



Farm Household Support Secretary's Rules 2024

I, Adam Phillip Fennessy PSM, Secretary of the Department of Agriculture, Fisheries and Forestry, make the following rules.

Dated 19 June 2024

Adam Phillip Fennessy PSM
Adam Phillip Fennessy PSM
Secretary of the Department of Agriculture, Fisheries and Forestry

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Part 1—Preliminary

1 Name

This instrument is the *Farm Household Support Secretary's Rules 2024*.

2 Commencement

- (1) Each provision of this instrument 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.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2024.	1 July 2024

Note: This table relates only to the provisions of this instrument as originally made.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

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

3 Authority

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

4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

5 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) conduct failure;
- (b) farm asset;
- (c) farm enterprise;
- (d) qualification failure.

In this instrument:

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

6 Whether a person contributes a significant part of the person’s labour and capital to a farm enterprise

- (1) For the purposes of subsection 13(1) of the Act, this section prescribes matters that the Secretary must take into account in deciding whether a person has contributed a significant part of the person’s labour and capital to a farm enterprise for the purposes of paragraph 8(b) or 9(d) of the Act.
- (2) The Secretary must take into account the extent to which the contributed labour and capital promote, or could reasonably be expected to promote, the efficient and profitable operation of the farm enterprise as a commercial enterprise.

Note: This section does not limit the matters the Secretary may take into account in deciding whether the requirement that a person has contributed a significant part of the person’s labour and capital to a farm enterprise is met—see subsection 13(2) of the Act.

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

- (1) For the purposes of subsection 13(1) of the Act, this section prescribes matters that the Secretary must take into account in deciding whether a farm enterprise has a significant commercial purpose or character for the purposes of the paragraphs 8(c) or 9(e) of the Act.
- (2) The matters are as follows:
 - (a) whether the farm enterprise is being conducted efficiently and profitably;
 - (b) if the farm enterprise is not being conducted efficiently and profitably—the steps being taken, or proposed to be taken within a period that is reasonable in the circumstances, to ensure that the farm enterprise is conducted efficiently and profitably;
 - (c) the size and scale of the farm enterprise, including:
 - (i) the level of production that is being achieved by the farm enterprise; and
 - (ii) the level of production that could reasonably be expected to be achieved by the farm enterprise within a period that is reasonable in the circumstances;
 - (d) the revenue generated by the farm enterprise, including whether the revenue generated over the preceding 3 financial years has on average been more than \$60,000 per financial year;
 - (e) the revenue that can be expected to be generated by the farm enterprise within a future period that is reasonable in the circumstances, including whether the revenue generated, on average over the period, could reasonably be expected to be more than \$60,000 per financial year;
 - (f) the commercial markets, and the potential commercial markets, for the agricultural, horticultural, pastoral, apicultural or aquacultural products of the farm enterprise and the extent to which they can be accessed by the farm enterprise;

- (g) the suitability of the land on which the farm enterprise is conducted, including having regard, among other things, to the agricultural, horticultural, pastoral, apicultural or aquacultural products of the farm enterprise;
- (h) the capital requirements for the farm enterprise and how those requirements are being, or are to be, met;
- (i) the operational and other costs associated with the farm enterprise, including the cost of servicing debt related to the farm enterprise;
- (j) matters that have had, and are reasonably likely to have, an adverse effect on the profitability of the farm enterprise and the steps that are being taken, or are to be taken, to manage those matters.

Note: This section does not limit the matters the Secretary may take into account in deciding whether the requirement that a farm enterprise has a significant commercial purpose or character is met—see subsection 13(2) of the Act.

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Division 2—Financial improvement agreements

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

For the purposes of 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 requires 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 work 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.

Note: The Secretary may exclude other kinds of requirements from a financial improvement agreement—see subsection 15(3) of the Act.

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

9 Reasonable excuses for committing qualification failure or conduct failure

- (1) For the purposes of subsection 76(3) of the Act, this section specifies 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 only take into account a matter specified in this section if the Secretary is satisfied that the matter had a significant effect on the conduct of the person that resulted in the failure.
 - (3) The Secretary must take into account 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: This section does not limit the matters that the Secretary may take into account in deciding whether a person has a reasonable excuse—see subsection 76(4) of the Act.
- (4) 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 take into account the circumstances of the person's imprisonment, and release from imprisonment, at the time of the failure.
 - (5) Without limiting paragraph (3)(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

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- (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.

Part 3—Activity supplement

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

For the purposes of 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) obtaining legal, financial or other specialist advice directly related to ensuring the long term efficient and profitable operation of the farm enterprise, including advice about the following matters:
 - (i) commercial structures, arrangements and relationships, including financial arrangements and the vertical integration of relevant commercial entities (excluding farm financial assessments);
 - (ii) business and business resilience planning;
 - (iii) monitoring and managing the business performance;
 - (iv) managing risk;
 - (v) succession planning;
 - (vi) natural resource management, sustainability and climate-resilient practices;
 - (vii) preparing for, and recovering from, drought, natural disasters and biosecurity outbreaks;
 - (viii) diversifying the farm enterprise;
 - (ix) adding value to products produced by the farm enterprise;
 - (x) alternative options for using farm assets;
 - (xi) marketing and promotion;
 - (xii) the use of technology, equipment, tools and machinery;
 - (xiii) industrial relations;
 - (xiv) workplace health and safety;
- (b) undertaking training in, participating in workshops or conferences on, or studying about, a matter mentioned in paragraph (a) of this section, including in relation to skills within the skill set known as the Farm Business Management Skill Set;
- (c) receiving advice about, undertaking training in, participating in workshops or conferences on, or studying about, the following matters:
 - (i) diversification of income streams;
 - (ii) transitioning from farming, including to an alternative career or retirement;
- (d) for a person who has exhausted funding available through Commonwealth government mental health programs—receiving mental health counselling services.

Part 4—Application, saving and transitional provisions

11 Application provisions relating to the commencement of this instrument

Division 1 of Part 2 of this instrument applies for the purposes of working out if a person is qualified for farm household allowance in respect of a day occurring on or after 1 July 2024.

Schedule 1—Repeals

Farm Household Support Secretary’s Rule 2014

1 The whole of the instrument

Repeal the instrument.