

## **EXPLANATORY STATEMENT**

Issued by Authority of the Minister for Agriculture, Drought and Emergency Management

*Farm Household Support Act 2014*

*Farm Household Support (Relief Payment) Minister's Rules 2020*

### **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 their partners who are experiencing financial hardship.

Part 4B of the FHS Act provides for relief payments and sets out when a person will qualify for a relief payment. Subsection 89E(2) of the FHS Act provides that a person qualifies for a relief payment in the circumstances (if any) prescribed by the Minister's rules.

### **Purpose**

The *Farm Household Allowance (Relief Payment) Minister's Rules 2020* (the Rules) provide a one-off lump sum relief payment to a person if they exhaust their four years (1,460 days) of FHA before 1 October 2020, and they have not qualified for a relief payment under subsection 89E(1) of the FHS Act.

Subsection 89E(1) of the FHS Act provides that a person is qualified for a relief payment if 1,460 days of FHA has been payable to them before 1 July 2020. As a result, the effect of the Rules are that a person qualifies for a relief payment if they exhaust their four years of FHA in the period between 1 July 2020 and 30 September 2020. The amount of the relief payment is \$7,500 for a single recipient or \$6,500 for a recipient who is a member of a couple.

### **Background**

Under the FHS Act, in order to qualify for FHA the amount of time FHA has been payable to a person must be no more than 1,460 days (or four years) in a specified ten-year period. The first specified 10-year period will end on 30 June 2024. The time limiting support is an important feature of the FHA program. It focuses people's attention on what has to happen to turn the business around and make other plans.

Part 4B was inserted into the FHS Act by the *Farm Household Support Amendment (Relief Measures) Act (No. 1) 2019*. The amendments authorised a relief payment to be made to FHA recipients who exhaust their entitlement to be paid 1,460 days of FHA before 1 July 2020. The amendments also provided the Minister with a power to make rules prescribing circumstances in which a person may qualify for a relief payment and the amount of that payment.

A rule which prescribes a new relief payment to be made to FHA recipients who exhaust their entitlement to be paid 1,460 days of FHA between 1 July 2020 and 30 September 2020 will assist those FHA recipients to transition off payment. It will provide financial assistance to

farmers that continue to be in hardship or require some breathing space to begin to recover, or make difficult decision about their future – despite recent rain, many parts of Australia are still in drought, or recovering from drought.

Farmers who are transitioning off FHA between 1 July 2020 and 30 September 2020 are also coming out of a winter season, when opportunities for production gains are limited for the majority of commodities. Although rainfall at the start of 2020 may have improved soil moisture levels in many parts of the country and will likely benefit the summer crops that were planted before mid-January, this rainfall generally arrived too late for additional planting of summer crops. Additionally, rainfall doesn't mean that the landscape that a farm relies on has instantly recovered. There can often be a long recovery period for restoring soil moisture and plant function after a drought. A relief payment will provide financial certainty to farmers that are recovering from the uncertainty of recent climatic conditions.

### **Impact and Effect**

The Rules provide for a relief payment for those FHA recipients who exhaust their entitlement to be paid 1,460 days of FHA between the period of 1 July 2020 and 30 September 2020. Each couple who has come to the end of their first four-year payment period will be given a relief payment of \$13,000 and for singles this relief payment will be \$7,500. That is the equivalent of six months of FHA payment.

### **Consultation**

The Attorney-General's Department was consulted on the Statement of Compatibility with Human Rights. The Office of Best Practice Regulation has advised that a regulation impact statement is not required (ID: 26298).

Public consultation was not undertaken with respect to the new relief payment. However, it is expected that the Rules will be positively received by farmers and their partners.

### **Details/ Operation**

Details of the Rules are set out in [Attachment A](#).

### **Other**

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](#).

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

**Details of the *Farm Household Support (Relief Payment) Minister's Rules 2020***

**Section 1 – Name**

This section provides that the name of the instrument is the *Farm Household Support (Relief Payment) Minister's Rules 2020* (the Rules).

**Section 2 – Commencement**

This section provides that the Rules commence on the day after the instrument is registered.

**Section 3 – Authority**

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

**Section 4 – Definitions**

This section provides that the term 'Act' means the FHS Act.

A note is included in this section to clarify that a number of expressions used in the Rules are defined in the Act, including *farm household allowance* (FHA) (which is an allowance payable under Part 2 of the FHS Act) and *relief payment* (which is an amount payable under Part 4B of the FHS Act).

**Section 5 – Qualification for relief payment**

This section provides the qualification requirements for a relief payment for the purposes of subsection 89E(2) of the FHS Act. Subsection 89E(2) provides a power for the Minister to prescribe circumstances in which a person qualifies for a relief payment.

This section provides that a relief payment is payable to a person if 1,460 days of FHA have been payable to the person prior to 1 October 2020 (paragraph 5(a) of the Rules) and the person is not qualified for a relief payment under subsection 89E(1) of the FHS Act (paragraph 5(b) of the Rules).

Subsection 89E(1) of the FHS Act provides that a person is qualified for a relief payment if 1,460 days of FHA have been payable to the person before 1 July 2020.

In effect, this section provides for a relief payment to FHA recipients who exhaust their entitlement to be paid 1,460 days of FHA in the period between 1 July 2020 and 30 September 2020.

**Section 6 – Amount of relief payment**

This section provides the amount of the relief payment payable to a person that meets the qualification requirements provided in section 5 of the Rules for the purposes of subsection 89F(2) of the FHS Act. The amount of relief payment is \$6,500 for a recipient who is a member of a couple and \$7,500 for a single recipient.

Subsection 89F(2) provides that the amount of relief payment under subsection 89E(2) for a person in circumstances prescribed by the Minister's rules, is the amount prescribed by the Minister's rules.

## Statement of Compatibility with Human Rights

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

*Farm Household Support (Relief Payment) Minister's Rules 2020*

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 Allowance (Relief Payment) Minister's Rules 2020* (the Rule) provides a one-off lump sum relief payment to a person if they exhaust their four years (1,460 days) of FHA before 1 October 2020, and they have not qualified for a relief payment under section 89E(1) of the *Farm Household Support Act 2014*.

The effect of the Rules is that a person qualifies for a relief payment if they exhaust their entitlement to four years of FHA between the period of 1 July 2020 and 30 September 2020. The amount of the relief payment is \$7,500 for a single recipient or \$6,500 for a recipient who is a member of a couple.

### Human rights implications

The Rules engage, or have the potential to engage, the following recognised human 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 and rights in 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”.

Providing a relief payment to FHA recipients who have exhausted their FHA entitlements ensures that recipients are financially supported so that they can do what is needed to improve their circumstances, such as undertaking technical and vocational training.

Consequently, the Rules engage and promote the right to work, provided for in Article 6 of the ICESCR.

### ***Right to social security***

Article 9 of the ICESCR provides for the right to social security. Article 9 has been interpreted to encompass a 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.<sup>1</sup> Article 9 requires States to establish a system under domestic law, with public authorities required to take responsibility for the effective administration of the system. The social security scheme must provide a minimum essential level of benefits to all individuals and families that will assist them to acquire at least essential health care, basic shelter and housing, water and sanitation, foodstuffs and a basic form of education.

The Rules will provide additional financial assistance equivalent to six months of FHA payments to FHA recipients who have exhausted their FHA entitlements. The relief payment will assist them to acquire essential health care, foodstuffs and further education if needed.

Consequently, the Rule engages and promotes the right to social security, arising from Article 9 of the ICESCR.

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

Article 11(1) of the ICESCR enshrines the right to an adequate standard of living, including food, water and housing. States hold an obligation to provide availability of resources necessary for the progressive realisation of this right. The Committee on Economic, Social and Cultural Rights has stated that the core content of the right to adequate food implies both the availability and (economic and physical) accessibility of food.<sup>2</sup>

The livelihood of farmers is subject to a variety of factors beyond their control. The Rules will provide a relief payment to FHA recipients who have exhausted their FHA entitlements. The relief payment will help to pay for a range of expenses, including healthcare, family expenses and other costs normally met with household income (eg, food, water etc).

Consequently, the Rules engage and promote the right to an adequate standard of living, arising from Article 11(1) of the ICESCR.

### ***Right to health***

Article 12(1) of the ICESCR provides for the right to health. The Committee on Economic, Social and Cultural Rights has stated that health is a fundamental human right, indispensable for the exercise of other human rights.<sup>3</sup> The right to health includes the right to access a system of health protection which provides equality of opportunity for people to enjoy the highest attainable level of health. 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.

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<sup>1</sup> Committee on Economic, Social and Cultural Rights, General Comment No 19 (2008), paragraph 2.

<sup>2</sup> Committee on Economic, Social and Cultural Rights, General Comment No 12 (1999), paragraphs 8 and 13.

<sup>3</sup> Committee on Economic, Social and Cultural Rights, General Comment No 14 (2000), paragraphs 1 and 3.

By providing a relief payment to eligible recipients, the Rules ensure financial support is provided to recipients to access household needs such as food, water, health care and health related activities.

Consequently, the Rules engage and promote the right to health arising from Article 12 of the ICESCR.

### **Conclusion**

The Rules are compatible with the human rights outlined above, as they operate to promote these recognised human rights and freedoms. The Rules do not engage any other human rights.

**The Hon. David Littleproud MP**  
**Minister for Agriculture, Drought and Emergency Management**