



Farm Household Support Secretary's Rule 2014

I, Paul Grimes, Secretary of the Department of Agriculture, make the following rule.

Dated 23 May 2014

Paul Grimes
Secretary of the Department of Agriculture

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Part 1—Preliminary

1 Name of rule

This rule is the *Farm Household Support Secretary's Rule 2014*.

2 Commencement

This rule commences at the same time as section 3 of the *Farm Household Support Act 2014* commences.

3 Authority

This rule is made under the *Farm Household Support Act 2014*.

4 Definitions

In this rule:

Act means the *Farm Household Support Act 2014*.

Part 2—Farm household allowance

Division 1—Basic qualifications of farmers and their partners for farm household allowance

5 Whether a farm enterprise has a significant commercial purpose or character

For subsection 13(1) of the Act, in considering for a person whether a farm enterprise has a significant commercial purpose or character, for paragraph 8(c) or 9(e) of the Act, the matters the Secretary must take into account (to the extent the matters are known to the Secretary) are the following:

- (a) whether a business plan has been drawn up for the farm enterprise;
- (b) if the person or the person's partner (where the person is not a farmer) is not an expert in respect of the farm enterprise:
 - (i) whether relevant expert advice has been sought about the farm enterprise from a relevant authority, an experienced farmer or an agent; or
 - (ii) whether relevant technical literature on the farm enterprise has been obtained;
- (c) whether it has been established that the land that is used for the purposes of the farm enterprise is suitable for the farm enterprise, including by analysing soil and water samples;
- (d) whether the person or the person's partner (where the person is not a farmer) has:
 - (i) considered if there is a commercial market, or a potential commercial market, for the farm enterprise; and
 - (ii) investigated the capital requirements of the farm enterprise, including by planning how capital for the farm enterprise will be obtained and used; and
 - (iii) conducted research into the farm enterprise confirming (based on market prospects, the expected level of production, and the running costs, of the farm enterprise) that profits can be expected; and
 - (iv) ensured the size and scale of the farm enterprise is sufficient for a commercial enterprise;
- (e) whether legal requirements required to operate the farm enterprise on a commercial basis have been, or could at the appropriate time be, complied with;
- (f) whether there is:
 - (i) an intention to make a profit in respect of the farm enterprise; and
 - (ii) a reasonable belief that the farm enterprise is likely to generate a profit.

Division 2—Financial improvement agreements

6 Kinds of requirements not to be included in financial improvement agreements

For subsection 15(2) of the Act, the following are the kinds of requirements that must not be included in a financial improvement agreement that the Secretary will require a person to enter into:

- (a) a requirement for the person to undertake an activity that is unlawful, including an activity that would contravene a law of the Commonwealth, a State or a Territory:
 - (i) that is a criminal law; or
 - (ii) that relates to discrimination against persons; or
 - (iii) that relates to occupational health and safety;
- (b) a requirement for the person to be involved in, or to undertake, an activity outside Australia;
- (c) if the person has a disability, illness, mental health condition or physical condition (established by medical evidence)—a requirement for the person to undertake an activity:
 - (i) that would aggravate the disability, illness or condition (according to the medical evidence); or
 - (ii) in circumstances that the Secretary considers would not provide appropriate support or facilities to manage, or to take account of, the disability, illness or condition.

Division 3—Compliance with obligations in relation to farm household allowance

7 Reasonable excuses for committing qualification failure or conduct failure

- (1) For subsection 76(3) of the Act, this section sets out the matters the Secretary must take into account in deciding whether a person has a reasonable excuse for committing a qualification failure or a conduct failure.
- (2) The Secretary must consider whether the person, at the time of the failure:
 - (a) was required to undertake farm work that was:
 - (i) unforeseen and critical; and
 - (ii) not the kind of farm work the person would normally undertake at that time; or
 - (b) was required to take on unforeseen family or caring responsibilities; or
 - (c) did not have access to safe, secure and adequate housing; or
 - (d) was using emergency accommodation or a refuge; or
 - (e) had literacy and language skills that affected the conduct of the person resulting in the failure (including if the person was unable to comprehend a requirement, even if the requirement was delivered in a form that the person was most likely to comprehend); or
 - (f) had a disability, illness, mental health condition or physical condition that required the person to undertake treatment (including an illness or condition that is episodic or unpredictable in nature); or
 - (g) experienced a drug or alcohol dependency; or
 - (h) was subjected to violence (including domestic violence or sexual assault); or
 - (i) was adversely affected by the death of an immediate family member or close relative.

Note: The Secretary may take into account other matters in deciding whether a person has a reasonable excuse—see subsection 76(4) of the Act.

- (3) If the person had been imprisoned for a continuous period of more than 14 days, and was released not more than 28 days before the time of the failure, the Secretary must consider the circumstances of the person's imprisonment, or release from imprisonment, at the time of the failure.
- (4) Without limiting paragraph (2)(c), a person is taken not to have access to safe, secure and adequate housing if:
 - (a) the circumstances relating to the housing, or the housing, to which the person had access:
 - (i) did not provide the person a reasonable level of personal amenities or the economic and social support that housing normally affords; or
 - (ii) was damaging to, or likely to damage, the person's health; or
 - (iii) was threatening to, or likely to threaten, the person's safety; or
 - (iv) was not adequate, safe, secure or affordable; or

- (b) the person did not have a right to remain in, or a reasonable expectation of being able to remain in, the housing.
- (5) The Secretary may take into account a matter only if the Secretary is satisfied that the matter had a significant effect on the conduct of the person that results in the failure.

Part 3—Activity supplement

8 Determination of eligible activities—classes of activities that may be specified in financial improvement agreements

For paragraph 83(a) of the Act, the following are the classes of activities that may be specified in a financial improvement agreement for which an activity supplement is payable:

- (a) receiving legal or other advice directly related to ensuring the long-term viability of the farm enterprise, including advice about the following:
 - (i) business structures and relationships and business plans;
 - (ii) monitoring and reviewing business performance;
 - (iii) managing risk;
 - (iv) succession planning;
 - (v) natural resource management;
 - (vi) preparing for drought and natural disasters;
 - (vii) diversifying the farm enterprise;
 - (viii) adding value to products produced by the farm enterprise;
 - (ix) using vertical integration in the production of products;
 - (x) alternative options for using land;
 - (xi) financial matters relating to the farm enterprise (other than a farm financial assessment);
- (b) participating in training or studying about a matter mentioned in paragraph (a), including participating in training in skills within the skill set known as the Farm Business Management Skill Set;
- (c) receiving advice or participating in training or studying to assist a transition into an alternative career or retirement;
- (d) for a person who has exhausted funding received through the Commonwealth government mental health program known as the Better Access initiative—receiving counselling services.