

2004-2005-2006-2007

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Farm Household Support Amendment  
Bill 2007**

**No.     , 2007**

*(Agriculture, Fisheries and Forestry)*

**A Bill for an Act to amend legislation in relation to  
exceptional circumstances relief payment, and for  
other purposes**

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1     **A Bill for an Act to amend legislation in relation to**  
2     **exceptional circumstances relief payment, and for**  
3     **other purposes**

4     The Parliament of Australia enacts:

5     **1 Short title**

6                     This Act may be cited as the *Farm Household Support Amendment*  
7                     *Act 2007*.

8     **2 Commencement**

9                     This Act commences on the day on which it receives the Royal  
10                     Assent.

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### **3 Schedule(s)**

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Each Act that is specified in a Schedule to this Act is amended or

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repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect

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according to its terms.

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*Farm Household Support Amendment Bill 2007* No. , 2007

1  
2 **Schedule 1—Amendments relating to**  
3 **exceptional circumstances relief**  
4 **payment**

5 **Part 1—Amendment of the Farm Household Support**  
6 **Act 1992**

7 *Farm Household Support Act 1992*

8 **1 At the end of paragraph (c) of the title**

9 Add “and to certain small business operators”.

10 **2 Subsection 3(2)**

11 Insert:

12 *ABN* (short for Australian Business Number) has the meaning  
13 given by section 41 of the *A New Tax System (Australian Business*  
14 *Number) Act 1999*.

15 **3 Subsection 3(2) (definition of exempt assets)**

16 Repeal the definition, substitute:

17 *exempt assets* means:

- 18 (a) if a person is a farmer:
- 19 (i) any right or interest of the person in the land used for  
20 the purposes of the farm enterprise in relation to which  
21 the person is a farmer; and
- 22 (ii) any farm plant and machinery, farm livestock or other  
23 asset essential for the effective running of the farm  
24 enterprise; and
- 25 (iii) any rights of the person under an insurance policy in  
26 relation to the person’s life or under a superannuation  
27 scheme; and
- 28 (b) if a person carries on a small business:
- 29 (i) any right or interest of the person in land used for the  
30 purposes of the business; and
- 31 (ii) any plant and machinery, stock or other asset essential  
32 for the effective running of the business; and

- 1 (iii) any rights of the person under an insurance policy in  
2 relation to the person's life or under a superannuation  
3 scheme.

4 **4 Subsection 3(2)**

5 Insert:

6 *small business* means a business with less than 100 employees.

7 Note: Subsection (3) sets out how this is to be worked out where there are  
8 part-time employees.

9 **5 At the end of section 3**

10 Add:

- 11 (3) In counting employees for the purposes of the definition of *small*  
12 *business* in subsection (2), take part-time employees into account  
13 as an appropriate fraction of a full-time equivalent.

14 **6 Subsection 6(1)**

15 Repeal the subsection, substitute:

16 *Object of exceptional circumstances relief payment*

- 17 (1) The object of exceptional circumstances relief payment is:  
18 (a) to provide financial assistance to persons who:  
19 (i) are farmers; and  
20 (ii) are in exceptional circumstances; and  
21 (iii) are experiencing difficulty in meeting living expenses;  
22 and  
23 (b) to provide financial assistance to persons who:  
24 (i) carry on a small business, gross income from which has  
25 been significantly reduced because of the effect of  
26 exceptional circumstances on farm enterprises in the  
27 area from which the income of the business is normally  
28 derived; and  
29 (ii) are experiencing difficulty in meeting living expenses.

30 **7 Part 1A (heading)**

31 Repeal the heading, substitute:

1 **Part 1A—Ending farm household support, farm**  
2 **help income support and exceptional**  
3 **circumstances relief payments for small**  
4 **businesses**

5 **8 At the end of Part 1A**

6 Add:

7 **6C Ending exceptional circumstances relief payments for small**  
8 **businesses**

9 Exceptional circumstances relief payment is not payable to a  
10 person who qualifies for the payment under subsection 8A(5) in  
11 respect of any period that is after 30 June 2008, or such later day as  
12 is prescribed.

13 **9 Sub-subparagraph 8A(1)(b)(i)(D)**

14 Repeal the sub-subparagraph.

15 **10 At the end of section 8A**

16 Add:

17 *Qualification—small business operators*

18 (5) A person is qualified for exceptional circumstances relief payment  
19 in respect of a period beginning on or after 7 November 2006 (the  
20 *relevant period*) if:

- 21 (a) the person is an individual; and  
22 (b) throughout the relevant period:  
23 (i) the person carries on a small business in respect of  
24 which there is an ABN; and  
25 (ii) the person has a right or interest in the small business;  
26 and  
27 (iii) the person contributes a significant part of his or her  
28 labour and capital to the business; and  
29 (iv) the person derives a significant part of his or her income  
30 from the business; and  
31 (v) the person is an Australian resident; and

**Schedule 1** Amendments relating to exceptional circumstances relief payment  
**Part 1** Amendment of the Farm Household Support Act 1992

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- 1 (vi) the person is in Australia; and  
2 (c) during an earlier period of normal turnover, 70% or more of  
3 the gross income of the business was derived from the supply  
4 of goods or services to farmers for use in relation to farm  
5 enterprises; and  
6 (d) the farm enterprises were situated wholly or partly within an  
7 area that, throughout the relevant period, is covered by a  
8 declaration of exceptional circumstances (as referred to in  
9 paragraph 8(c) of the *Rural Adjustment Act 1992*); and  
10 (e) the gross income of the business has been significantly  
11 reduced because of the effect of the exceptional  
12 circumstances in relation to which the declaration was made  
13 on farm enterprises in that area.

14 *Earlier period of normal turnover*

- 15 (6) An earlier period of normal turnover is:  
16 (a) a continuous period of 2 years within the 7 years immediately  
17 preceding the relevant period; or  
18 (b) if the business has not been carried on for a continuous  
19 period of 2 years within the 7 years immediately preceding  
20 the relevant period—the period during which the business  
21 has been carried on.

22 Note: The heading to subsection 8A(1) is altered by adding at the end “—farmers”.

23 **11 Paragraph 10(3)(a)**

24 Repeal the paragraph, substitute:

- 25 (a) working out the person’s assets at that time that are not  
26 exempt assets for the purposes of this Act:  
27 (i) in a case where a person qualifies for exceptional  
28 circumstances relief payment under subsection 8A(1)  
29 and makes a claim for payment on the basis that the  
30 person qualifies under that subsection—because the  
31 person is a farmer; and  
32 (ii) in a case where a person qualifies for exceptional  
33 circumstances relief payment only under subsection  
34 8A(5) and makes a claim for payment on the basis that  
35 the person qualifies under that subsection—because the  
36 person carries on a small business; and

- 1 (iii) in a case where a person qualifies for exceptional  
2 circumstances relief payment under subsection 8A(5)  
3 and, but for subparagraph 8A(1)(b)(i)(C), would also  
4 qualify under subsection 8A(1) for the payment—  
5 because the person carries on a small business and  
6 because the person is a farmer; and  
7 (iv) in any other case—because the person is a farmer; and

8 **12 At the end of section 12**

9 Add:

- 10 (7) Exceptional circumstances relief payment is not payable to a  
11 person on the basis that the person qualifies for the payment under  
12 subsection 8A(1) if the person is receiving, or has received, the  
13 payment on the basis that the person qualifies or qualified for the  
14 payment under subsection 8A(5).
- 15 (8) Exceptional circumstances relief payment is not payable to a  
16 person on the basis that the person qualifies for the payment under  
17 subsection 8A(5) if the person is receiving, or has received, the  
18 payment on the basis that the person qualifies or qualified for the  
19 payment under subsection 8A(1).

20 **13 Subsection 24A(1)**

21 After “payable to a person”, insert “who qualifies for the payment under  
22 subsection 8A(1)”.

23 Note: The heading to section 24A is altered by adding at the end “**for farmers**”.

24 **14 Subsection 24A(2)**

25 After “for the purposes of this Act”, insert “because the person is a  
26 farmer”.

27 **15 After section 24A**

28 Insert:

29 **24AA Rate of exceptional circumstances relief payment—how**  
30 **worked out for small business operators**

- 31 (1) The fortnightly rate at which exceptional circumstances relief  
32 payment is payable to a person who qualifies for the payment  
33 under subsection 8A(5) is the sum of the following rates:

**Schedule 1** Amendments relating to exceptional circumstances relief payment  
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- 1 (a) the fortnightly rate at which:  
2 (i) if the person is of youth allowance age—youth  
3 allowance would be payable to the person if he or she  
4 were entitled to receive youth allowance; or  
5 (ii) if the person is not of youth allowance age—newstart  
6 allowance would be payable to the person if he or she  
7 were entitled to receive newstart allowance;  
8 (b) if the person is a member of a couple and the partner  
9 allowance rate in relation to the person’s partner exceeds the  
10 income support payment rate in relation to the person’s  
11 partner—the fortnightly rate that is the difference between  
12 those rates.
- 13 (2) For the purposes of subsection (1):
- 14 ***income support payment rate***, in relation to a person’s partner,  
15 means the fortnightly rate at which that partner is receiving one (if  
16 any) of the following payments:  
17 (a) social security pension;  
18 (b) a social security benefit (except newstart allowance or youth  
19 allowance);  
20 (c) a pension under Part II, III or IV of the *Veterans’*  
21 *Entitlements Act 1986*.
- 22 ***partner allowance rate***, in relation to a person’s partner, means the  
23 fortnightly rate at which:  
24 (a) that partner is receiving partner allowance; or  
25 (b) partner allowance would be payable to that partner if that  
26 partner were entitled to receive partner allowance.
- 27 (3) For the purposes of calculating a rate referred to in this section, the  
28 value of assets that are exempt assets for the purposes of this Act  
29 because the person carries on a small business is to be disregarded.
- 30 (4) If, but for subsubparagraph 8A(1)(b)(i)(C), the person would also  
31 qualify for exceptional circumstances relief payment under  
32 subsection 8A(1), then, for the purposes of calculating a rate  
33 referred to in this section, the value of assets that are exempt assets  
34 for the purposes of this Act because the person is a farmer is also to  
35 be disregarded.

1                    *\$10,000 in salary and wages from other sources disregarded—*  
2                    *whole financial years*

- 3                    (5) For the purposes of calculating a rate referred to in subsection (1)  
4                    for a person, for a fortnight all or part of which falls during:  
5                    (a) the 2006-07 financial year; or  
6                    (b) the 2007-08 financial year; or  
7                    (c) if 30 June in a later year is prescribed as the closing day for  
8                    the purposes of this section, a later financial year that ends at  
9                    the end of that closing day;

10                    disregard the salary and wages of the person from other sources or,  
11                    if the person is a member of a couple, the salary and wages of the  
12                    person and the person's partner from other sources, in the amount  
13                    worked out under subsection (6).

- 14                    (6) Disregard the lesser of:

- 15                    (a) the total amount of salary and wages of the person from other  
16                    sources or, if the person is a member of a couple, of the  
17                    person and the person's partner from other sources for the  
18                    fortnight; and  
19                    (b) the amount worked out using the following formula:

20                    
$$\frac{\$10,000 - \text{Amount previously disregarded in that financial year}}{\text{Number of days remaining in that financial year}} \times \frac{\text{Number of days in the fortnight that fall within that financial year}}{\text{Number of days remaining in that financial year}}$$

21                    where:

22                    ***amount previously disregarded in that financial year*** means  
23                    the total amount of salary and wages of the person from other  
24                    sources or, if the person is a member of a couple, of the  
25                    person and the person's partner from other sources already  
26                    disregarded in calculating a rate referred to in subsection (1)  
27                    for the person for fortnights that fall in whole or in part in  
28                    that financial year, because of a previous application, or  
29                    previous applications, of this subsection and subsection (5).

30                    ***number of days remaining in that financial year*** means the  
31                    number of days in the period beginning at the start of the  
32                    fortnight, and ending at the end of 30 June in that financial  
33                    year.

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1                    *\$10,000 in salary and wages from other sources disregarded—part*  
2                    *financial years*

3                    (7) If a closing day is prescribed for the purposes of this section that is  
4                    not 30 June, then, for the purposes of calculating a rate referred to  
5                    in subsection (1) for a person, for a fortnight all or part of which  
6                    falls during the period:

7                    (a) beginning at the start of the immediately preceding 1 July;  
8                    and

9                    (b) ending at the end of the closing day;

10                   disregard the salary and wages of the person from other sources or,  
11                   if the person is a member of a couple, the salary and wages of the  
12                   person and the person's partner from other sources, in the amount  
13                   worked out under subsection (8).

14                   (8) Disregard the lesser of:

15                   (a) the total amount of salary and wages of the person from other  
16                   sources or, if the person is a member of a couple, of the  
17                   person and the person's partner from other sources for the  
18                   fortnight; and

19                   (b) the amount worked out using the following formula:

20                   
$$\left( \frac{\$10,000 \times \text{Total number of days in the period}}{365} - \text{Amount previously disregarded in the period} \right) \times \frac{\text{Number of days in the fortnight that fall within the period}}{\text{Number of days remaining in the period}}$$

21                   where:

22                   ***amount previously disregarded in the period*** means the total  
23                   amount of salary and wages of the person from other sources  
24                   or, if the person is a member of a couple, of the person and  
25                   the person's partner from other sources already disregarded  
26                   in calculating a rate referred to in subsection (1) for the  
27                   person for fortnights that fall in whole or in part in the period,  
28                   because of a previous application, or previous applications,  
29                   of this subsection and subsection (7).

30                   ***number of days remaining in the period*** means the number  
31                   of days in the period beginning at the start of the fortnight,  
32                   and ending at the end of the closing day.

1           (9) A person's *salary and wages from other sources* are salary and  
2           wages that are not earned from work that is in any way related to  
3           the small business carried on by the person or, where the person is  
4           a member of a couple, the person's partner.

5           **16 Subsection 24B(3)**

6           After "for the purposes of this Act", insert "because the person is a  
7           farmer".

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2 **Part 2—Consequential amendments**

3 ***Age Discrimination Act 2004***

4 **17 Paragraph 41(2AA)(a)**

5 After “24A”, insert “, 24AA”.

6 ***Social Security Act 1991***

7 **18 Section 547F**

8 Repeal the section, substitute:

9 **547F Exclusion of certain assets that are exempt under the *Farm***  
10 ***Household Support Act 1992***

11 (1) If:

12 (a) an exceptional circumstances certificate referred to in  
13 section 8A of the *Farm Household Support Act 1992* was  
14 issued in respect of a person; and

15 (b) the certificate has effect;

16 the person’s assets do not include any asset that is an exempt asset  
17 in respect of the person for the purposes of that Act because the  
18 person is a farmer.

19 (2) The person’s assets do not include any asset that is an exempt asset  
20 in respect of the person for the purposes of the *Farm Household*  
21 *Support Act 1992*:

22 (a) in a case where:

23 (i) the person is receiving exceptional circumstances relief  
24 payment because the person qualifies for the payment  
25 only under subsection 8A(5) of that Act; and

26 (ii) paragraph (b) does not apply;  
27 because the person carries on a small business; and

28 (b) in a case where the person:

29 (i) is receiving exceptional circumstances relief payment  
30 because the person qualifies for the payment under  
31 subsection 8A(5) of that Act; and

- 1 (ii) but for subparagraph 8A(1)(b)(i)(C) of that Act,  
2 would also qualify under subsection 8A(1) of that Act  
3 for the payment;  
4 because the person carries on a small business and the person  
5 is a farmer.

6 **19 Section 573E**

7 Repeal the section, substitute:

8 **573E Exclusion of certain assets that are exempt under the *Farm***  
9 ***Household Support Act 1992***

- 10 (1) If:  
11 (a) an exceptional circumstances certificate referred to in  
12 section 8A of the *Farm Household Support Act 1992* was  
13 issued in respect of a person; and  
14 (b) the certificate has effect;  
15 the person's assets do not include any asset that is an exempt asset  
16 in respect of the person for the purposes of that Act because the  
17 person is a farmer.
- 18 (2) The person's assets do not include any asset that is an exempt asset  
19 in respect of the person for the purposes of the *Farm Household*  
20 *Support Act 1992*:  
21 (a) in a case where:  
22 (i) the person is receiving exceptional circumstances relief  
23 payment because the person qualifies for the payment  
24 only under subsection 8A(5) of that Act; and  
25 (ii) paragraph (b) does not apply;  
26 because the person carries on a small business; and  
27 (b) in a case where the person:  
28 (i) is receiving exceptional circumstances relief payment  
29 because the person qualifies for the payment under  
30 subsection 8A(5) of that Act; and  
31 (ii) but for subparagraph 8A(1)(b)(i)(C) of that Act,  
32 would also qualify under subsection 8A(1) of that Act  
33 for the payment;  
34 because the person carries on a small business and the person  
35 is a farmer.

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2 **Part 3—Transitional provisions**

3 **20 Definition**

4 In this Part:

5 *commencing day* means the day on which this Act commences.

6 *Principal Act* means the *Farm Household Support Act 1992*.

7 *Secretary* has the same meaning as in the Principal Act.

8 **21 Person already receiving payment in the nature of**  
9 **exceptional circumstances relief payment**

10 (1) This item applies if, immediately before the commencing day, a person  
11 is receiving a payment on the basis that the following are satisfied:

12 (a) qualification criteria similar to those in subsection 8A(5) of  
13 the Principal Act, inserted by item 10 of this Schedule;

14 (b) payability criteria similar to those in Division 2 of Part 2 of  
15 the Principal Act.

16 (2) The following applies:

17 (a) the person is taken to have made a proper claim for  
18 exceptional circumstances relief payment for the purposes of  
19 Part 3 of the Principal Act;

20 (b) the Secretary is taken to have made a determination under  
21 subsection 19(2) of the Principal Act, with effect from the  
22 start of the commencing day, that the claim is granted at the  
23 rate at which payment was received immediately before the  
24 commencing day;

25 (c) the Secretary is taken to have made a determination in  
26 writing under subsection 10(1) of the Principal Act (the  
27 *assets determination*), with effect from the start of the  
28 commencing day, that the value of the person's assets does  
29 not exceed the person's asset value limit;

30 (d) unless sooner revoked, the assets determination continues to  
31 have effect:

32 (i) if the next determination in respect of the person's  
33 assets takes effect less than 6 months after the  
34 commencing day—until that determination takes effect;  
35 or

- 1 (ii) if subparagraph (i) does not apply—until the end of 6  
2 months from the commencing day.
- 3 (3) The Secretary may, by determination in writing, revoke or vary a  
4 determination that:
- 5 (a) because of paragraph (2)(b), the Secretary is taken to have  
6 made under subsection 19(2) of the Principal Act; or  
7 (b) because of paragraph (2)(c), the Secretary is taken to have  
8 made under subsection 10(1) of the Principal Act;
- 9 in circumstances in which the Secretary could have revoked or varied a  
10 determination actually made under those subsections.
- 11 (4) Sections 53 and 53A of the Principal Act apply in relation to a  
12 determination under subitem (3) in the same way as they apply in  
13 relation to a determination under subsection 19(2) or 10(1) of the  
14 Principal Act.
- 15 (5) A determination made under subitem (3) is not a legislative instrument.

16 **22 Person applying for payment in the nature of exceptional**  
17 **circumstances relief before commencement**

- 18 (1) This item applies if, before the commencing day, a person applies for a  
19 payment on the basis that the following are satisfied:
- 20 (a) qualification criteria similar to those in subsection 8A(5) of  
21 the Principal Act, inserted by item 10 of this Schedule;  
22 (b) payability criteria similar to those in Division 2 of Part 2 of  
23 the Principal Act;
- 24 but is not receiving payment on that basis immediately before the  
25 commencing day.
- 26 (2) The person is taken to have made a proper claim for exceptional  
27 circumstances relief payment for the purposes of Part 3 of the Principal  
28 Act, and to have made the claim on the commencing day.

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## **Schedule 2—Other amendments of the Farm Household Support Act 1992**

### ***Farm Household Support Act 1992***

#### **1 Subparagraph 7(a)(ii)**

7 Repeal the subparagraph.

#### **2 Subsection 21(4)**

9 Omit “under section 21A or 22”.

#### **3 Sections 21A and 22**

11 Repeal the sections.