

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Farm Household Support Act 2014

Farm Household Support (Farm Assets Value Limit) Minister's Rules 2018

Legislative authority

The *Farm Household Support Act 2014* (the FHS Act) provides for financial assistance to farmers and their partners, and for related purposes. It contains 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 by legislative instrument Minister's Rules prescribing matters required or permitted by the FHS Act.

Purpose

The purpose of the *Farm Household Support (Farm Assets Value Limit) Minister's Rules 2018* (the Rules) is to prescribe 1 September 2018 as the date from which the farm assets value limit temporarily increases to \$5 million.

Background

The Farm Household Allowance (FHA) program commenced on 1 July 2014. It aims to improve the situation of farmers and farmers' partners by providing financial assistance to eligible recipients. The financial assistance consists of FHA, funding to engage in certain activities, and funding to obtain a farm financial assessment.

The *Farm Household Support Amendment (Temporary Measures) Act 2018* makes payable up to two additional supplements to the regular fortnightly FHA payments between 1 September 2018 and 1 June 2019. It also increases the farm assets value limit from \$2.635 million to \$5 million from a day prescribed by the Rules until 30 June 2019.

The Rules prescribe that the commencement day of the increase to the farm assets value limit is 1 September 2018.

Administrative arrangements to give effect to the Rules by the Department of Human Services is anticipated to be in place on or before 1 October 2018. Applications may be made after 1 September 2018 and will be backdated to the date of lodgement.

The Rules are a legislative instrument for the purpose of the *Legislation Act 2003*.

Impact and effect

The Rules operate beneficially as it clarifies the date from which FHA applicants with farm assets up to \$5 million may apply for the program.

The Rules do not operate retrospectively.

Consultation

The department consulted with the Office of Best Practice Regulation (OBPR). OBPR considered that this proposal will have no more than a minor impact on businesses, individuals and/or community organisations (**OBPR ID 24036**). Therefore, no Regulation Impact Statement was required.

The Department of Human Services (DHS) and the Attorney-General's Department were consulted during the drafting of the Rules.

Statement of Compatibility with Human Rights

The Rules are 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 (Farm Assets Value Limit) Minister's Rules 2018*

Section 1 - Name

This section provides that the name of the Rules is the *Farm Household Support (Farm Assets Value Limit) Minister's Rules 2018*.

Section 2 - Commencement

This section provides for the Rules to commence on 1 September 2018.

Section 3 - Authority

This section provides that the Rules are made under the *Farm Household Support Act 2014*.

Section 4 - Farm assets value limit—start of \$5 million farm assets value limit

This section provides that the day the \$5 million farm assets value limit provided for in subsection 34(3) of the *Farm Household Support Act 2014* starts is 1 September 2018.

Statement of Compatibility with Human Rights

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

Farm Household Support (Farm Assets Value Limit) Minister's Rules 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 (Farm Assets Value Limit) Minister's Rules 2018* (the Rules) prescribes 1 September 2018 as the date from which the farm assets value limit stated in the *Farm Household Support Act 2014* (the Act) temporarily increases to \$5 million.

The Rules commence on 1 September 2018.

The Rules operate beneficially as they prescribe the date from which the farm assets value limit is temporarily increased to \$5 million. From 1 September 2018 to 30 June 2019, Farm Household Allowance (FHA) applicants with farm assets up to \$5 million will be able to apply for the program.

Human rights implications

The Rules engage, or have the potential to engage, the following rights:

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

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 Rules assist in making FHA more accessible to farmers and their partners with higher values of farm assets, but who still need support due to the ongoing unfavourable climatic conditions. While receiving payment, FHA recipients are able to access an Activity

Supplement to undertake agreed training and assessment activities as prescribed in their Financial Improvement Agreement. The Rules trigger the operation of the provisions in the Act that give a greater number of people access to benefits. Indirectly, engaging in technical and vocational training supports these recipients to increase their access to work. The Rules therefore promote the right to work.

Summary

The Rules engage and promote the right to work enshrined in Article 6 of the ICESCR.

Right to Social Security

Article 9 of the ICESCR recognises the right to social security. The United Nations Committee on Economic, Social and Cultural Rights (CESCR) has stated that the term ‘social security’ in article 9 encompasses the right to access and maintain benefits, whether in cash or in kind to secure protection from (a) lack of work related income; (b) unaffordable healthcare; or (c) insufficient family support.¹

The Rules prescribe the start date of a temporary increase to the farm assets test, from \$2.635 million (indexed annually) to \$5 million. People who receive FHA are entitled to continue claiming the \$5 million farm assets limit until they are required to lodge an application (if needed) for FHA after 30 June 2019. For those with farm asset values between the current limit and the \$5 million temporary increase, the Rules operate to increase access to social security as they make the FHA program available to a greater number of farmers and farmers’ partners. For FHA recipients who qualify for the FHA supplement, the Rules trigger the operation of the provisions in the Farm Household Support Act 2014 that give a greater number of people access to benefits.

Summary

The Rules engage and promote the right to social security enshrined in Article 9 of the ICESCR.

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

Article 11(1) of the ICESCR recognises the right to an adequate standard of living, including access to food, water and housing. States have an obligation to ensure the availability and accessibility of the resources necessary for the progressive realisation of this right. The ICESCR has stated that the core content of the right to adequate food implies both the availability and economic and physical accessibility of food.²

The livelihood of farmers is subject to a variety of factors beyond their control. In prescribing a start date of 1 September 2018 for the temporary increase to the farm assets value limit, the Rules trigger the operation of the provisions in the Act that give a greater number of people access to benefits.

FHA recipients are, subject to eligibility criteria, also able to access rent assistance. In giving effect to the temporary easing of access to the FHA program, the Rules will also protect the right to an adequate standard of housing for farmers and farmers’ partners during times of

¹ CESCR, General Comment No 19 (2008), paragraph 2.

² ICESCR, General Comment No 12 (1999), paragraphs 8 and 13.

hardship, as they assist in making the FHA program available to a greater number of farmers and farmers' partners, and, if eligible for FHA, the FHA supplement.

Summary

The Rules engage and promote the right to an adequate standard of living, enshrined in Article 11(1) of the ICESCR.

Right to health

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

The ICESCR has stated that this right is not confined to the right to health care.³ The ICESCR considers that Article 12 more broadly acknowledges that the right to health embraces a wide range of socio-economic factors that promote conditions in which people can lead a healthy life, and extends to the underlying determinants of health, such as food and nutrition, housing, access to safe and potable water and adequate sanitation, safe and healthy working conditions and a healthy environment.

By prescribing the start date for temporarily increasing the farm assets limit, the Rules trigger the operation of all measures provided under the FHA program. In particular, the ancillary benefits contained in **Part 2, Division 8, Subdivisions A and B** of the Act that are available under social security law are available to those who entitled to access FHA due to the increased farm assets limit.

For example, FHA recipients are granted automatic access to a Health Care Card (under **Part 5** of the Act that applies the social security law to FHA); and, subject to eligibility criteria, rent assistance and Pharmaceutical Allowance under **Part 2, Division 8, Subdivisions A and B** of the Act.

The Health Care Card assists FHA recipients with certain health costs by allowing access to specific services at a concessional rate. Rent assistance is a supplementary payment added to FHA of recipients in commercial rental accommodation, and Pharmaceutical Allowance helps with the cost of accessing prescription pharmaceuticals under the Pharmaceutical Benefits Scheme. These measures are beneficial to FHA recipients, promoting conditions required to live a healthy life.

Summary

The Rules engage and promote the right to health in Article 12(1) of the ICESCR.

³ ICESCR, General Comment No 14 (2000), paragraph 4.

Conclusion

The Rules are compatible with human rights as it promotes the protection of, and does not limit, the human rights that it engages with.

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*.

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