

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture and Water Resources

*Farm Household Support Act 2014*

*Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018*

### **Legislative authority**

The *Farm Household Support Act 2014* (the FHS Act) provides the mechanism to implement the Farm Household Allowance (FHA), an income support payment for farmers and farmers' partners who are experiencing financial hardship.

Subsection 106(1) of the FHS Act provides that the Minister may make Minister's rules by legislative instrument prescribing matters required or permitted by the FHS Act to be prescribed by a Minister's rule.

Subsection 82(1) of the Act provides that the Minister may prescribe the maximum amount of activity supplement that is payable to an FHA recipient.

### **Purpose**

The purpose of the *Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018* (Amendment Rule) amends the *Farm Household Support Minister's Rule 2014* (Rule), Part 3 – Activity Supplement, rule 8. The Amendment Rule will extend access for eligible FHA recipients to the \$1000 Activity Supplement into their fourth year of payment.

### **Background**

The FHA program commenced on 1 July 2014. It aims to improve the situation of farmers and their partners by providing financial assistance to those who need it. The financial assistance consists of FHA, funding to engage in certain activities (the Activity Supplement), and funding to obtain a farm financial assessment.

Commencing on 1 August 2018, the *Farm Household Support Amendment Act 2018* will extend the cumulative period of FHA from three years to four years.

This extension has a flow on effect for the Activity Supplement provision within the Rule. Section 8 of the Rule, which relates to the amount of Activity Supplement payable to FHA recipients, was designed in the context of a three year cumulative period of entitlement, rather than four.

The Amendment Rule will preserve the additional \$1,000 of Activity Supplement, while making it accessible for FHA recipients undertaking activities in their third and fourth years.

The *Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018* (Amendment Rule) is a legislative instrument for the purpose of the *Legislation Act 2003*.

## **Impact and effect**

The Amendment Rule operates beneficially for those recipients who have not fully exhausted their additional \$1,000 of Activity Supplement. These recipients will now be able to access it in their fourth year of payment.

The maximum amount of Activity Supplement payable to a FHA recipient under the Rule remains unchanged. If a FHA recipient has already used their maximum amount of Activity Supplement, no further supplement is available to them.

The Rule does not operate retrospectively.

## **Consultation**

The Department of Human Services (DHS) and the Attorney-General's Department were consulted during the drafting of the Amendment Rule. The purpose of consulting DHS was to ensure the Amendment Rule could be implemented.

## **Statement of Compatibility with Human Rights**

The rule is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in Attachment B.

**Details of the *Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018***

**Section 1 - Name**

This section provides that the name of the Amendment Rule is the *Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018*.

**Section 2 - Commencement**

This section provides for the Amendment Rule to commence on 1 August 2018.

**Section 3 - Authority**

This section provides that the Amendment Rule is made under the *Farm Household Support Act 2014*.

**Section 4 - Schedules**

This section provides that the Amendment Rule is amended as set out in a Schedule to the instrument and that each Schedule is amended or repealed as set out in the applicable items in the Schedule concerned and that any other item in a Schedule has effect according to its terms.

**Schedule 1 - Amendments**

***Farm Household Support Minister's Rule 2014***

**Item 1 - Paragraph 8(a)**

This item inserts “, or the fourth year” after “third year” in paragraph 8(a) to provide that a person who begins, or will begin, undertaking an activity in their third or fourth year of cumulative period of farm household allowance may access \$4,000 of Activity supplement.

The purpose of this amendment is to ensure that a person who had previously exhausted their 1,095 days on payment, but did not undertake an activity during the third year of that entitlement, is not excluded from accessing a \$4,000 Activity Supplement during their fourth year. Additionally, FHA recipients entering their third year and fourth years of payment will be entitled to access the \$4,000 Activity Supplement.

## **Statement of Compatibility with Human Rights**

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

### ***Farm Household Support Amendment Rule 2018***

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

#### **Overview of the Legislative Instrument**

The *Farm Household Support Amendment (Activity Supplement) Minister's Rule 2018* (Amendment Rule) amends the Farm Household Support Minister's Rule 2014, Part 3 – Activity Supplement, section 8. The Amendment Rule increases the time period FHA recipients can access an additional \$1,000 of Activity Supplement from the third year of FHA payment to the third and/or fourth year of FHA payment.

The Amendment Rule commences on 1 August 2018.

The Amendment Rule operates beneficially for those recipients who have not fully exhausted their additional \$1,000 of Activity Supplement during their third year of payment. Those recipients will now be able to access the additional \$1,000 in their third and fourth years, ensuring they can access a maximum of \$4,000 in Activity Supplement across their participation in the FHA program.

#### **Human rights implications**

The Amendment Rule engages, or has the potential to engage, human rights and freedoms as recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Specifically, the Amendment Rule engages or has the potential to engage the following rights within the International Covenant on Economic, Social and Cultural Rights (the ICESCR):

- Article 6 – right to work; and
- Article 13 – right to education.

#### ***Right to work***

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

The Amendment Rule seeks to extend the period a person can access the \$4,000 Activity Supplement from their final year on payment to their third and final year on payment. While

receiving payment, FHA recipients are able to access that Activity Supplement to undertake training and development activities, designed to increase their technical and vocational skills. Indirectly, engaging in technical and vocational training will support recipients to increase their access to work. As a result, the Amendment Rule engages and promotes the right to work enshrined in Article 6 of the ICESCR.

#### Summary

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

#### ***Right to education***

Article 13 of the ICESCR provides for the right to education. Article 13(2)(b) provides that secondary education, including technical and vocational education, is to be made generally available and accessible to all by every appropriate means, and in particular by the progressive introduction of free education. For adult students, technical or vocational education should provide retraining, increased employability and enhanced productivity. In conjunction with Article 2(1) of the ICESCR, a State is obliged to take steps ‘to the maximum of its available resources, with a view to achieving progressively the full realisation’ of the right enshrined in Article 13.

By necessary implication, FHA recipients are members of rural and remote communities, where education may be difficult to source or afford. Working with the Department of Human Services, FHA recipients can identify and pursue rural or remote access education or training courses that will directly increase their employability and on-farm profitability. In turn, these courses are paid for through the Activity Supplement, and assist FHA recipients to increase their employability, business skills or farm business profitability.

The Amendment Rule seeks to increase the time an FHA recipient can draw on the \$4,000 Activity Supplement from one to two years, encouraging access to technical and vocational education for Australian farmers and their partners.

#### Summary

The Amendment Rule engages and promotes the right to education in Article 13 of the ICESCR.

#### **Conclusion**

The Amendment Rule is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. Where the Amendment Rule engages with recognised or declared human rights, those rights are promoted.

**The Hon. David Littleproud MP**  
**Minister for Agriculture and Water Resources**