

DROUGHT RELIEF PAYMENT ACT 1994
No. 125 of 1994

LONG TITLE

An Act to amend the Farm Household Support Act 1992, the Health Insurance Act 1973, the Income Tax Assessment Act 1936 and the Social Security Act 1991, and for related purposes

Short title

1. This Act may be cited as the Drought Relief Payment Act 1994.

(Minister's second reading speech made in-
House of Representatives on 11 October 1994
Senate on 12 October 1994)

Commencement

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

Amendments

3. The Acts specified in the Schedule are amended in accordance with the applicable items in the Schedule, and the other items in the Schedule have effect according to their terms.

SCHEDULE

Section 3

PART 1-FARM HOUSEHOLD SUPPORT ACT 1992

Division 1-Amendments

1. Title:

Repeal the title, substitute:

"An Act relating to:

- (a) the provision of income support to primary producers without a long-term productive, sustainable and profitable future in the sector; and
- (b) the provision of relief payments to primary producers who are in exceptional circumstances due to extreme drought".

2. Subsection 3(1):

Insert:

" 'family payment'
'RAS authority' ".

3. Section 6:

Add at the end:

"; and

- (c) to provide financial assistance to farmers who:
 - (i) are experiencing difficulty in meeting living expenses; and
 - (ii) are in exceptional circumstances due to extreme drought".

4. Part 2 (heading):

Add at the end "OR DROUGHT RELIEF PAYMENT".

5. Division 1 of Part 2 (heading):

Add at the end "for farm household support".

6. After Division 1 of Part 2:

Insert:

"Division 1A-Qualification for drought relief payment

Qualification for drought relief payment

Qualification

"8A.(1) A person is qualified for drought relief payment in respect of a period if:

- (a) the period begins on or after 1 October 1994; and
- (b) throughout the period:
 - (i) the person:
 - (A) is a farmer; and
 - (B) is at least 18; and
 - (C) is an Australian resident; and
 - (D) is in Australia; and
 - (ii) a drought exceptional circumstances certificate issued in respect of the person has effect.

Certificate

"(2) For the purposes of this section, a drought exceptional circumstances certificate issued in respect of the person is a certificate that:

- (a) is called a drought exceptional circumstances certificate; and
- (b) was issued to the person by a RAS authority on or after 7 October 1994 under a memorandum of understanding between the RAS authority and the Secretary to the Department of Primary Industries and Energy; and
- (c) relates to the farm enterprise, or any of the farm enterprises, in respect of which the person is a farmer."

7. Division 2 of Part 2 (heading):

After "support" insert "or drought relief payment".

8. Before paragraph 9(a):

Insert:

"(aa) drought relief payment is payable to the person (see section 9A); or".

9. Section 9:

Add at the end:

"(2) Drought relief payment is not payable to a person for a period during which the person is qualified for drought relief payment if, during that period:

- (a) no determination by the Secretary that the value of the person's assets does not exceed the person's assets value limit has effect (see section 10); or
- (b) the person is a full-time student (see section 11); or
- (c) another support payment is being paid to the person (see section 12); or
- (d) the person is receiving income that is paid by a community or group from funds provided under a Commonwealth funded employment program (see section 13)."

10. After section 9:

Insert:

Farm household support not payable if drought relief payment is payable

"9A. Farm household support is not, and is taken never to have been, payable to a person for a period if the person is receiving, or has received, drought relief payment in respect of that period.

Note: See Part 8A for additional rules about the suspension of farm household support where drought relief payment is payable."

11. Subsection 10(1):

Omit "Farm household support is not", substitute "Neither farm household support nor drought relief payment is".

12. Paragraphs 10(2)(a) and (b):

After "farm household support" insert "or drought relief payment".

13. Subsection 11(1):

Omit "farm household support is not", substitute "neither farm household support nor drought relief payment is".

14. Subsection 11(2):

After "farm household support" insert "or drought relief payment, as the case requires,".

15. Subsections 12(1), (3), (4) and (5):

Omit "Farm household support is not", substitute "Neither farm household support nor drought relief payment is".

16. Subsection 12(2):

Omit "farm household support is not", substitute "neither farm household support nor drought relief payment is".

17. Subsection 12(6):

After "farm household support" insert "or drought relief payment, as the case requires,".

18. Section 13:

Omit "Farm household support is not", substitute "Neither farm household support nor drought relief payment is".

19. Part 3 (heading):

Add at the end "OR DROUGHT RELIEF PAYMENT".

20. Subsection 14(1):

After "farm household support" insert "or drought relief payment".

21. Subsection 14(1):

After "that support" insert "or for that payment, as the case requires".

22. Paragraph 14(2)(a):

After "farm household support" insert "or drought relief payment".

23. Paragraph 14(2)(b):

After "farm household support" insert "or drought relief payment, as the case requires".

24. Paragraph 15(b):

Omit the paragraph, substitute:

- "(b) be in accordance with a form approved in writing by:
 - (i) in the case of a claim for farm household support-the Secretary to the Department of Primary Industries and Energy; or
 - (ii) in the case of a claim for drought relief payment-the Secretary."

25. Section 19:

After "granted if" insert "the claim is for farm household support and".

26. Section 19:

Add at the end:

"(2) The Secretary is to determine that the claim is to be granted if the claim is for drought relief payment and the Secretary is satisfied that:

(a) the person is qualified for drought relief payment; and

(b) no provision of this Act makes the payment not payable to the person."

27. Paragraphs 20(2)(a), (3)(a) and (4)(a):

After "farm household support" insert "or drought relief payment".

28. Part 4 (heading):

Add at the end "OR DROUGHT RELIEF PAYMENT".

29. Division 1 of Part 4 (heading):

Omit the heading, substitute:

"Division 1-Rate of farm household support

"Subdivision A-Maximum fortnightly rate".

30. Section 22:

Add at the end:

"(2) For the purposes of calculating a rate referred to in subsection (1), the value of assets that are exempt assets for the purposes of this Act is to be disregarded."

31. Division 2 of Part 4 (heading):

Omit the heading, substitute:

"Subdivision B-Applicable rate".

32. After section 24:

Insert:

"Division 2-Rate of drought relief payment

Rate of drought relief payment-how worked out

"24A.(1) The rate at which drought relief payment is payable to a person is the sum of the following amounts:

(a) the fortnightly rate at which job search allowance would be payable to the person if the person were entitled to receive job search allowance;

(b) if the person is a member of a couple-the fortnightly rate at which partner allowance would be payable to the person's partner if the partner were entitled to receive partner allowance;

(c) if the person is not in receipt of family payment-the fortnightly rate at which family payment would be payable to the person if the person were in receipt of family payment.

"(2) For the purposes of calculating a rate referred to in subsection (1), the value of assets that are exempt assets for the purposes of this Act is to be disregarded."

33. Part 5 (heading):

Add at the end "OR DROUGHT RELIEF PAYMENT".

34. Section 25:

Add at the end:

"(2) Drought relief payment becomes payable to a person on the day on which the Secretary's determination that the person's claim for drought relief payment is to be granted takes effect (see section 20)."

35. After section 26:

Insert:

Drought relief payment to be by way of grant

"26A. Drought relief payment is paid to a person by way of grant of financial assistance to the person."

36. Subsection 28(1):

After "Farm household support" insert "or drought relief payment".

37. Section 29:

After "instalment" insert "of farm household support".

38. After section 29:

Insert:

Amount of instalments of drought relief payment

"29A. The instalment of drought relief payment payable for a period to a person is worked out using the formula:

The person's rate of drought X Week days in period relief payment 10

Note: For the person's rate, see section 24A."

39. Subsection 31(1):

After "farm household support" insert "or drought relief payment".

40. Section 33:

After "farm household support" insert "or drought relief payment".

41. Section 37:

After "29" insert ", to the extent to which those Parts and sections deal with qualification for, or payments of, farm household support,".

42. Subsection 41(1):

After "farm household support" insert "or drought relief payment".

43. Subsection 41(2):

After "farm household support" insert "or drought relief payment, as the case requires,".

44. Subsection 42(1):

After "farm household support" insert "or drought relief payment".

45. Subsection 42(1):

Omit "allowance", substitute "support or the drought relief payment, as the case requires,".

46. Part 8 (heading):

Add at the end "OR DROUGHT RELIEF PAYMENT".

47. Subsections 43(1) and (2):

After "farm household support" (first occurring) insert "or drought relief payment".

48. Subsections 43(1) and (2):

After "farm household support" (second occurring) insert "or drought relief payment, as the case requires,".

49. Paragraph 44(a):

After "farm household support" insert "or drought relief payment".

50. Subparagraph 44(e)(i):

After "farm household support" insert "or drought relief payment, as the case requires".

51. Subparagraph 44(e)(ii) and paragraph 44(f):

After "farm household support" insert "or drought relief payment, as the case requires,".

52. Section 44:

Omit "farm household support continues", substitute "farm household support or drought relief payment, as the case requires, continues".

53. Paragraph 45(a):

After "farm household support" insert "or drought relief payment".

54. Subparagraph 45(e)(i):

After "farm household support" insert "or drought relief payment, as the case requires".

55. Subparagraph 45(e)(ii):

After "farm household support" insert "or drought relief payment, as the case requires,".

56. Section 45:

Omit "farm household support ceases", substitute "farm household support or drought relief payment, as the case requires, ceases".

57. Paragraph 46(1)(a):

After "farm household support" insert "or drought relief payment".

58. Paragraph 46(1)(b):

After "support" insert "or that drought relief payment, as the case requires,".

59. Subsection 46(1):

After "the support" insert "or the drought relief payment, as the case requires".

60. Section 47:

After "farm household support" (first occurring) insert "or drought relief payment".

61. Section 47:

Omit "farm household support, farm household support", substitute "farm household support or drought relief payment, as the case requires, then farm household support or drought relief payment, as the case requires,".

62. Section 48:

Add at the end:

"(2) Drought relief payment ceases to be payable to a person if:

- (a) the person asks the Secretary in writing to stop paying instalments of drought relief payment to him or her; or
- (b) the person ceases to be qualified for drought relief payment."

63. Section 49:

After "farm household support" (first occurring) insert "or drought relief payment".

64. Paragraphs 49(a) and (b):

After "farm household support" insert "or drought relief payment, as the case requires,".

65. After section 49:

Insert:

"PART 8A-SUSPENSION OF FARM HOUSEHOLD SUPPORT IF DROUGHT
RELIEF PAYMENT IS PAYABLE

Farm household support ceases to be payable if drought relief payment is payable

"49A. Farm household support ceases, and is taken to have ceased, to be payable to a person at the beginning of a period if the person is receiving, or has received, drought relief payment in respect of that period.

Suspension of farm household support where drought relief payment is payable-Division 2 of Part 6 not applicable

When section applies

"49B.(1) This section applies to a person if:

- (a) at a particular time (the 'original FHS cessation time'), farm household support ceases, or ceased, to be payable to the person because drought relief payment becomes, or became, payable to the person; and
- (b) at a later time (the 'DRP cessation time'), drought relief payment ceases to be payable to the person; and
- (c) immediately before the original FHS cessation time, the person was not qualified for farm household support under Division 2 of Part 6.

Note: Division 2 of Part 6 deals with certain former RAS (Part C) beneficiaries.

Deemed claim for farm household support

"(2) The person is taken to have made a proper claim (the 'new FHS claim') for farm household support under Part 3 immediately after the DRP cessation time.

Continuity of declarations etc.

"(3) If the Secretary determines under section 19 that the new FHS claim is to be granted, a declaration, direction or notice in force in relation to the person under section 23, 32 or 41 immediately before the original FHS cessation time has effect, in relation to farm household support payable as a result of the new FHS claim, as if the declaration, direction or notice, as the case requires, had been given immediately after the determination takes effect.

Deferral of repayments

"(4) For the purposes of subsection 50(1), the time at which farm household support ceased to be payable to the person as mentioned in subsection (1) of this section is taken to be:

- (a) if the new FHS claim is granted-when farm household support payable to the person as a result of the new FHS claim ceases to be payable; or
- (b) in any other case-the DRP cessation time; instead of the original FHS cessation time.

Extension of grant period

"(5) For the purposes of the application of sections 5 and 52 to the person:

- (a) the start of the person's grant period is to be worked out as if farm household support were payable to the person throughout the period (the 'interim period'):
 - (i) beginning at the original FHS cessation time; and
 - (ii) ending at the DRP cessation time; and
- (b) a period of 9 months or 2 years referred to in either of those sections is to be increased by one day for each whole day in the interim period.

Suspension of farm household support where drought relief payment is payable-Division 2 of Part 6 applicable

When section applies

"49C.(1) This section applies to a person if:

- (a) at a particular time (the 'original FHS cessation time'), farm household support ceases, or ceased, to be payable to the person because drought relief payment becomes, or became, payable to the person; and
- (b) at a later time (the 'DRP cessation time'), drought relief payment ceases to be payable to the person; and
- (c) immediately before the original FHS cessation time, the person was qualified for farm household support under Division 2 of Part 6.

Note: Division 2 of Part 6 deals with certain former RAS (Part C) beneficiaries.

Resumption of entitlement to farm household support

"(2) If the person is still qualified for farm household support under Division 2 of Part 6 immediately before the DRP cessation time, the person's entitlement to farm household support under Division 2 of Part 6 resumes immediately after the DRP cessation time. Continuity of directions etc.

"(3) If the person's entitlement to farm household support resumes as mentioned in subsection (2), a direction or notice in force in relation to the person under section 32 or 41 immediately before the original FHS cessation time has effect, in relation to farm household support payable as a result of the resumption, as if the direction or notice, as the case requires, had been given immediately after the resumption.

Deferral of repayments

"(4) For the purposes of subsection 50(2), the time at which farm household support ceased to be payable to the person as mentioned in subsection (1) of this section is taken to be the time when farm household support payable to the person as a result of the resumption ceases to be payable, instead of the original FHS cessation time.

Extension of grant period

"(5) For the purposes of the application of sections 5 and 52 to the person, a period of 9 months or 2 years referred to in either of those sections is to be increased by one day for each whole day in the period:

- (a) beginning at the original FHS cessation time; and
- (b) ending at the DRP cessation time.

Continuity of the person's status as a former RAS (Part C) beneficiary

"(6) For the purposes of paragraph (b) of the definition of 'former RAS (Part C) beneficiary' in subsection 3(2), and for the purposes of subsection 34(3), the person is taken to have been in receipt of farm household support throughout the period:

- (a) beginning at the original FHS cessation time; and
- (b) ending at the DRP cessation time."

66. Part 9 (heading):

Add at the end "OF FARM HOUSEHOLD SUPPORT".

67. Paragraphs 54(1)(a), (b) and (c):

After "farm household support" insert "or drought relief payment".

68. Paragraph 54(1)(a):

After "the support" insert "or the payment, as the case requires".

69. Subsection 54(1):

Add at the end:

"; or (e) the rate at which drought relief payment is, or was, payable.".

70. Paragraph 54(11)(b):

Omit "for a pension, benefit or allowance".

71. Paragraph 54(11)(c):

Omit "of a pension, benefit or allowance".

72. Section 55:

Omit "Farm household support is", substitute "Both farm household support and drought relief payment are".

73. Section 56:

After "farm household support" (first occurring) insert "or drought relief payment".

74. Paragraphs 56(a) and (b):

After "farm household support" insert "or drought relief payment, as the case requires,".

75. Paragraph 56(c):

Before "the amount" insert "in the case of an amount purporting to be an amount of farm household support-".

76. Paragraph 56(c):

Add at the end "or".

77. After paragraph 56(c):

Insert:

- "(d) in the case of an amount purporting to be an amount of drought relief payment-the amount was part of a payment made because the drought relief payment payable to the person in respect of that period was calculated at a rate higher than the rate at which it should have been calculated;".

78. Section 57:

Add at the end:

"(3) Drought relief payment is to be paid out of the Consolidated Revenue Fund, which is appropriated accordingly.".

Division 2-Transitional provisions

79. Transitional-drought relief payment claim forms

(1) This item applies if, after 21 September 1994 and before the commencement of this item, an officer of the Department purported to approve a claim form for drought relief payment.

(2) The form has effect, for the purposes of the Farm Household Support Act 1992, as if it had been approved by the Secretary under section 15 of that Act immediately after the commencement of this item.

80. Transitional-lodgment of claims

(1) This item applies if, after 21 September 1994 and before the commencement of this item:

- (a) a person purported to lodge a claim for drought relief payment; and
- (b) assuming that the claim had been lodged immediately after the commencement of this item, it would have complied with sections 15 and 16 of the Farm Household Support Act 1992.

(2) The claim has effect, for the purposes of the Farm Household Support Act 1992, as if:

- (a) it had been made under Part 3 of that Act immediately after the commencement of this item; and
- (b) it had complied with sections 15 and 16 of that Act.

81. Transitional-set-off of overpayments of farm household support

(1) If:

- (a) an amount purporting to be an amount of farm household support payable under the Farm Household Support Act 1992 was paid to a person after 21 September 1994 and before the commencement of this item; and
- (b) because of section 9A or 49A of that Act, the amount so paid was not payable to the person; and
- (c) the amount so paid is recoverable as a debt due to the Commonwealth under section 56 of the Farm Household Support Act 1992; the amount so paid may be deducted

from one or more instalments of drought relief payment payable to the person under that Act.

(2) If a deduction is made from an instalment of drought relief payment, the instalment is taken to have been paid in full to the person.

82. Transitional-set-off of pre-commencement "drought relief payment"

(1) This item applies if, after 21 September 1994 and before the commencement of this item, a person was paid an amount described as "drought relief payment" out of money appropriated under an Appropriation Act.

(2) The amount is to be deducted from one or more instalments of drought relief payment payable to the person under the Farm Household Support Act 1992.

(3) If a deduction is made from an instalment of drought relief payment, the instalment is taken to have been paid in full to the person.

83. Transitional-farm household support claim forms An approval in force under paragraph 15(b) of the Farm Household Support Act 1992 immediately before the commencement of this item has effect, after that commencement, as if it had been given under subparagraph 15(b)(i) of that Act.

PART 2-HEALTH INSURANCE ACT 1973

84. Subsection 3(1) (paragraph (aa) of the definition of "dependant"):

After "4D" insert "or 5DA".

85. Subsection 3(13):

After "5D" insert ", 5DA".

86. After section 5D:

Insert:

Disadvantaged persons, being persons in receipt of drought relief payment

Original declaration

"5DA.(1) If:

(a) drought relief payment is payable to a person in respect of a period (the 'DRP period') beginning on or after 1 October 1994; and

(b) there is no declaration in force under this section in respect of the person;

the Secretary must declare the person to be a disadvantaged person within the meaning of this section in respect of a period specified in the declaration. The specified period is to be a period of 12 weeks beginning at the start of the DRP period.

Subsequent declarations

"(2) If:

(a) a declaration (the 'original declaration') under this section is in force in respect of a person; and

(b) drought relief payment is payable to the person immediately before the end of the period specified in the original declaration;

the Secretary must declare the person to be a disadvantaged person within the meaning of this section in respect of a period specified in the declaration. The specified period is to be a period of 12 weeks beginning at the end of the period specified in the original declaration.

Declarations to be in writing etc.

"(3) A declaration under subsection (1) or (2) is to be in writing and notice of it is to be given to the person concerned.

Definitions

"(4) In this section:

'drought relief payment' means drought relief payment under the Farm Household Support Act 1992;

'Secretary' means the Secretary to the Department of Social Security."

87. Subsection 5G(1):

After "5D," insert "5DA,".

88. Section 5H:

After "5D" insert ", 5DA".

PART 3-INCOME TAX ASSESSMENT ACT 1936

89. Section 24AAA:

Add at the end of the table the following entry:

Drought relief payment under the Farm Household Support Act 1992

Subdivision IA 24AIA - 24AIB

90. After section 24AI:

Insert:

"Subdivision IA-Exemption from income tax-drought relief payment under the Farm Household Support Act 1992

Interpretation-supplementary amounts

"24AIA.(1) For the purpose of applying this Subdivision to an instalment of drought relief payment under the Farm Household Support Act 1992 derived by a taxpayer, the supplementary amounts are as follows:

- (a) so much of the instalment as was included in the instalment because the taxpayer or the partner of the taxpayer paid rent;
- (b) so much of the instalment as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been an instalment of job search allowance under the Social Security Act 1991 instead of an instalment of drought relief payment;
- (c) so much of the instalment as was included in the instalment because of paragraph 24A(1)(c) of the Farm Household Support Act 1992.

"(2) A reference in subsection (1) to a partner includes a reference to a deceased partner.

"(3) In this section:

'partner' has the same meaning as in the Farm Household Support Act 1992.

Drought relief payment

"24AIB.(1) The treatment of instalments of drought relief payment under the Farm Household Support Act 1992 is as follows:

- (a) the supplementary amount is exempt;
- (b) the balance is not exempt.

"(2) Payments under paragraph 49(b) of the Farm Household Support Act 1992 are exempt to the extent to which they are attributable to an instalment of drought relief payment under that Act."

91. Subsection 79A(4) (definition of "prescribed allowance"):

Omit the definition, substitute:

" 'prescribed allowance' means:

- (a) so much of a payment under the Social Security Act 1991 or the Veterans' Entitlements Act 1986 as was included in the payment by way of remote area allowance; or
- (b) so much of an instalment of drought relief payment under the Farm Household Support Act 1992 as is equal to the amount (if any) that would have been included in the instalment by way of remote area allowance if it were assumed that the instalment had been an instalment of job search allowance under the Social Security Act 1991 instead of an instalment of drought relief payment;"

92. Subsection 160AAA(1) (after paragraph (d) of the definition of "rebatable benefit"):

Insert:

"(da) paid by way of drought relief payment under the Farm Household Support Act 1992; or"

93. Application

The amendments made by this Part apply to amounts paid after the commencement of this item.

PART 4-SOCIAL SECURITY ACT 1991

94. After paragraph 1250(1)(d):

Insert:

"(da) under subsection 7A(2) or paragraph 15(b) of the Farm Household Support Act 1992 (memorandum of understanding and form of claim); or".

NOTE ABOUT SECTION HEADINGS

1. Upon the commencement of this Act, the headings to sections of the Farm Household Support Act 1992 are altered as follows:

- (a) the heading to section 9 is altered by inserting "or drought relief payment" after "farm household support";
- (b) the heading to section 10 is altered by omitting "allowance" and substituting "farm household support or drought relief payment";
- (c) the heading to section 25 is altered by adding at the end "or drought relief payment";
- (d) the heading to section 29 is altered by adding at the end "of farm household support";
- (e) the heading to section 42 is altered by adding at the end "or drought relief payment";
- (f) the heading to section 47 is altered by adding at the end "or drought relief payment";
- (g) the heading to section 55 is altered by inserting "and drought relief payment" after "Farm household support".