

EXPLANATORY STATEMENT

Issued by Authority of Minister for Agriculture, Fisheries and Forestry

Farm Household Support Act 2014

Farm Household Support (Consequential and Transitional Provisions) Act 2014

Farm Household Support Legislation Repeal Rules 2024

Legislative authority

1. This instrument is made under the *Farm Household Support Act 2014* (**FHS Act**) and the *Farm Household Support (Consequential and Transitional Provisions) Act 2014* (**Transition Act**).
2. Subsection 106(1) of the FHS Act authorises the Minister for Agriculture, Fisheries and Forestry (**Minister**) to make, by legislative instrument, Minister's rules prescribing matters that are required or permitted by the FHS Act to be prescribed by Minister's rules.
3. Item 2 of Schedule 3 to the Transition Act authorises the Minister for Agriculture to make rules prescribing matters of a transitional nature relating to the Transition Act or the FHS Act.
4. Under subsection 33(3) of the *Acts Interpretation Act 1901*, a power in an Act to make an instrument, such as a Rule, includes a power to repeal the instrument.

Background

Farm Household Support (Consequential and Transitional Provisions) Minister's Rule 2014

5. The Farm Household Allowance (**FHA**) program commenced on 1 July 2014. It provides for financial assistance to farmers and their partners who are in financial hardship, in the form of time-limited income support and funding to obtain relevant advice and training and for them to undertake actions to improve their situations. The FHA program is aligned, where possible, with social security payments under social security law (that is, the *Social Security Act 1999* (the **Social Security Act**), the *Social Security (Administration) Act 1999* and *Social Security (International Agreements) Act 1999*).
6. Interim Farm Household Allowance was available (replacing previous income support payments such as the Transitional Farm Family Payment) from 1 March 2014 until the commencement of FHA.
7. The *Farm Household Support (Consequential and Transitional Provisions) Minister's Rule 2014* (the **2014 Consequential and Transitional Rule**) was made under item 2 of Schedule 3 of the Transition Act. It enabled people who were entitled to receive interim

FHA before 30 June 2014 to continue to receive that payment until 30 September 2014 or until a decision was made on their FHA claims, whichever was sooner.

8. Interim FHA closed to new claims on 30 June 2014. Accordingly, the basis for the 2014 Consequential and Transitional Rule (namely, to ensure that FHA recipients received transitional support until 30 June 2014) is spent and is repealed by this instrument.

Farm Household Support (South Australian River Murray Sustainability Irrigation Industry Improvement Program) Minister's Rule 2015

9. Under social security law, an income test is applied to determine a person's eligibility for a social security payment (including FHA) and, if eligible, the rate of the payment. Any income amount earned, derived or received for a person's own use or benefit is generally counted as income. However, some amounts that would otherwise be income are specifically exempted.
10. Paragraph 8(11)(d) of the Social Security Act, as applied and modified by Part 5 of the FHS Act, allows the Secretary of the Department of Agriculture, Fisheries and Forestry (**Agriculture Secretary**) to determine that an amount, or class of amounts, is an "exempt lump sum" for FHA purposes. Exempt lump sums are excluded from the definition of "ordinary income" under subsection 8(1) of the Social Security Act, meaning that the lump sum amount is not taken into account in applying the income test for FHA purposes.
11. The South Australian River Murray Sustainability Irrigation Industry Improvement Program (the **SA River Murray Program**) provided grants to farmers and others for specific purposes. Lump sum payments under the Program were exempt from being taken into account in assessing qualification for FHA payments or the amount of those payments. This was done by the *Social Security (Exempt Lump Sum) (South Australian River Murray Sustainability Irrigation Industry Program) (Agriculture) Determination 2015 (Determination)*.
12. The *Farm Household Support (South Australian River Murray Sustainability Irrigation Industry Improvement Program) Minister's Rule 2015* (the **2015 SA River Murray Program Rule**) was made under the FHS Act to apply the Determination retrospectively.
13. The SA River Murray Program has concluded. The 2015 SA River Murray Program Rule is therefore spent and is repealed by this instrument.

Purpose

14. The purpose of this instrument is to repeal both the 2014 Consequential and Transitional Rule and the 2015 SA River Murray Program Rule. As explained above, both instruments are now spent.

Details of this instrument

15. Details of the provisions of this instrument are at [Attachment A](#).

Impact and effect

16. The instrument does not have any impact or effect on industry, as the instruments repealed are spent.
17. The Office of Impact Analysis was consulted and advised that an Impact Assessment would not be required (OIA 24-07773).

Consultation

18. Stakeholder consultation did not occur because the instruments are spent. Stakeholders would not be affected by their repeal.
19. This instrument 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 the Attachment B.
20. The instrument is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Farm Household Support Legislation Repeal Rules 2024

Section 1 – Name

21. The name of this instrument is the *Farm Household Support Legislation Repeal Rules 2024*.

Section 2 – Commencement

22. This instrument commences on the day after registration.

Section 3 – Authority

23. This instrument is made under the *Farm Household Support Act 2014* and item 2 of Schedule 3 to the *Farm Household Support (Consequential and Transitional Provisions) Act 2014*.

Section 4 – Schedules

Schedule 1 – Repeals

24. This section and the Schedule operate to repeal the whole of each of the following instruments:
- *Farm Household Support (Consequential and Transitional Provisions) Minister's Rule 2014*
 - *Farm Household Support (South Australian River Murray Sustainability Irrigation Industry Improvement Program) Minister's Rule 2015*.

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Farm Household Support Legislation Repeal Rules 2024

This 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 purpose of this instrument is to repeal the *Farm Household Support (Consequential and Transitional Provisions) Minister's Rule 2014* and the *Farm Household Support (South Australian River Murray Sustainability Irrigation Industry Improvement Program) Minister's Rule 2015*, both of which are spent.

Human rights implications

The instruments being repealed were made to support transitional arrangements pending the implementation of the current Farm Household Allowance (FHA) program on 1 July 2014 and to exempt lump sum payments under the South Australian River Murray Sustainability Irrigation Industry Improvement Program (which no longer operates) from assessment for FHA income test purposes.

Both instruments are spent.

This instrument is technical in nature and does not engage any of the applicable rights or freedoms, nor does it limit or derogate from any existing human rights that may have been engaged by the repealed instruments.

Conclusion

This legislative instrument is compatible with human rights as it does not raise any human rights issues.

The Hon. Julie Collins MP
Minister for Agriculture, Fisheries and Forestry