, to the extent that it relates to that farm asset, not to be a financial asset that the person has.

**67 Allowable deductions from ordinary income**

- (1) For the purpose of applying section 1072 of the Social Security Act in working out the rate of farm household allowance for a person, if:
  - (a) during a tax year the person incurs an amount that has been prescribed to be an allowable deduction under subsection (2) of this section; and
  - (b) at the time of incurring the amount, the person carries on a business that is wholly or partly a farm enterprise;the person's ordinary income for the tax year is to be reduced by so much of the amount as relates to the farm enterprise.
- (2) The Minister's rules may prescribe a kind of amount to be an allowable deduction for the purposes of this section.

- (3) Without limiting subsection (2), the prescription of a kind of amount for the purposes of that subsection may include a maximum amount.
- (4) In working out the rate of farm household allowance for a person, section 1075 of the Social Security Act does not apply.
- (5) Subsection (4) does not limit the power to make Minister's rules for the purposes of subsection (2).

### **Subdivision D—Estimates of business income**

#### **68 Determination of rate may be based on estimate**

- (1) If:
  - (a) a person's rate of farm household allowance is required to be determined for the purposes of the Social Security Administration Act (as it applies because of Part 5 of this Act); and
  - (b) information about the amount of the person's business income needed for the determination of the rate is not available (for example, because the business income of the person cannot be known until after the end of the relevant income year); and
  - (c) the person, or if the person has died, another person making a claim under that Act (as so applied) gives the Secretary an estimate of the person's business income; and
  - (d) the Secretary considers the estimate to be reasonable;the Secretary may determine the person's rate of farm household allowance on the basis of the estimate, to the extent that the rate is affected by the amount of the person's business income.
- (2) The rate cannot be determined if the Secretary does not consider the estimate reasonable.
- (3) A person's *business income* is ordinary income of the person in the form of profits from a business carried on by the person.

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**69 Date of effect of determinations based on estimates of business income**

- (1) If:
- (a) farm household allowance is being, or has been, paid to a person as a result of a decision (the *original decision*) that was based, wholly or partly, on an estimate of a person's business income; and
  - (b) the Secretary makes a determination (the *new determination*), relating to the allowance, under Subdivision A of Division 7 of Part 3 of the Social Security Administration Act (as it applies because of Part 5 of this Act), whether or not the new determination is the first such determination; and
  - (c) the reason, or one of the reasons, for making the new determination is that the Secretary considers that:
    - (i) information about the amount of the person's business income is now available; and
    - (ii) the person's business income differs from the estimate on which the original decision was wholly or partly based;

the new determination takes effect on the day the determination embodying the original decision took effect, or on the first day of the financial year to which subsection (2) applies, whichever is later.

- (2) This subsection applies to:
- (a) the financial year preceding the financial year in which the new determination was made; or
  - (b) if the Secretary specifies an earlier financial year in the new determination—that earlier financial year.
- (3) This section has effect despite Division 9 of Part 3 of the Social Security Administration Act (as it applies because of Part 5 of this Act), but does not affect the application of section 109 of that Act as so applied in relation to a review of the new determination.
- (4) To avoid doubt, a person's entitlement to the benefit of a payment, for the purposes of section 1223 of the Social Security Act (as it



applies because of Part 5 of this Act), is to be ascertained taking into account when any relevant new determinations take effect under this section.

**70 Debts arising from payments of farm household allowance based on estimates of business income**

(1) If:

- (a) farm household allowance is being, or has been, paid to a person as a result of a decision that was based, wholly or partly, on an estimate of a person's business income; and
- (b) the person has not complied with a notice under section 68 or 69 of the Social Security Administration Act (as it applies because of Part 5 of this Act); and
- (c) the notice related to the person's business income during a particular period; and
- (d) the Secretary is satisfied that, if the person had complied with the notice, information about the amount of the person's business income during the period could have been ascertained;

the amount of farm household allowance paid to the person in relation to the period is a debt due to the Commonwealth, and is taken, for the purposes of the Social Security Act, to have arisen under Part 5.2 of that Act.

(2) This section does not limit the application of Part 5.2 of the Social Security Act (as it applies because of Part 5 of this Act).

## **Division 9—Compliance with obligations in relation to farm household allowance**

### **71 Qualification failures**

- (1) The Secretary may determine that a person commits a *qualification failure* if:
  - (a) the person fails to comply with a notice given under section 14 within the period specified in the notice (requirement to enter financial improvement agreement); or
  - (b) the person fails to comply with subsection 18(1) within the period specified in subsection 18(2) (notification of circumstances preventing or affecting compliance); or
  - (c) the person:
    - (i) fails to satisfy the activity test; and
    - (ii) the person is not exempt, under Division 5, from the activity test.
- (2) The Secretary may revoke the determination if the failure is rectified within the period of 13 weeks beginning on the day the failure began.

### **72 Consequences of qualification failures**

- (1) Farm household allowance is not payable to a person during the period that:
  - (a) begins on the day the Secretary makes a determination that the person has committed a qualification failure; and
  - (b) ends on the day the Secretary revokes the determination.
- (2) A person ceases to be qualified for farm household allowance if:
  - (a) the Secretary makes a determination that the person has committed a qualification failure; and
  - (b) the failure is not rectified within the period of 13 weeks beginning on the day the failure began.

### **73 Conduct failures**

The Secretary may determine that a person commits a *conduct failure* if the person has done any of the following:

- (a) engaged in misconduct while undertaking an activity that is specified in the financial improvement agreement that is in force in relation to the person;
- (b) refused or failed to accept an offer of suitable employment in accordance with a financial improvement agreement that is in force in relation to the person;
- (c) an act that resulted (directly or indirectly) in the person becoming unemployed, and it was reasonably foreseeable that acting in that manner could result in the person becoming unemployed.

### **74 Consequences of conduct failures**

Farm household allowance is not payable to a person during the period that:

- (a) begins on the day the Secretary makes a determination that the person has committed a conduct failure; and
- (b) ends:
  - (i) if the Secretary revokes the determination under section 75—on the day mentioned in that section; or
  - (ii) otherwise—8 weeks after the period began.

### **75 Revoking a determination relating to a conduct failure**

- (1) The Secretary may revoke a determination that a person has committed a conduct failure if the Secretary determines that continuing the period referred to in section 74 would cause the person to be in severe financial hardship.
- (2) The Secretary may make a determination under subsection (1) on request or on his or her own initiative.
- (3) For the purposes of subparagraph 74(b)(i), the day the period ends is:

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- (a) if the Secretary makes a determination under subsection (1) of this section on request—the day before the request was made; or
- (b) if the Secretary makes a determination under subsection (1) on his or her own initiative—the day before the Secretary makes the determination.

**76 Reasonable excuses**

- (1) The Secretary must not make a determination that a person has committed a qualification failure or a conduct failure if the person satisfies the Secretary that the person has a reasonable excuse for the failure.
- (2) A determination that a person has committed a qualification failure or a conduct failure is taken never to have been made if, after the Secretary makes the determination, the person satisfies the Secretary that the person had a reasonable excuse for the failure.

*Secretary's rules*

- (3) The Secretary's rules may specify matters the Secretary must take into account in deciding whether a person has a reasonable excuse for committing a failure.
- (4) To avoid doubt, the Secretary's rules do not limit the matters that the Secretary may take into account in deciding whether the person has a reasonable excuse.

*Requirements for reasonable excuses*

- (5) An excuse for failing to satisfy the activity test cannot be a reasonable excuse for the purposes of paragraph 71(1)(c) unless:
  - (a) before the start of the relevant activity on the day concerned, the person notified the excuse to the person or body specified in the financial improvement agreement as the person or body to whom prior notice should be given if the person is unable to undertake the activity; or
  - (b) the Secretary is satisfied that in those circumstances it would be unreasonable to expect the person to give the notification.

**77 Day of determination**

For the purposes of sections 72 and 74 (consequences of qualification and conduct failures), the day the Secretary makes the determination is the day the Secretary originally makes the determination (even if another decision in relation to the determination is later made on review).

**78 Relationship with section 80 of the Social Security Administration Act**

Nothing in this Division affects the power of the Secretary to cancel or suspend a payment of farm household allowance under section 80 of the Social Security Administration Act.

## Part 3—Activity supplement

### 79 Simplified outline of this Part

A person to whom farm household allowance is payable may qualify for the activity supplement if he or she undertakes, or will undertake, an activity specified in the person's financial improvement agreement.

The person may elect to have the supplement paid directly to the person or to the service provider for the activity.

The person may be paid the activity supplement more than once. However, in total the person will receive no more than a maximum amount.

The amount of the supplement payable to the person is the cost of the activity (up to a maximum amount).

The rules dealing with how to make claims, how payments are made and review of decisions relating to the supplement are found in the Social Security Act and the Social Security Administration Act. (This is because Part 5 of this Act applies the Social Security Act and the Social Security Administration Act in relation to the supplement.)

### 80 Qualification for the activity supplement

#### *Activities already undertaken*

- (1) A person is qualified for the activity supplement for an activity if:
  - (a) the person undertakes the activity for the purposes of the activity test; and
  - (b) at the time the person begins to undertake the activity, farm household allowance is payable to the person; and

- (c) the activity is specified in a financial improvement agreement that is in force in relation to the person; and
- (d) the activity is undertaken in accordance with the financial improvement agreement; and
- (e) either:
  - (i) the activity is prescribed in, and complies with any conditions prescribed in, rules made for the purposes of section 83 (determination of eligible activities); or
  - (ii) the activity is approved, in writing, by the Secretary; and
- (f) if the activity is training or advice—the activity is undertaken in accordance with section 20 (training and advice to be provided by appropriately qualified person); and
- (g) the person makes a claim for the supplement within the period of 2 months beginning on the day the invoice relating to the activity is provided by the service provider for the activity; and
- (h) at the time the person lodges the claim for the supplement, the person gives the Secretary evidence or a declaration in a form approved by the Secretary that:
  - (i) if the activity is training or advice—the activity is undertaken in accordance with section 20; and
  - (ii) if the person elects under section 81 for the supplement to be paid directly to the person—the person has paid the service provider for the activity; and
- (i) the total amount of activity supplement that the person has previously been paid is less than the maximum amount of activity supplement.

*Future activities*

- (2) A person is qualified for the activity supplement for an activity if:
    - (a) a person will undertake the activity for the purposes of the activity test; and
    - (b) farm household allowance is payable to the person; and
    - (c) the activity is specified in a financial improvement agreement that is in force in relation to the person; and
    - (d) either:
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- (i) the activity is prescribed in rules made for the purposes of section 83 (determination of eligible activities); or
  - (ii) the activity is approved, in writing, by the Secretary; and
- (e) it is reasonable to assume that:
- (i) the activity will be undertaken in accordance with the financial improvement agreement; and
  - (ii) the activity will comply with any conditions prescribed in rules made for the purposes of section 83; and
  - (iii) if the activity is advice or training—the activity will be undertaken in accordance with section 20 (training and advice to be provided by appropriately qualified person); and
- (f) the person makes a claim for the supplement within the period of 2 months beginning on the day the invoice relating to the activity is provided by the service provider for the activity; and
- (g) at the time the person lodges the claim for the supplement, the person gives the Secretary, in a form approved by the Secretary:
- (i) if the activity is advice or training—a declaration that the activity will be undertaken in accordance with section 20; and
  - (ii) if the person elects under section 81 for the supplement to be paid directly to the person—evidence that the person has paid the service provider for the activity; and
- (h) the total amount of activity supplement that the person has previously been paid is less than the maximum amount of activity supplement.

*Qualification despite farm household allowance ceasing to be payable*

- (3) A person is qualified for an activity supplement for an activity if:
- (a) the person qualifies for the activity supplement for the activity under subsection (1) or (2); and
  - (b) before the supplement is paid, farm household allowance ceases to be payable to the person.



**81 Electing method of payment**

- (1) A person who makes a claim for an activity supplement for an activity may elect for the supplement to be paid either:
  - (a) to the person; or
  - (b) to the service provider for the activity.
- (2) The person must make the election in a manner or way approved by the Secretary.

**82 Amount of activity supplement**

- (1) The amount of the activity supplement that is payable to a person for an activity is the lowest of the following amounts:
  - (a) the maximum amount prescribed by, or worked out in accordance with, the Minister's rules;
  - (b) the cost of the activity;
  - (c) the remaining balance of the person's activity supplement.
- (2) The *remaining balance* of a person's activity supplement is:

The maximum amount of activity supplement  $-$  The total of all activity supplements previously paid to the person

**83 Determination of eligible activities**

The Secretary's rules may prescribe either or both of the following:

- (a) classes of activities that may be specified in a financial improvement agreement for which the activity supplement is payable;
- (b) conditions that must be met for the supplement to be payable for activities or classes of activities.

## **Part 4—Farm financial assessments**

### **Division 1—Simplified outline of this Part**

#### **84 Simplified outline of this Part**

The Secretary may require a person to have a farm financial assessment conducted if the person is receiving, or has made a claim for, farm household allowance.

A farm financial assessment is an assessment of the financial position of a farm enterprise, and the person for whom the assessment is conducted, and options for improving that financial position.

A farm financial assessment must be conducted by an independent prescribed adviser.

If a person has a farm financial assessment conducted, he or she may qualify for a farm financial assessment supplement, which may be paid directly to the person or to the adviser.

The amount of the supplement is the cost of the farm financial assessment (up to a maximum amount).

Farm household allowance may not be payable if a person fails to comply with a requirement to have a farm financial assessment conducted.

The rules dealing with how to make claims, how payments are made and review of decisions relating to the supplement are found in the Social Security Act and the Social Security Administration Act. (This is because Part 5 of this Act applies the Social Security Act and the Social Security Administration Act in relation to the supplement.)

## **Division 2—Farm financial assessments**

### **85 Requirement to have farm financial assessment conducted**

- (1) The Secretary may require a person to have a farm financial assessment conducted if the person is receiving, or has made a claim for, farm household allowance.
- (2) The Secretary must give a person who is required to have a farm financial assessment conducted written notice of:
  - (a) the requirement; and
  - (b) sufficient information for the person to organise the assessment; and
  - (c) a description of the farm financial assessment supplement; and
  - (d) the period (of no more than 28 days) within which the person must have farm financial assessment conducted; and
  - (e) a description of consequences that may apply if the person does not comply with the notice.
- (3) The Secretary may, in writing, extend the period under paragraph (2)(d) once by no more than 28 days.
- (4) A farm financial assessment must be in a form approved by the Secretary.
- (5) A notice given in accordance with this section is taken to have been given under subsection 63(2) of the Social Security Administration Act.

Note: Farm household allowance may not be payable if a person does not comply with a notice (see section 64 of the Social Security Administration Act).

### **86 Requirement for farm financial assessment to be conducted by independent prescribed adviser**

A farm financial assessment must be conducted by a prescribed adviser who:

- (a) is independent from:
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- (i) the person (the *recipient*) for whom the farm financial assessment is conducted; and
  - (ii) if the recipient is a member of a couple—the partner of the recipient; and
- (b) does not have any right or interest in:
- (i) the farm; or
  - (ii) any asset that is owned by the recipient, the partner of the recipient, or the relevant farm enterprise.

## **Division 3—Farm financial assessment supplement**

### **87 Qualification for farm financial assessment supplement**

A person is qualified for farm financial assessment supplement if:

- (a) the person has been given a notice in accordance with section 85 requiring the person to have a farm financial assessment conducted; and
- (b) the assessment was conducted in accordance with section 86; and
- (c) the assessment has been provided to the Department in the approved form; and
- (d) the person makes a claim for the supplement within the period of 2 months beginning on the day the invoice for the assessment is provided; and
- (e) at the time the person lodges the claim, the person gives the Secretary, in a form approved by the Secretary, evidence that:
  - (i) the assessment was conducted in accordance with section 86; and
  - (ii) if the person elects under section 88 for the supplement to be paid directly to the person—the person has paid the prescribed adviser who conducted the assessment.

### **88 Electing method of payment**

- (1) A person who makes a claim for farm financial assessment supplement may elect for the supplement to be paid either:
  - (a) to the person; or
  - (b) to the prescribed adviser who conducts the farm financial assessment.
- (2) The person must make the election in a manner or way approved by the Secretary.

**89 The amount of farm financial assessment supplement**

The amount of farm financial assessment supplement is the lesser of the following amounts:

- (a) the maximum amount prescribed by, or worked out in accordance with, the Minister's rules;
- (b) the cost of the farm financial assessment.

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## **Part 5—Application and modification of the Social Security Act and the Social Security Administration Act**

### **Division 1—Introduction**

#### **90 Simplified outline of this Part**

This Part notionally modifies how the Social Security Act and the Social Security Administration Act operate, so that those Acts can apply in relation to payments made under this Act.

Farm household allowance is generally treated in the same way as newstart and youth allowance. This means that where there is a reference in those Acts to newstart or youth allowance, it is as if there were also a reference to farm household allowance. Similarly, where there is a reference to a concept that is defined to include those allowances, such as “social security benefit” or “social security payment”, it is as if that concept were also defined to include farm household allowance.

The farm household allowance, the activity supplement and the farm financial assessment supplement are all treated as if they were social security payments. As a result, the general rules in the Social Security Act and Social Security Administration Act relating to how to make claims, how payments are made and review of decisions apply in relation payments under this Act.

In order for those Acts to operate appropriately in relation to this Act, some provisions of those Acts are notionally turned off, and the text of other provisions of the Acts is notionally changed.

The modifications of concepts in the Social Security Act and the Social Security Administration Act flow through to other Acts, such as the *Income Tax Assessment Act 1936* and the *Income Tax Assessment Act 1997* as a result of this Part.

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**91 Purposes of this Part**

- (1) This Part modifies the Social Security Act and the Social Security Administration Act so that those Acts apply in relation to payments made under this Act.
- (2) The modifications apply for the purposes of the following Acts (including any regulations or other legislative instruments made under those Acts):
  - (a) this Act;
  - (b) the Social Security Act;
  - (c) the Social Security Administration Act;
  - (d) any other Act that refers to the Social Security Act or the Social Security Administration Act.
- (3) To avoid doubt, when an Act (the *relevant Act*) other than the Social Security Act:
  - (a) uses an expression that is also used in all or part of the Social Security Act; and
  - (b) gives the expression the same meaning as in that Act or part; and
  - (c) the expression is modified by section 93 of this Act;the expression when used in the relevant Act has the modified meaning.

Example: Subsection 3(2) of the Social Security Administration Act gives expressions used in that Act the same meaning as in the Social Security Act. So, for example, a reference in the Social Security Administration Act to a social security payment is taken, as a result of this Part, to include a reference to farm household allowance, activity supplement and farm financial assessment supplement.

**92 Further modification of the Social Security Act and the Social Security Administration Act**

- (1) The Minister's rules may provide that:
  - (a) this Part; or
  - (b) the Social Security Act; or
  - (c) the Social Security Administration Act;



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has effect for the purposes set out in section 91 of this Act with any modifications that are prescribed.

- (2) Without limiting subsection (1), the Minister's rules may:
- (a) prescribe additional provisions of the Social Security Act or the Social Security Administration Act that do not apply, or that apply with modifications that are prescribed, in relation to the operation of this Act; or
  - (b) prescribe provisions referred to in section 94 or 98 of this Act that, despite those sections, apply in relation to the operation of this Act; or
  - (c) make further modifications of provisions already modified by section 95 or 99 of this Act.

## **Division 2—Application and modification of the Social Security Act**

### **93 Application of the Social Security Act**

- (1) This table modifies (subject to this Division) the operation of the Social Security Act.

Note 1: Certain provisions of the Social Security Act do not apply as a result of section 94 of this Act. Sections 95 to 97 modify particular provisions of the Social Security Act.

Note 2: Division 8 of Part 2 of this Act (rate of farm household allowance) also modifies the Social Security Act for the purposes of determining the rate of farm household allowance.

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#### **Modification of the general operation of the Social Security Act**

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<b>Item</b>	<b>The Social Security Act applies (subject to this Division) as if a reference in a provision of that Act to ...</b>	<b>included a reference to ...</b>
1	newstart allowance	farm household allowance, to the extent that it relates to a person who has turned 22.
2	youth allowance	farm household allowance, to the extent that it relates to a person who has not turned 22.
3	an income support payment	farm household allowance.
4	a social security benefit	farm household allowance.
5	a social security entitlement	farm household allowance.
6	a social security payment	farm household allowance, activity supplement and farm financial assessment supplement.
7	the Minister (within the meaning of that Act)	the Minister (within the meaning of this Act), to the extent that the application of the provision is solely in relation to a payment under this Act.

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<b>Modification of the general operation of the Social Security Act</b>		
<b>Item</b>	<b>The Social Security Act applies (subject to this Division) as if a reference in a provision of that Act to ...</b>	<b>included a reference to ...</b>
8	subject to subsection (3), the Secretary (within the meaning of that Act)	the Secretary (within the meaning of this Act), to the extent that the application of the provision is solely in relation to a payment under this Act.
9	the Department (within the meaning of that Act)	the Department (within the meaning of this Act), to the extent that the application of the provision is solely in relation to a payment under this Act.
10	the purposes of the Social Security Act	the purposes of this Act.
11	the social security law	this Act.
12	a payment under the Social Security Act (however expressed)	a payment under this Act.
13	Part 2.11 or 2.12 of the Social Security Act	Part 2 of this Act.
14	newstart allowance ordinary waiting period under sections 620 and 621 of the Social Security Act	ordinary waiting period (within the meaning of this Act).
15	youth allowance newly arrived resident's waiting period under section 549D of the Social Security Act	newly arrived resident's waiting period (within the meaning of this Act), to the extent that it relates to a person who has not turned 22.
16	newstart allowance newly arrived resident's waiting period under sections 623A and 623B of the Social Security Act	newly arrived resident's waiting period (within the meaning of this Act), to the extent that it relates to a person who has turned 22.
17	a temporary incapacity exemption under section 542A of the Social Security Act	an exemption from the activity test under section 31 of this Act.
18	Subdivision BA of Division 1 of	Subdivision C of Division 5 of

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<b>Modification of the general operation of the Social Security Act</b>		
<b>Item</b>	<b>The Social Security Act applies (subject to this Division) as if a reference in a provision of that Act to ...</b>	<b>included a reference to ...</b>
	Part 2.12 of the Social Security Act	Part 2 of this Act.
19	section 544B or 606 of the Social Security Act	section 15, 16, 17 or 18 of this Act.
20	a Youth Allowance Employment Pathway Plan or a Newstart Allowance Employment Pathway Plan	a financial improvement agreement.
21	the purposes of the assets test	the purposes of Subdivision A of Division 6 of Part 2 of this Act.
22	Subdivision AB of Division 2 of Part 2.11	Subdivision A of Division 6 of Part 2 of this Act.
23	section 549A of the Social Security Act	section 44 of this Act.
24	section 549B or 549C of the Social Security Act	section 45 of this Act.
25	section 598 of the Social Security Act	section 44 or 45 of this Act.
26	sections 611 and 612 of the Social Security Act	sections 33 and 34 of this Act.
27	section 612 of the Social Security Act	subsection 36(1) of this Act.
28	the youth allowance assets test or the newstart allowance assets test	the tests in sections 33 and 34 of this Act.
29	the youth allowance liquid assets test or the newstart allowance liquid assets test	the test in section 33 of this Act.
30	section 547AA or 615 of the Social Security Act	section 72 of this Act, as it applies as a result of paragraph 71(1)(a).
31	Division 2 of Part 4.2 of the Social Security Act (overseas portability)	Division 7 of Part 2 of this Act.
32	subsection 42P(1) of the Social	sections 73 and 74 of this Act.

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**Modification of the general operation of the Social Security Act**

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<b>Item</b>	<b>The Social Security Act applies (subject to this Division) as if a reference in a provision of that Act to ...</b>	<b>included a reference to ...</b>
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Security Administration Act

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33	subsection 42P(2) of the Social Security Administration Act	section 74 of this Act.
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Note: Item 11 is subject to subsection 20(2) (training and advice to be provided by appropriately qualified person).

(2) For the purposes of the table in subsection (1):

- (a) item 12 of the table applies only in relation to a general reference to a payment under the Social Security Act and not to a reference to a specific payment under the Social Security Act; and
- (b) item 13 of the table applies only in relation to a general reference to Part 2.11 or 2.12 of the Social Security Act and not a reference to a specific part of that Part.

Note 1: For example, item 12 of the table would not apply in relation to a specific reference to austudy payment under the Social Security Act.

Note 2: Other items of this table translate references to a part of Part 2.11 or 2.12 of the Social Security Act into references to parts of Part 2 of this Act.

(3) Item 8 of the table does not apply in relation to the following provisions of the Social Security Administration Act (as those provisions apply as a result of subsection 3(2) of that Act):

- (a) subsection 127(3) (decisions that are not reviewable by the Secretary);
- (b) section 234 (delegation).

## **94 Certain provisions do not apply**

The following provisions of the Social Security Act do not apply in relation to the operation of this Act:

- (a) section 28B (approved training courses for training supplement);

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- (b) Divisions 1, 2 and 5 of Part 2.11 (youth allowance);
- (c) Part 2.11B (scholarship payments for students);
- (d) Divisions 1 and 4 of Part 2.12 (newstart allowance);
- (e) Part 2.13A (education entry payment);
- (f) Division 2 of Part 2.18A (quarterly clean energy supplement);
- (g) Part 2.21 (mobility allowance);
- (h) Part 2.22A (special employment advances);
- (i) Part 2.24A (pensioner education supplement);
- (j) Division 1 of Part 2A.1 (qualification for, and issue of, pensioner concession card);
- (k) section 1061ZM (qualification for health care card: employment-affected person);
- (l) section 1061ZMA (further extended qualification rule: loss of payment because of employment income);
- (m) Division 1AB of Part 3.10 (working credit accrual and depletion rules and their consequences);
- (n) Division 4 of Part 3.16 (indexation—adjustment of other rates);
- (o) Part 4.2 (overseas portability);
- (p) Schedule 1A (savings and transitional provisions).

**95 Modification of particular provisions**

This table modifies particular provisions of the Social Security Act.

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<b>Modification of particular provisions of the Social Security Act</b>		
<b>Item</b>	<b>The following provisions of the Social Security Act:</b>	<b>apply as if ...</b>
1	subsection 8(8)	that subsection included a reference to an adjusted disability pension (within the meaning of section 118NA of the Veterans' Entitlements Act).
2	paragraph 1061SB(2)(c) (increased rate of phone	the words "has reached pension age and" were omitted from that paragraph.

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<b>Modification of particular provisions of the Social Security Act</b>		
<b>Item</b>	<b>The following provisions of the Social Security Act:</b>	<b>apply as if ...</b>
	allowance for home internet)	
3	table item 28 in section 1190 (indexation)	(a) the amount described in that item included the farm assets value limit set out in section 34 of this Act; and (b) the provisions set out in that item included section 34 of this Act.
4	subsection 1192(1)	the reference in that subsection to the Social Security Act included a reference to this Act.
5	section 1192	that section also provided that the first indexation of an amount: (a) under item 21 of the CPI Indexation Table in subsection 1191(1); and (b) that is the farm assets value limit set out in section 34 of this Act; is to take place on 1 July 2015.
6	sections 1118 and 1118B	a reference in those sections to the value of a person's assets (however expressed) included a reference to: (a) the value of a person's farm assets; and (b) the value of a person's non-farm assets.
7	subsection 1118AA(2)	the reference in that subsection to the value of a person's assets were a reference to the value of a person's non-farm assets.
8	subsections 1118AB(2) and 1118AC(2)	the references in those subsections to the total value of the person's assets were references to the total value of the person's non-farm assets.
9	section 1120C	that section applied for the purposes of Subdivision A of Division 6 of Part 2 of this Act (assets test).
10	section 1121	a reference in that section to an asset were a reference to a non-farm asset.
11	section 1121A	the content of that section (after the heading)

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**Modification of particular provisions of the Social Security Act**

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<b>Item</b>	<b>The following provisions of the Social Security Act:</b>	<b>apply as if ...</b>
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were replaced with:

(1) If there is a charge or encumbrance over any of a person's farm assets, the *value* of those farm assets for the purposes of this Act is the result of the following formula (but not less than nil):

$$\frac{\text{Sum of the value of each farm asset}}{\text{Sum of each liability related to a farm asset}}$$

(2) The Secretary (within the meaning of the *Farm Household Support Act 2014*) may decide when, and the extent to which, a liability is related to a farm asset for the purposes of subsection (1).

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12 section 1122

the content of that section (after the heading) were replaced with:

(1) The *value* of a person's farm assets for the purposes of this Act includes so much of an amount lent by the person, for spending relating to farm assets, as remains unpaid.

(2) The *value* of a person's non-farm assets for the purposes of this Act includes so much of an amount lent by the person that:

- (a) is not covered by subsection (1); and
- (b) remains unpaid.

(3) For the purposes of this section, disregard any amount payable by way of interest.

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13 sections 1131 and 1132

a reference in those sections to an assets test included a reference to a test in Subdivision A of Division 6 of Part 2 of this Act.

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**96 Application of Division 10 of Part 2.11 and Division 9 of Part 2.12  
(bereavement payments) of the Social Security Act**

- (1) To avoid doubt, a person continues to be qualified for payments under Division 10 of Part 2.11 or Division 9 of Part 2.12 (bereavement payments) of the Social Security Act to cover the bereavement period even if the person ceases to receive farm household allowance because the person's cumulative period of farm household allowance is more than 3 years.
- (2) To avoid doubt, a person's rate of farm household allowance continues at the rate worked out under section 567G or 660M (continuation of allowance on death of a child) of the Social Security Act (as modified by Division 8 of Part 2 of this Act) even if the person would otherwise cease to receive the allowance because the person's cumulative period of farm household allowance is more than 3 years.

**97 References to youth allowance and newstart allowance**

- (1) In relation to references to youth allowance, disregard any requirement or condition that a person:
  - (a) is or is not undertaking full-time study; and
  - (b) is or is not a new apprentice.
- (2) In relation to references to either newstart allowance or youth allowance, disregard any requirement or condition that a person has a partial capacity to work.

## **Division 3—Application and modification of the Social Security Administration Act**

### **98 Certain provisions do not apply**

The following provisions of the Social Security Administration Act do not apply in relation to the operation of this Act:

- (a) section 45 (payment of youth allowance to person under 18);
- (b) section 56 (failure to nominate parent);
- (c) Division 3A of Part 3 (participation payments);
- (d) Part 3B (income management regime);
- (e) Part 3C (schooling requirements);
- (f) section 241 (annual report);
- (g) section 242 (appropriation).

### **99 Modification of particular provisions**

This table modifies particular provisions of the Social Security Administration Act.

<b>Modification of particular provisions of the Social Security Administration Act</b>		
<b>Item</b>	<b>The following provisions of the Social Security Administration Act:</b>	<b>apply as if ...</b>
1	subsections 10(2) and (3)	the words “(but not Part 2 of the <i>Farm Household Support Act 2014</i> , as that Part applies because of Part 5 of that Act)” were added after “1991 Act”.
2	subsection 64(2)	were omitted.
3	subsection 69(6)	the words “more than 13 weeks before the giving of the notice” were replaced with the words “before the day the first claim for farm household allowance was made”.
4	paragraph 81(1)(a)	the words “(other than newstart

<b>Modification of particular provisions of the Social Security Administration Act</b>		
<b>Item</b>	<b>The following provisions of the Social Security Administration Act:</b>	<b>apply as if ...</b>
		allowance)” were omitted from that paragraph.
5	subsections 110(1A) and (2A)	the words “who has not reached pension age” were omitted from those subsections.
6	paragraph 110(3A)(b)	that paragraph was replaced with: (b) unless the partner is receiving farm household allowance—the partner has not reached pension age; and
7	subsection 118(2A)	the words “who has not reached pension age” were omitted from that subsection.
8	subparagraph 118(2B)(b)(ii)	the words “has reached pension age and” were omitted from that subparagraph.
9	subsection 118(5A)	the words “who has not reached pension age” were omitted from that subsection.
10	subparagraph 118(5B)(b)(ii)	the words “has reached pension age and” were omitted from that subparagraph.
11	paragraph 118(6A)(b)	that paragraph was replaced with: (b) unless the partner is receiving farm household allowance—the partner has not reached pension age; and
12	subparagraph 118(6B)(g)(ii)	the words “has reached pension age and” were omitted from that subparagraph.
13	section 125	the words “or the <i>Farm Household Support Act 2014</i> ” were inserted after “1991 Act”.

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**Modification of particular provisions of the Social Security Administration Act**

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<b>Item</b>	<b>The following provisions of the Social Security Administration Act:</b>	<b>apply as if ...</b>
14	clause 5 of Schedule 2	subclause (1B) of that clause were omitted.
15	clause 5A of Schedule 2	the words “(other than farm household allowance)” were inserted after “participation payment”.

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## **Part 6—Miscellaneous**

### **100 Simplified outline of this Part**

This Part deals with miscellaneous matters, such as delegations and rules.

### **101 Delegation of powers**

- (1) The Secretary may, by signed writing, delegate to an officer of the Department all or any of his or her powers or functions under this Act, or the Social Security Act or the Social Security Administration Act (as those Acts apply because of Part 5 of this Act).
- (2) The Secretary (the *Agriculture Secretary*) may, in writing, delegate all or any of his or her powers or functions under this Act, or the Social Security Act or the Social Security Administration Act (as those Acts apply because of Part 5 of this Act), to:
  - (a) the Social Security Secretary; or
  - (b) an SES employee or acting SES employee in the Social Security Department; or
  - (c) the Chief Executive Centrelink; or
  - (d) a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).

### **102 Delegation by Secretary: references to the Secretary and the Department**

- (1) This section applies if, under section 101, the Secretary (the *Agriculture Secretary*) delegates a power or function to:
  - (a) the Social Security Secretary; or
  - (b) an SES employee or acting SES employee in the Social Security Department; or
  - (c) the Chief Executive Centrelink; or

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(d) a Departmental employee (within the meaning of the *Human Services (Centrelink) Act 1997*).

*Requiring persons to produce or give documents to the Social Security or Human Services Department*

- (2) A person who is delegated a power or function to require another person to produce or give any document or information to the Department (the ***Agriculture Department***) may instead require the other person to produce or give the document or information to the Human Services Department or the Social Security Department (as the case requires).
- (3) A person who complies with a requirement under subsection (2) is taken for all purposes to have complied with a requirement of the Agriculture Secretary to produce or give the document to the Agriculture Department.
- (4) A person who does not comply with a requirement under subsection (2) is taken for all purposes not to have complied with a requirement of the Agriculture Secretary to produce or give the document to the Agriculture Department.

*References to Secretary or Department*

- (5) The Secretary's rules may provide as set out in subsection (6) if, as a result of a delegation, a reference (however described) to the Agriculture Secretary or the Agriculture Department in a provision of this Act, the Social Security Act or the Social Security Administration Act, or in any instrument made under those Acts, is inappropriate (whether for administrative reasons or any other reason).
- (6) The Secretary's rules may provide that the provision is to have effect as if:
  - (a) the reference to the Agriculture Secretary were a reference to the Chief Executive Centrelink or the Social Security Secretary (as the case requires); or
  - (b) the reference to the Agriculture Department were a reference to the Human Services Department or the Social Security Department (as the case requires).

The provision has effect accordingly.

### **103 Approval of forms**

The Secretary may, in writing, approve a form for the purposes of this Act.

### **104 Annual report**

- (1) As soon as practicable after 30 June in each year, the Secretary must give to the Minister a written report on the administrative operation of this Act during the financial year that ended on that 30 June.
- (2) The Minister is to cause a copy of the report to be laid before each House of the Parliament within 15 sitting days of that House after the Minister receives the report.

### **105 Appropriation**

- (1) Payments of all amounts which are payable to or in relation to a person because the person qualifies for farm household allowance under section 8 or 9 are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.
- (2) To avoid doubt, subsection (1) applies in relation to any supplement, payment or allowance that is payable under the Social Security Act as a result of a person qualifying for farm household allowance.
- (3) Payments of all amounts which are payable to or in relation to a person under Part 3 (activity supplement) or Division 3 of Part 4 (farm financial assessment supplement) of this Act are to be made out of the Consolidated Revenue Fund, which is appropriated accordingly.

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**106 Rules**

*Minister's rules*

- (1) The Minister may, by legislative instrument, make Minister's rules prescribing matters required or permitted by this Act to be prescribed by the Minister's rules.

*Secretary's rules*

- (2) The Secretary may, by legislative instrument, make Secretary's rules prescribing matters:
  - (a) required or permitted by this Act to be prescribed by the Secretary's rules; or
  - (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

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[*Minister's second reading speech made in—  
House of Representatives on 6 March 2014  
Senate on 19 March 2014*]

(20/14)

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