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THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

**FARM HOUSEHOLD SUPPORT (CONSEQUENTIAL AND TRANSITIONAL
PROVISIONS) BILL 2014**

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for Agriculture,
the Hon. Barnaby Joyce MP)

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GLOSSARY

The following abbreviations and acronyms are used throughout this explanatory memorandum.

Abbreviation	Definition
CSIRO	Commonwealth Scientific and Industrial Research Organisation
DHS	Department of Human Services
EC	Exceptional Circumstances
ECRP	Exceptional Circumstances Relief Payment
FHA	Farm Household Allowance
FHS Bill	Farm Household Support Bill 2014
FHSCT Bill	Farm Household Support (Consequential and Transitional Provisions) Bill 2014
EC	Exceptional Circumstances
ECRP	Exceptional Circumstances Relief Payment
the Bill	Farm Household Support Bill 2014
FHSA 1992	<i>Farm Household Support Act 1992 (Cth)</i>
FHSCT Bill	Farm Household Support (Consequential and Transitional Provisions) Bill 2014
ITAA 1997	<i>Income Tax Assessment Act 1997 (Cth)</i>
Social Security Act	<i>Social Security Act 1991 (Cth)</i>
Social Security Administration Act	<i>Social Security (Administration) Act 1999 (Cth)</i>
social security Acts	Together, the <i>Social Security Act 1991</i> and the <i>Social Security (Administration) Act 1999</i>
Social Security Act	<i>Social Security Act 1991 (Cth)</i>
TFFP	Transitional Farm Family Payment

FARM HOUSEHOLD SUPPORT (CONSEQUENTIAL AND TRANSITIONAL PROVISIONS) BILL 2014

GENERAL OUTLINE

The Farm Household Support (Consequential and Transitional Provisions) Bill 2014 (the FHSCT Bill) is a companion Bill to the Farm Household Support Bill 2014 (the FHS Bill).

The FHS Bill provides the mechanism to implement the Farm Household Allowance (FHA), an income support payment for farmers and their partners who are in financial hardship.

The FHS Bill delivers the Australian Government's commitment under the *Intergovernmental Agreement on National Drought Program Reform* (IGA) to provide a time-limited income support payment for farmers and their partners based on individual need. The FHA is to commence on a date set by Proclamation and replaces the existing Exceptional Circumstances Relief Payment (ECRP), which was only available to farmers in regions experiencing exceptional circumstances, such as drought.

The FHSCT Bill repeals the *Farm Household Support Act 1992* (FHSA 1992), which contains provisions relating to the exceptional circumstances arrangements, the related payment of ECRP, as well as other payments and schemes that have ceased. These other payments and schemes include 'farm household support'; 'farm help income support'; 'farm help re-establishment grant scheme'; 'farm help advice and training scheme'; and 'dairy exit payments' made under the 'DEP scheme'.

The FHSCT Bill makes consequential amendments to other Acts that refer to the FHS 1992, provisions of the FHS 1992 or payments made under the FHS 1992; as well as removing references to a historical payment of 'farmers hardship bonus'. The farmers hardship bonus was payable under the *Social Security Act 1991* (Social Security Act) and related to a payment under the FHS 1992.

The FHSCT Bill also makes consequential amendments of a minor nature to other Acts to support the full and effective implementation of the FHA. These include amendments to make it easier for farmers either currently receiving income support under the Transitional Farm Family Payment (TFFP), or who receive it under the Interim Farm Household Allowance (IFHA), to transition to the FHA when it becomes available following passage of the FHS Bill and the FHSCT Bill.

Other amendments made by the FHSCT Bill include contingent amendments of a number of Bills which are currently before Parliament, including by reference to the passage of other legislation; and general transitional provisions.

The Department of Agriculture consulted relevant industry stakeholders and Australian Government agencies on the policy behind the FHA. Relevant agencies and stakeholders accept of the need for reform of government drought support arrangements. In 2008–09 the national review of drought policy was undertaken. It included an economic assessment by the Productivity Commission; a climatic assessment by the Bureau of Meteorology and CSIRO; and a social assessment by an expert social panel.

Following the national review of drought policy, in 2010 the Australian Government, in partnership with the Western Australian government, conducted a two year pilot of drought reform measures in regions of Western Australia. The pilot tested a range of programs to inform the design of a new national approach to drought support. The pilot was reviewed in 2011 by an independent panel, which reported strong support for an income support payment for farm families in hardship that is based on demonstrated individual need rather than a climatic trigger. Furthermore, the panel emphasised the requirement for reciprocal obligations to help farm families realistically assess their financial position and take steps to become more self-reliant.

The FHA aligns with social security law where possible and will be delivered by the Department of Human Services (DHS). Case managers from DHS will assist people to apply for payment, take action to improve their situation and refer people to other government and non-government services for further assistance.

A separate explanatory memorandum for the FHS Bill 2014 explains in full the effect of the provisions that implement the FHA.

FINANCIAL IMPACT STATEMENT

It is estimated that the FHA will cost the Australian Government \$99.4 million in the first three years of the program. This includes \$62.1 million in administered costs (for payments to recipients) which will be paid through the Consolidated Revenue Fund. This estimate is based on expected demand for the program in its first three years of operation. However, FHA is uncapped and demand-driven, which means funding will increase in times of higher demand. Modelling by the Australian Bureau of Agricultural Resource Economics and Sciences shows that drought is likely to be the primary driver of increased demand.

The estimated cost of FHA includes program administration, case management and ongoing IT maintenance. It also includes a significant once-off significant investment to develop a fit-for-purpose IT system in 2013-14 to deliver the FHA.

Estimated financial impact:

2013/14	2014/15	2015/16	2016/17
\$14.3m	\$17.1m	\$26.8m	\$41.2m

STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

Farm Household Support (Consequential and Transitional Provisions) Bill 2014

This Bill 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 Bill

1. The Farm Household Support (Consequential and Transitional Provisions) Bill 2014 (the FHSCT Bill) is a companion Bill to the Farm Household Support Bill 2014 (the FHS Bill).
2. The FHS Bill provides the mechanism to implement the Farm Household Allowance (FHA), an income support payment for farmers and their partners who are in financial hardship. The FHA replaces the Exceptional Circumstances Relief Payment (ECRP), which is provided for in the *Farm Household Support Act 1992* (FHS 1992). All other payments and schemes under the FHS 1992 have ceased.
3. The purpose of the FHSCT Bill is to:
 - repeal the FHS 1992
 - make consequential amendments to other Acts that refer to the FHS 1992, provisions of the FHS 1992 or payments made under the FHS 1992; as well as redundant references to a historical payment of ‘farmers hardship bonus’ that was made under the *Social Security Act 1991*
 - make consequential amendments of a minor nature to other Acts to support the full and effective implementation of the FHA. These include amendments to make it easier for farmers receiving income support under non-legislated schemes to transition to the FHA when it becomes available following passage of the FHS Bill and the FHSCT Bill

- provide for contingent amendments of a number of Bills which are currently before Parliament, including by reference to the passage of other legislation; and general transitional provisions.

4. Together with the FHS Bill, the FHSCT Bill is part of a broader national drought program reform agenda that replaces the Exceptional Circumstances arrangements and is designed to encourage farmers to plan for the future and better manage risks, including the risks associated with drought.

Human rights implications

5. In achieving the purposes outlined above, the FHSCT Bill promotes a number of rights provided under the International Covenant on Economic, Social and Cultural Rights (ICESCR). These rights include the right to social security, the right to health, the right to respect for the family and also the right to an adequate standard of living, including food, water and housing.

6. The following rights are engaged by the FHSCT Bill:

- Article 6(1) of 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
- Article 2(2) of the ICESCR and article 26 of the International Covenant on Civil and Political Rights (ICCPR) – rights of equality and non discrimination.

7. The FHSCT Bill supports the full and effective implementation of the FHA. As the FHA is intended to help meet basic household expenses in the form of an income support payment for farmers and their partners who are in financial hardship, the clauses in the FHSCT Bill that support the implementation of the FHA are also intended to advance immediately the first three rights mentioned above.

Right to social security; right to work

8. 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

9. Article 6 of the ICESCR protects the right to work, including the right of everyone to the opportunity to gain a living by work which they freely choose or accept, and obliges governments to take appropriate steps to safeguard this right.

10. The clauses outlined below in **Schedules 1 to 3** of the FHSCT Bill promote the right to social security.

Replacement of ECRP with FHA

11. **Schedule 1** of the FHSCT Bill repeals the FHS 1992, which provides for a relief payment known as ECRP to farmers who are in exceptional circumstances, including drought. All other payments and schemes under the FHS 1992 have ceased. The FHA, which is provided for in the FHS Bill, replaces ECRP (and non-legislated income support schemes for farm families) and is different from ECRP in various ways. These differences include: qualification requirements, including: that ECRP requires a drought declaration to trigger assistance; the period of support available; and means testing.

12. Replacing ECRP with FHA promotes the right to social security by providing for a greater number of people who are experiencing hardship to access FHA. This is because access to FHA is not confined to those experiencing drought. FHA is available regardless of the cause of financial hardship and does not require a drought declaration to trigger assistance.

13. ECRP has been available for the length of a drought declaration, which has ranged from 12 months to, in some instances, up to eight years; and the FHA is available up to three cumulative years of income support. While the FHA differs from ECRP in the period of support available, FHA assists recipients to develop strategies for self-reliance, unlike ECRP. The FHA’s financial improvement agreement, which a person must be willing to enter into and comply with as a condition of receiving the FHA, focuses on skills development and training to improve the farmer’s and/or partner’s prospects for

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

earning more income or securing other sources of income. In some cases, this might include support to help recipients in their transition to alternative or additional employment. Assisting recipients to improve their capacity for self-reliance in this way also promotes the right to work.

Amendments to support the implementation of FHA

14. **Schedule 2, Part 1** of the FHSCT Bill makes consequential amendments of a minor nature to other Acts to support the full and effective implementation of the FHA under the FHS Bill. These amendments relate to:

- the substitution of references to ‘*Farm Household Support Act 1992*’ with ‘*Farm Household Support Act 2014*’ (**clauses 4-5, 34, 36-37, 53-54, 79, 92, 108, 111, 132**)
- the modified operation of social security law with respect to the FHA and the FHS Bill (**clauses 1, 31, 40-42, 60, 106, 109, 112, 114-130**)
- amendments to social security law to support the FHA (**clauses 97, 100-101, 131, 133**)
- amendments to taxation law to support the FHA (**clauses 34, 36 and 37**).

15. While the FHA is not a social security payment under the social security law, for the purpose of the FHS Bill the FHA is treated as if it were a social security payment (see **FHS Bill clause 95**). At any rate, that the FHA aligns where possible with social security law to ensure that farmers are treated equitably and have access to the same benefits and services as other income support recipients means that it can be considered in the same way as social security for farmers and their partners.

16. Consistent with the alignment of the FHA with social security law, **Schedule 2, Part 2, clauses 143-146** of the FHSCT Bill make amendments to taxation law and social security law to refer to a payment of TFFP and IFHA. These clauses make it easier for farmers currently receiving income support through non-legislated schemes to transition to the FHA when it becomes available following passage of the FHS Bill and the FHSCT Bill.

17. **Schedule 3, clause 1** of the FHSCT Bill also facilitates a smooth transition for recipients of existing farmer income support payments or former income support payments to the FHA following passage of the FHS Bill and the FHSCT Bill.

Right to an adequate standard of living, including food, water and housing; highest attainable standard of health

18. Article 11(1) of the ICESCR protects the right to an adequate standard of living, including 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 CESCR has stated that the core content of the right to adequate food implies both the availability and (economic and physical) accessibility of food.²

19. Article 12(1) of the ICESCR recognises the right of all individuals to enjoy the highest attainable standard of physical and mental health. The CESCR has stated that this right is not confined to the right to health care.³ The CESCR 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.

20. The clauses outlined above in Schedules 1 to 3 of the FHSCT Bill assist in promoting the right to an adequate standard of living, including food, water and housing; and the right to the highest attainable standard of health. These clauses do so by supporting the implementation of the FHA under the FHS Bill, which provides financial support to farmers and their partners at times of hardship and where they demonstrate limited capacity to support themselves.

Rights of equality and non-discrimination

21. Article 2(2) of the ICESCR requires States to ensure that the rights recognised in that Covenant are exercised “without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”.

22. The CESCR has clarified that discrimination constitutes “any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of Covenant rights”.⁴

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

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

⁴ CESCR, General Comment No 20 (2009), paragraph 7.

23. Article 26 of the ICCPR is a stand-alone right and also prohibits discrimination in law or in fact in any field regulated and protected by public authorities. Its effect is to provide that all persons are equal before the law and are entitled to equal protection of the law without discrimination.⁵

24. **Schedule 2, clause 3** of the FHSCT Bill engages with the right of non discrimination. This clause replaces the current exemption from the unlawful age discrimination provisions in the *Age Discrimination Act 2004*. It replaces the exemption in relation to things done in direct compliance with the FHS 1992 with an exemption in relation to things done in direct compliance with the provisions of the FHS 2014 in relation to the FHA. The *Age Discrimination Act 2004* also contains an exemption in relation to things done in direct compliance with the social security law.

25. The only operative provision in the FHS 1992 that the current exemption applies to is the rate of payment of ECRP. Consistent with mainstream social security allowances, the rate of payment of ECRP differs depending on a recipient's age: the youth allowance rate if they are below 22 years old; and the newstart allowance rate otherwise.

26. The replacement exemption in **Schedule 2, clause 3** of the FHSCT Bill supports the provisions of the FHS Bill that provide for the following different treatment of the FHA based on the age of an applicant/recipient:

- the qualification requirement that a person must be 16 years or above to receive the FHA, which is consistent with mainstream social security law allowances, which makes payments to a person under 16 to that person's parents or legal guardians
- the requirements that the Secretary take into account matters including a person's age when: approving the person's financial improvement agreement; and determining whether work is unsuitable to be undertaken by the person
- the rate of payment of FHA, which differs depending on a recipient's age (the youth allowance rate if they are below 22 years; and the newstart allowance rate otherwise) and is equivalent to the rate of payment of ECRP
- the provisions that modify how the social security law operates so that it can apply in relation to the FHA, which reflect that

⁵ United Nations Human Rights Committee, CCPR General Comment No 18 (1989), paragraph 13.

FHA is generally treated in the same way as newstart allowance and youth allowance.

27. Retaining the exemption from the unlawful age discrimination provisions in the *Age Discrimination Act 2004* is necessary to support the full and effective implementation of the FHA, which aligns with mainstream social security law. The exemption under **Schedule 2, clause 3** of the FHSCT Bill is consistent with the existing exemption in relation to things done in direct compliance with the social security law and does not diminish the protection of the rights of equality and non-discrimination of recipients of FHA.

Conclusion

28. The Bill is compatible with the human rights outlined above. In some instances it promotes human rights and to the extent that it may limit these rights, these limitations are reasonable, necessary and proportionate to achieve legitimate aims.

Minister for Agriculture, the Hon. Barnaby Joyce MP

NOTES ON CLAUSES

Section 1

This section provides for the Bill to be called the *Farm Household Support (Consequential and Transitional Provisions) Act 2014*.

Section 2

This section provides that the Farm Household Support (Consequential and Transitional Provisions) Bill 2014 (FHST Bill) commences on different dates for different purposes.

Sections 1 to 3, as well as any provisions not covered in the table, commence on the day the Bill receives the Royal Assent.

Schedule 1 commences at the same time that section 3 of the *Farm Household Support Act 2014* (FHS Act 2014) commences. The FHS Bill is currently before the Parliament. Section 2 of the FHS Bill provides for the substantive provisions of the FHA (i.e. sections 3 to 89 of the FHS Bill) to commence on a date fixed by Proclamation.

Schedule 2, Part 1 commences at the same time that section 3 of the FHS Act 2014 commences.

Schedule 2, items 139 and 140, and Schedule 2, Part 2, Divisions 2 and 3 include contingent amendments to a number of Bills which are currently before Parliament, including the FHS Bill. Commencement of these contingent amendments is subject to passage and commencement of the relevant Bills.

The amendments in Schedule 2, Part 2, Division 4 relate to the operation of the exempt income provisions in the *Income Tax Assessment Act 1997* (ITAA 1997) and the qualification for income support bonus provisions in the Social Security Act regarding the payment of non-legislated income support programs: the Transitional Farm Family Payment (TFFP); and the Interim Farm Household Allowance (IFHA). These amendments commence on 26 February 2014 because before this time it will not be possible to make payments of IFHA. As payments of IFHA and TFFP will be made before the FHA provisions commence, this means that commencement of the amendments in Schedule 2, Part 2, Division 4, which are beneficial to taxpayers, are retrospective.

The amendments in Schedule 2, Part 2, Division 5 relate to the repeal of references to TFFP and IFHA in the exempt income provisions in the ITAA 1997 and qualification for income support bonus provisions in the Social Security Act. These amendments commence on a day fixed by Proclamation; and on the day after the end of 12 months beginning on the day the FHSCT Bill receives the Royal Assent if the provision(s) do not commence within those 12 months. The period of 12 months accommodates the possible payment of TFFP and/or IFHA within this time.

Schedule 3, item 1 commences at the same time that section 3 of the FHS 2014 commences.

Schedule 3, item 2 commences at the same time that section 1 of the FHS 2014 commences.

Section 3

This section explains the operation of Schedules 1 to 3 of the Bill.

Schedule 1

Item 1

This item repeals the FHS Act 1992. This Act contains provisions relating to payments and schemes that have ceased or will cease on the same date the substantive provisions of the FHS Bill commence. These payments and schemes include ‘exceptional circumstances relief payment’, ‘farm household support’, ‘farm help income support’, ‘farm help re-establishment grant scheme’, ‘farm help advice and training scheme’; and ‘dairy exit payments’ made under the ‘DEP scheme’.

Schedule 2, Part 1

Schedule 2, Part 1 amends the following Acts and provides for the continuing application of provisions under these Acts despite the amendments:

- *Aged Care Act 1997* (**item 1**)
- *Age Discrimination Act 2004* (**item 3**)
- *A New Tax System (Family Assistance) (Administration) Act 1999* (**items 4, 5**)
- *Dairy Produce Act 1986* (**items 7, 8, 10-23, 25, 27-30**)
- *Income Tax Assessment Act 1936* (**items 31-32**)
- *Income Tax Assessment Act 1997* (**items 33-55**)
- *Small Superannuation Accounts Act 1995* (**item 57**)
- *Social Security Act 1991* (**items 59-92**)
- *Social Security (Administration) Act 1999* (**items 94-133**)
- *Veterans' Entitlements Act 1986* (**items 135-138**)
- Application provisions (**items 2, 6, 9, 24, 26, 56, 58, 93, 134**).

As many of the amendments to these Acts achieve the same effect, the amendments are grouped as follows:

- removal of redundant references
- substitution of references to FHSA 1992 with FHSA 2014
- modified operation of the social security Acts under the FHS Bill 2014
- amendments to taxation law to support the FHA
- amendments to social security law to support the FHA
- miscellaneous amendments
- application provisions.

Removal of redundant references – items 7-8, 10-23, 25, 27-33, 35, 38-40, 43-52, 55, 57, 59-78, 80-91, 94-96, 98 99, 102-105, 135-138

These items amend various Acts that refer to:

- the FHSA 1992
- a declaration of exceptional circumstances and the issue of a an exceptional circumstances certificate
- payments made under the FHSA 1992
- provisions of the FHSA 1992
- provisions regarding a historical payment of ‘farmers hardship bonus’.

The amendments to the *Aged Care Act 1997*, *A New Tax System (Family Assistance) (Administration) Act 1999*, *Dairy Produce Act 1986*, *Income Tax Assessment Act 1936*, *Income Tax Assessment Act 1997*, *Small Superannuation Accounts Act 1995*, *Social Security Act 1991*, *Social Security (Administration) Act 1999* and *Veterans’ Entitlements Act 1986* under these items remove redundant references outlined in the aforementioned dot points, including definitions and headings.

Substitution of references to FHSA 1992 with FHSA 2014 – items 4-5, 34, 36-37, 53-54, 79, 92, 108, 111, 132

These items substitute references in various Acts to FHSA 1992 with FHSA 2014; and substitute references to payments under the FHSA 1992 with the FHA. These items maintain consistency where possible between the treatment of payments under the FHSA 1992 and the FHSA 2014 (or between those Acts) in relation to the following:

- the family tax benefit provisions relating to debt in the *A New Tax System (Family Assistance) (Administration) Act 1999* (items 4-5)
- the non-assessable income provisions in the *Income Tax Assessment Act 1997* (item 34)
- the tax offset provisions in the *Income Tax Assessment Act 1997* (items 36-37)
- the definitions of ‘Agriculture Department’ and ‘Agriculture Minister’ in the *Income Tax Assessment Act 1997* (items 53-54)

- the provisions in the Social Security Act dealing with access to financial hardship rules and deductions by consent from a social security payment (**items 79, 92**)
- the internal review provisions and definition of ‘Agriculture Minister’ in the Social Security Administration Act (**items 108, 111, 132**).

Modified operation of the social security Acts under the FHS Bill 2014 – items 1, 31, 40-42, 60, 106, 109, 112, 114-130

The FHS Bill includes provisions in Part 5 that modify how the Social Security Act and the Social Security Administration Act (together, the social security Acts) operate so that those Acts, as well as other legislation, can apply in relation to a payment of FHA, which is generally treated under the FHS Bill 2014 in the same way as newstart and youth allowance. This means that where there is a reference in the social security Acts to newstart or youth allowance, it is as if there were also a reference to FHA. Similarly, where there is a reference to a concept that is defined to include those allowances, such as ‘social security benefit’ or ‘social security payment’, it is as if that concept were also defined to include FHA. The modification provisions in the FHS Bill 2014 also provide that references in other Acts to the ‘social security law’ are to be read as including the FHS 2014.

Arising from the modification provisions in Part 5 of the FHS Bill 2014, the amendments under these items mean that:

- the substituted definition of ‘income support payment’ in the *Aged Care Act 1997* includes a payment of FHA (**item 1**; see also FHS Bill subsection 93(1), table item 3)
- the reference to ‘payment under the *Social Security Act 1991*’ in the *Income Tax Assessment Act 1936* includes a payment under the FHS 2014 (**item 31**; see also FHS Bill subsection 93(1), table item 12)
- the reference to ‘social security law’ in the definition of ‘officer’ in the Social Security Act includes the FHS 2014 (**item 60**; see also FHS Bill subsection 93(1), table item 11)
- certain references to ‘FHS 1992’ in the Social Security Administration Act do not need to be substituted with ‘FHS 2014’ and are therefore redundant as the FHS 2014 is part of the ‘social security law’ (**items 106, 109, 112, 114-130**; see also FHS Bill subsection 93(1), table item 11).

The provisions amended by **items 106, 109, 112, 114-130** relate to:

- review of decisions internally by the Secretary of the Department of Social Services (**items 106 and 109**)
- review of decisions by the Social Security Appeals Tribunal (**items 112, 114-116**)
- review of decisions by the Administrative Appeals Tribunal (**item 117**)
- information gathering (**items 118-119**)
- confidentiality (**items 120-130**).

Items 40, 41, 42 clarify that references in certain ITAA 1997 provisions (relating to exempt payments under the Social Security Act) to newstart allowance or youth allowance includes a reference to FHA under the FHS 2014.

Amendments to taxation law to support the FHA – items 34, 36 and 37

The Bill amends the ITAA 1936 (items 31-32) and the ITAA 1997 (items 33-55) for the purposes described above.

The effect of **items 34, 36 and 37** (together with the modifications provisions in Part 5 of the FHS Bill) is to support specifically the implementation of the FHA by providing for FHA (and the two supplements payable under the FHA – activity supplement and farm financial assessment supplement) to be assessable income.

In addition, the effect of **Item 32** (together with the modifications provisions in Part 5 of the FHS Bill) is to define the FHA (but not the two supplements) as a ‘rebatable benefit’ so that it attracts a tax offset. This is consistent with the income tax treatment of equivalent social security allowances.

Recipients of FHA may be entitled to other amounts, some of which (for example, rent assistance, remote area allowance, pharmaceutical allowance) will be generally exempt from income tax.

Amendments to social security law to support the FHA – items 97, 100-101, 131, 133

The Bill amends the Social Security Act (**items 59-92**) and the Social Security Administration Act (**items 94-133**) for the purposes described above.

The following items support specifically the implementation of the FHA by amending the Social Security Administration Act to:

- include the two supplements payable under the FHA (activity supplement and farm financial assessment supplement) in the definition of ‘payment of lump sum benefit’ (**item 97**)
- provide for the payment of the two supplements payable under the FHA (**item 100**)
- add the FHA to the ‘notice to obtain foreign payment’ provisions; to ensure that an individual who has reached pension age is not entitled to both the FHA and a comparable foreign payment (**item 101**)
- provide that the meaning of the two supplements payable under the FHA have the same meaning as in the FHS 2014 (**items 131 and 133**).

Miscellaneous

Item 3

This item replaces the current exemption from the unlawful age discrimination provisions in the *Age Discrimination Act 2004* in relation to things done in direct compliance with the FHS 1992 regarding redundant payments and schemes with an equivalent exemption in relation to things done in direct compliance with the relevant provisions of the FHS 2014 regarding the FHA.

Item 94

This item removes a provision in the Social Security Administration Act that allows Secretaries of the Departments of Agriculture and Social Security to agree on administrative arrangements to further the objectives of section 26 and 27 of the Social Security Act. These provisions originally dealt with the giving of financial hardship certificates to farmers, but have since been repealed. Consequently, this provision is no longer necessary.

Items 107 and 110

These items amend the provisions in the Social Security Administration Act governing the internal review of decisions made under the FHS 1992. (**Items 108 and 111** substitute references to ‘under the FHS 1992’ with ‘under or in relation to the FHS 2014’.) The amendments clarify that a decision made personally by the Agriculture Minister or the Secretary of the Agriculture Department under or in relation to the FHS 2014 is not reviewable by the

Secretary of the Department of Social Services. Otherwise, the usual review mechanisms apply. The Secretary of the Department of Social Services can still review decisions made by a delegate of the Secretary of the Agriculture Department under the FHS 2014.

Item 113

This item removes provisions in the Social Security Administration Act that prevent the Social Security Appeals Tribunal (SSAT) from reviewing certain decisions under the FHS 1992. The SSAT can generally review decisions made under the social security law and this amendment reflects that the FHS aligns with the social security law where possible.

Application provisions – items 2, 6, 9, 24, 26, 56, 58, 93, 134

Items 2, 6, 9, 24, 26, 58, 93, 134 provide that, despite the amendment or repeal of the following provisions by Schedule 2 of the Bill, those provisions continue to apply (in relation to specific things) as if those amendments or repeals had not occurred:

- definition of ‘income support payment’ in clause 1 of Schedule 1 to the *Aged Care Act 1997* (**item 2**)
- amendments of the *A New Tax System (Family Assistance) (Administration) Act 1999* (**item 6**)
- the secrecy provisions in section 119; and the protection of confidential information provisions in clause 43 of Schedule 2 to the *Dairy Produce Act 1986* (**items 9 and 24**)
- the cancellation of units provisions regarding a dairy exit payment in clause 53 of Schedule 2 to the *Dairy Produce Act 1986* (**item 26**)
- Definition of ‘Commonwealth income support payment’ in subsection 64(7) to the *Small Superannuation Accounts Act 1995* (**item 58**)
- sections 573A, 916D; and the overpayment and debt recovery provisions in Parts 5.2 and 5.3 of the Social Security Act (**item 93**)
- the information gathering provisions in sections 193 and 194; and the confidentiality provisions in Part 5, Division 3 of the Social Security Administration Act (**item 134**).

These items provide for the necessary saving of these provisions to account for existing payments and debts due; decisions; and the recording or disclosure of information or the production of a document.

Item 56 provides for amendments made by **items 31-55** to taxation legislation apply in relation to payments made after this item commences that do not relate to the period before commencement, unless provided for otherwise.

Schedule 2, Part 2 – Contingent amendments

Schedule 2, Part 2 includes contingent amendments to a number of Bills which are currently before Parliament, including the FHS Bill; as well as amendments to provisions in the ITAA 1997 and the Social Security Act regarding the operation of, and repeal of references to, a payment of TFFP and IFHA.

Items 139 and 140 remove references to ‘farmers hardship bonus’ in the *Minerals Resource Rent Tax Repeal and Other Measures Act 2014* and the *Social Security Act 1991 if the Farm Household Support (Consequential and Transitional Provisions) Act 2014* commences before the *Minerals Resource Rent Tax Repeal and Other Measures Act 2014*.

Items 141 and 142 remove references to ‘farmers hardship bonus’ in the *Social Security Act 1991 if the Farm Household Support (Consequential and Transitional Provisions) Act 2014* commences after the *Minerals Resource Rent Tax Repeal and Other Measures Act 2014*.

Item 142 is contingent on passage of the *Social Security Legislation Amendment (Increased Employment Participation) Act 2014* and inserts a new table item 1A in section 95 of the *Farm Household Support Act 2014*. Item 1A refers to paragraph 861(1)(a) of the Social Security Act. Section 95 of the FHS Bill modifies particular provisions of the Social Security Act for the purpose of the FHA. (The explanatory memorandum to the FHS Bill explains the operation of FHS Bill section 95.) The *Social Security Legislation Amendment (Increased Employment Participation) Act 2014* amends the Social Security Act to provide for the ‘job commitment bonus’, including qualification requirements under section 861. This item provides that references to newstart allowance or youth allowance in paragraph 861(1)(a) do not include a reference to FHA. (The reference to ‘income support payment’ in subsections 861(2) and (4) include a reference to FHA.)

Items 143 to 146 insert references to a payment of TFFP and IFHA in the exempt income provisions in the ITAA 1997 and the qualification for income support bonus provisions in the Social Security Act.

Items 147 to 151 repeal references to a payment of TFFP and IFHA in the exempt income provisions in the ITAA 1997 and the qualification for income support bonus provisions in the Social Security Act.

Schedule 3 – Transitional provisions

Item 1 provides that recipients of existing farmer income support payments or former income support payments, including Interim Income Support and ECRP, who qualify for the FHA can have the ordinary waiting period of 13 weeks under section 40 of the FHS Bill waived. This provision facilitates a smooth transition for recipients and former recipients from these payments to the FHA following passage of the FHS Bill and the FHSCT Bill.

Item 2 provides for the Minister to make transitional rules regarding amendments or repeals made by the FHSCT Bill; or enactment of the FHS Bill or the FHSCT Bill. Transitional rules may be necessary to provide for saving or application provisions in relation to the FHSA 2014 or the social security Acts, as well as to facilitate a smooth transition for income support recipients and former recipients from TFFP and IFHS to the FHA.