For further information

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<td>Email</td>
<td><a href="mailto:fha@agriculture.gov.au">fha@agriculture.gov.au</a></td>
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| Post      | Farm Household Allowance Policy and Legislation Section  
Department of Agriculture and Water Resources  
GPO Box 858  
CANBERRA CITY ACT 2601 |
Using the guidelines to Farm Household Allowance

These guidelines are designed to provide a high-level view of the policy for Farm Household Allowance and are to be read in conjunction with the relevant legislation.

NOTE: This version of the guidelines is issued as at October 2018. It includes recent legislative changes relating to the extension of Farm Household Allowance to four cumulative years, along with some other amendments.

For ease of reference the following abbreviations are used in these guidelines.

Table 1 Use of abbreviations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full name</th>
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<tr>
<td>ATO</td>
<td>Australian Taxation Office</td>
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<tr>
<td>AWOTE</td>
<td>average weekly ordinary time earnings</td>
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<td>DHS</td>
<td>Department of Human Services</td>
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<td>FFA</td>
<td>Farm Financial Assessment</td>
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<td>FHA</td>
<td>Farm Household Allowance</td>
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<td>FHS Act</td>
<td>Farm Household Support Act 2014</td>
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<td>RA</td>
<td>Financial Improvement Agreement</td>
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<td>FTB</td>
<td>Family Tax Benefit</td>
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<td>HCC</td>
<td>Health Care Card</td>
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<tr>
<td>IMP</td>
<td>income maintenance period</td>
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<tr>
<td>LAWP</td>
<td>liquid asset waiting period</td>
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<td>NARWP</td>
<td>newly arrived resident’s waiting period</td>
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<tr>
<td>OWP</td>
<td>ordinary waiting period</td>
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<tr>
<td>PhA</td>
<td>Pharmaceutical Allowance</td>
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<td>RA</td>
<td>Rent Assistance</td>
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<tr>
<td>RAA</td>
<td>Remote Area Allowance</td>
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<tr>
<td>SS(Admin)Act</td>
<td>Social Security (Administration) Act 1999</td>
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<tr>
<td>SWPP</td>
<td>seasonal worker preclusion period</td>
</tr>
<tr>
<td>TAL</td>
<td>Telephone Allowance</td>
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Introduction

The Farm Household Allowance (FHA) provides fortnightly income support to farmers and their partners up to a maximum of four cumulative years (1,460 days of payment) while they take action to address their long-term financial security. It is paid at the same rate as Newstart Allowance (unless a recipient is under 22 years of age, in which case it will be paid at the applicable rate of the Youth Allowance). This four-year period will provide recipients with sufficient time to develop strategies for self-reliance and create an incentive to make significant business decisions where the farm business is unsustainable.

Setting a limit is also in line with the 2009 Productivity Commission report on Government Drought Support, which recommended a time limit to discourage dependence on social security.

FHA applicants must be willing to undertake activities to improve their self-reliance in order to qualify for payment. These activities will be agreed between a recipient and their case officer. Activities, such as training courses, should help recipients to either improve their income from on-farm activities or improve their prospects of gaining work outside the farm. The activity framework aims to promote active decision-making, leading to improved self-reliance.


The aim of the referencing system is to minimise administrative complexity but allow for alignment with social security legislation where appropriate. The legislation (and the legislative instruments created under it) details all aspects of the FHA, including the qualification requirements, payability settings and the reciprocal obligations framework. For the purpose of FHA, where a provision of the SSAct or SS(Admin)Act applies in relation to Newstart or Youth Allowance, it generally applies in relation to FHA, unless the provision has been replaced, modified or turned off in the FHS Act or the FHSCTP Act.
1 Qualification

A person may qualify for FHA as a farmer, or, in situations where one member of a couple is not a farmer, they may qualify as a farmer’s partner.

2 Overview of qualification criteria as a farmer

To qualify for FHA as a farmer a person must meet the following criteria:

a) the person is a farmer; and
b) the person contributes a significant part of his or her labour and capital to a farm enterprise; and
c) the farm enterprise has a significant commercial purpose or character; and
d) the land that is used for the purposes of the farm enterprise is in Australia; and
e) the person has turned 16; and
f) the person is an Australian resident, and is in Australia; and
g) either:
   i) the person has indicated, in writing, that they are willing to enter into, and comply with, a financial improvement agreement; or
   ii) a financial improvement agreement is in force in relation to the person; and
h) the person’s cumulative period of Farm Household Allowance is four years or less.

This section describes the 8 criteria a person must meet to qualify for FHA as a farmer.

2.1 Definition of a farmer

For the purpose of FHA, a farmer means a person who:

a) has a right or interest in land; and
b) uses the land wholly or mainly for the purposes of a farm enterprise.

The definition of a ‘farmer’ captures individuals who have a right or interest in land used for the purposes of a farm enterprise. However, a person does not need to have total financial or legal control of the farm land to meet the definition. A person may meet the definition of a farmer if they have any legal or equitable interest in the land. For example, sharefarmers (individuals who have entered into an agreement to contribute resources to a farm enterprise in return for a share of profits) may meet the definition of a farmer.

The land must be used for the purposes of an enterprise carried on within any of the agricultural, horticultural, pastoral, apicultural or aquacultural industries.
2.1.1 Right or Interest in land
A person may have a right or interest in land including in the following ways:

- Ownership of land
- Leasing of land
- Sharefarming
- Through private companies and trusts which own land
- Apiarists.

Ownership of land
A right or interest in the land can be established by ownership of the land, or a right to use the land under an agreement with the owner. This may include an interest by virtue of intra-family arrangements.

Leasing of land
A lessee has an interest in land usually supported through a formal contract.

Sharefarming
Individuals involved in a sharefarming arrangement can demonstrate that they have a right or interest in the land through a sharefarming agreement – where they have agreed to contribute resources to a farm enterprise in return for a share of profits.

Private companies and trusts
Where a private company, private trust or partnership owns the land, a person has a right or interest in the land if they are a shareholder of the company, a beneficiary of the trust or a member of the partnership. If a farmer leases land from their self-managed superannuation fund, they hold a right or interest in the land.

Apiarists
Individuals involved in bee keeping activities can demonstrate that they have a right or interest in the land if they can demonstrate that they have an agreement with the land owner to keep their hives on that land.

2.1.2 Farm Enterprise
The farm enterprise is the business associated with the farm land, and is distinct from the farm land.

The definition of a farm enterprise is an enterprise carried on within the agricultural, horticultural, pastoral, apicultural or aquacultural industries. A farm enterprise may include these activities, defined under the Australian Taxation Office Tax Ruling 97/11:

- cultivation or propagation of plants, fungi or their products or parts (including seeds, spores, bulbs and similar things) in any physical environment
- maintenance of animals for the purpose of selling them or their bodily produce, including natural increase
- manufacturing of dairy produce from raw materials produced by the business.

**Carbon Farming**

The definition of a farm enterprise can include circumstances where a farmer has set aside a portion of the farm as part of a ‘carbon farming’ activity, including biodiverse carbon plantings or revegetation, as this is considered as falling within the practice of the agricultural industry. However, any asset used for this activity could be a farm asset for the purposes of the assets test, if it satisfied the definition of a farm asset in the FHS Act. It would be expected that these activities take place as part of a wider livestock or cropping enterprise and an enterprise that only undertook carbon farming plantings would not be considered as a farm enterprise (it is unlikely that this would occur in practice).

**Farm Enterprise - Exclusions**

It is a long-standing policy of the Australian Government that forestry, while a primary production activity, is not considered to be an activity falling within the agricultural, horticultural, pastoral, apicultural or aquacultural industries.

An enterprise run as a forestry business does not meet the definition of a ‘farm enterprise’ for the purpose of FHA. Therefore individuals who have a right or interest in land used wholly or mainly for forestry purposes do not meet the definition of a ‘farmer’ on that basis.

It should be noted that ‘carbon farming’ plantings differ from commercial forestry plantings in that they are not undertaken with the intention of future harvesting (as any carbon sequestered in the vegetation is lost if the plantings are harvested).

See information in Section 19 of the Guidelines related to the assessment of assets used to undertake forestry activities.

Similarly, hunters and wild-catch fishers do not meet the definition of a farmer for FHA purposes. While they have broad stewardship responsibilities for the resources and land they operate, they do not have a right or interest in the land they use for the purpose of undertaking a farm enterprise as defined in the FHS Act. Hunters and wild-catch fishers have a greater opportunity to move elsewhere to make a living from the same or other work, than those who farm the land.

*Act reference: Farm Household Support Act 2014 section 5*

**2.2 Labour, capital and income considerations**

The requirement of a significant labour and capital contribution can be assessed on a case-by-case basis according to the current circumstances that the individual is subject to. Depending on the commodity or the climatic conditions, there are likely to be times when a farmer is not required to be physically present on farm and can take advantage of that opportunity to gain off-farm employment for a period. While this person is not physically present, providing that on balance they have met the significant labour and capital contribution, they may continue to qualify as a farmer.
However, this requirement is designed to prevent either hobby farmers or people who are wholly or substantially absent farmers claiming payment.

An absent farmer could be a person who is living in a nursing home. A resident in a nursing homes who is taken to the property on occasion and hand fed some animals does not meet the threshold of ‘significant labour’.

In addition, considering the farm enterprise separately from any other employment or business carried on by the farmer addresses the issue that during times of significant business stress it is likely that off-farm income will play a much greater role in supporting the farming enterprise. The income test provisions are the proper mechanism to determine when and how farmers in this position should be paid, rather than relying on a catch-all definition that disadvantages those who have proactively sought to diversify their operations and spread their risk.

**Act reference:** *Farm Household Support Act 2014 section 8*

**Effective control**

A farmer is required to be in effective control of the relevant farm or farm enterprise in order to qualify, and remain qualified, for the payment. Examples of cases in which it may be considered that an individual is not effectively in control of a farm or farm enterprise are when a mortgagee has taken possession of a farm, when an individual is a bankrupt or when an eviction notice has been served on an individual in respect of a farm.

Note: This requirement is not intended to exclude sharefarmers who may not have full managerial control of the farm enterprise under their sharefarming agreement.

**Act reference:** *Farm Household Support Act 2014 section 12*

**Significant labour**

This section describes provisions for determining contribution of significant labour to the farm enterprise. It covers:

- assessment of significant labour
- temporary illness or injury.

**Assessment of significant labour**

The purpose of the significant labour qualification requirement is to exclude individuals who meet the definition of a ‘farmer’ but whose principal occupation is not farming. The requirement excludes absent farmers, such as a farmer who is in a nursing home or a silent investor in a farm enterprise.

An assessment should examine the applicant’s time spent working the farm enterprise as compared with his or her other activities (for example, off-farm employment).

The assessment of significant labour does not require a defined proportion of labour for the qualification requirement to be satisfied. Rather, it is determined on a case-by-case basis.

As the farm enterprise is distinct from the farm land, a person may meet the qualification requirement that they contribute a significant part of their labour to a farm enterprise even if
they do not undertake physical labour on the farm, such as milking the cows or driving the tractor. Labour includes non-physical activities, such as financial and administrative management of the farm enterprise. For example, where the farm enterprise is operated as a partnership and one member is largely responsible for the physical labour and another for the book work the person who is responsible for the book work may still qualify because he or she contributes a significant part of his or her labour and capital to a farm enterprise. Domestic duties are not farm labour.

**Act reference:** *Farm Household Support Act 2014* section 8(b)

**Example of a farmer who does not meet the labour test:** An individual has a one-third share of a vineyard and only contributes labour to the vineyard for a few days each year. The individual receives a wage for their labour like other vineyard employees. Compared to their principal occupation as a mechanic, this individual does not contribute a significant part of their labour to the farm enterprise, so would not be eligible for FHA.

**Temporary illness or injury**

Where a farmer is incapacitated by a temporary illness or injury which results in an exemption from the activity test, they will be taken to contribute a significant part of their labour to a farm enterprise if, immediately prior to the temporary illness or injury, they had been contributing a significant part of their labour to a farm enterprise.

**Act reference:** *Farm Household Support Act 2014* section 11 and section 31

**Significant capital**

The purpose of the capital qualification requirement is to exclude individuals who meet the definition of ‘farmer’ but who do not have a significant financial investment in the farm business. Such people are better positioned to claim social security payments targeted at non-farmers as their assets are unlikely to preclude them from other payments.

**Assessment of significant capital**

The assessment of significant capital does not require a defined proportion of capital for the qualification requirement to be satisfied. Rather, it is determined on a case-by-case basis. Assessment of significant capital contribution is in comparison to other capital and liabilities the farmer holds.

The assessment of capital examines only the applicant’s contributions of capital to the farm business, and is not a comparison of the total contribution of capital where other individuals are also involved in the farm business.

**Example of a farmer who does not meet the capital test:** An individual is given a small share of approximately $1,000 in their family’s farm enterprise, and also holds $100,000 in other property assets. The individual works full-time on the family farm and receives approximately $25,000 per year from the farm profits for their labour. While they have a right or interest in the farm enterprise and contribute significant labour, this person does not qualify for FHA as they do not contribute significant capital to the farm enterprise; their investment in the farm being $1,000 in comparison to their other capital assets of $100,000.
Act reference: Farm Household Support Act 2014 section 8(b)

2.3 Farm Enterprise – Assessment of significant commercial purpose or character

The farm enterprise to which a person or their partner contributes a significant part of his or her labour and capital must have a significant commercial purpose or character. This requirement prevents ‘hobby farmers’ from qualifying for payment. The intention of FHA is to support farmers and their partners who do not have an alternative source of income on which to draw for self-support.

When determining if a farm enterprise has a significant commercial purpose or character the following matters must be taken into account:

a) whether a business plan has been drawn up for the farm enterprise;

b) if the person or the person’s partner (where the person is not a farmer) is not an expert in respect of the farm enterprise:
   i) whether relevant expert advice has been sought about the farm enterprise from a relevant authority, an experienced farmer or an agent; or
   ii) whether relevant technical literature on the farm enterprise has been obtained;

c) whether it has been established that the land that is used for the purposes of the farm enterprise is suitable for the farm enterprise, including by analysing soil and water samples;

d) whether the person or the person’s partner (where the person is not a farmer) has:
   i) considered if there is a commercial market, or a potential commercial market, for the farm enterprise; and
   ii) investigated the capital requirements of the farm enterprise, including by planning how capital for the farm enterprise will be obtained and used; and
   iii) conducted research into the farm enterprise confirming (based on market prospects, the expected level of production, and the running costs, of the farm enterprise) that profits can be expected; and
   iv) ensured the size and scale of the farm enterprise is sufficient for a commercial enterprise;

e) whether legal requirements required to operate the farm enterprise on a commercial basis have been, or could at the appropriate time be, complied with;

f) whether there is:
   i) an intention to make a profit in respect of the farm enterprise; and
   ii) a reasonable belief that the farm enterprise is likely to generate a profit.

Act reference: Farm Household Support Act 2014 section 8(c); Farm Household Support Secretary’s Rule 2014 section 5
3 Overview of qualification criteria as a partner

This section outlines the qualification criteria for FHA if an individual is not a farmer, but is the partner of a farmer. Where both members of a couple are farmers, they may both qualify under the farmer criteria. A person's eligibility as a farmer should be assessed prior to assessing their eligibility as a partner of a farmer. This is because a person cannot qualify for FHA as a farmer's partner if they qualify as a farmer under section 8 of the FHS Act.

A person may qualify for FHA as the partner of a farmer even if the farmer is not receiving, or does not qualify for FHA under section 8 of the FHS Act. However, their partner (the farmer) must meet the definition of ‘farmer’ in section 5, and satisfy relevant qualification criteria set out under section 9 of the FHS Act.

Qualification criteria

To qualify for payment as a farmer’s partner a person must meet the following criteria:

a) the person is not qualified for farm household allowance under section 8; and
b) the person is a member of a couple; and
c) the person’s partner is a farmer; and
d) the farmer contributes a significant part of his or her labour and capital to a farm enterprise; and
e) the farm enterprise has a significant commercial purpose or character; and
f) the land that is used for the purposes of the farm enterprise is in Australia; and

g) the farmer resides in Australia; and

h) the person is an Australian resident, and is in Australia; and

i) either:
   i) the person has indicated, in writing, that the person is willing to enter into, and comply with, a financial improvement agreement; or
   ii) a financial improvement agreement is in force in relation to the person; and

j) the person’s cumulative period of farm household allowance is 3 years or less.

If the person or the person’s partner ceases to meet any one or more of the requirements set out in section 9 of the FHS Act, at that point in time the person ceases to qualify for FHA as a ‘partner of a farmer’ under section 9 of the FHS Act. This includes if the person ceases to be a member of a couple, or if the person’s partner ceases to:

- meet the definition of farmer;
- contribute a significant part of their labour and capital to a farm enterprise; or
- reside in Australia.

(See section 3.2 and 3.3 of the FHA Guidelines for information about grace periods).
3.1 Definition of ‘member of a couple’ and ‘partner’
To satisfy the qualification requirements in paragraphs 9(b) and (c) of the FHS Act, a person must be a member of a couple, and their partner – the other member of the couple – must be a farmer, as defined in section 5 of the FHS Act.

A person is a member of a couple if they are legally married to, in a registered relationship with, or in a de facto relationship with another person, whether of the same sex or a different sex; and they are not living separately and apart from the other person on a permanent or indefinite basis. In determining whether a person is a member of a couple, consideration must be given to the financial aspects of the relationship, the nature of the household, the social aspects of the relationship, any sexual relationship between the people, and the nature of their commitment to each other.

A partner in relation to an individual who is a member of a couple is the other member of the couple.

This excludes former partners from whom they have separated, whether they were legally married or otherwise.

Act reference Farm Household Support Act 2014 section 9, Social Security Act 1991 section 4

3.2 Grace period – gaol or psychiatric confinement
Where an individual was qualified to receive FHA as the partner of a farmer, and their partner is subject to either imprisonment or psychiatric confinement (and would therefore fail to be contributing a significant part of his or her labour or capital to the farm enterprise), the individual will continue to qualify to receive the payment for a further 14 weeks. The period of 14 weeks commences from the date that the individual would have ceased to qualify for FHA due to the imprisonment or committal to psychiatric confinement.

Prior to the application of this grace period, the individual should first be assessed to determine if they now qualify as a farmer under section 8.

At the end of this grace period, if their partner is still subject to imprisonment or psychiatric confinement, the individual will no longer qualify for payment.

Act reference Farm Household Support Act 2014 section 10

3.3 Grace period – end of relationship
Where an individual is qualified to receive FHA as the partner of a farmer, and the individual ceases to be a member of a couple with the farmer (including due to the death of the farmer), the individual will continue to qualify to receive the payment for a further 14 weeks. The period of 14 weeks commences from the date that the individual would have ceased to be qualified for payment due to the relationship ending.

Prior to the application of this grace period, the individual should first be assessed to determine if they now qualify as a farmer under section 8.

Act reference: Farm Household Support Act 2014 section 10
4 Entering into a Financial Improvement Agreement

Applicants for FHA must indicate in writing that they are willing to enter into and comply with a Financial Improvement Agreement (FIA). The Secretary has the power to require that a person enter into an FIA.

An FIA is a planning tool for farmers and their partners to work towards improving their capacity for self-reliance.

The applicant or recipient must enter into an FIA within 28 days of notification that they are required to do so, however an extension of up to a further 28 days may be granted. Where an individual has not entered into an FIA by the due date, the Secretary may determine that they have committed a qualification failure, which means FHA ceases to be payable and will result in the person ceasing to qualify for FHA if they do not enter into a FIA within 13 weeks. (see section 22 of the FHA Guidelines for more information about FIAs).

Act reference: Farm Household Support Act 2014 section 9; section 14; section 71

5 Cumulative eligibility

Time on payment

Individuals can receive FHA for a cumulative period of up to four years (counted as 1,460 days). There is no limitation on the timeframe over which an individual can be paid and the period(s) of support do not need to be consecutive.

A person’s cumulative period of FHA is the total number of days for which a person qualified for FHA and FHA is payable to a person. This includes non-consecutive days and days when the person qualifies as either a farmer or a partner of a farmer. FHA is not payable to an individual if they would receive a nil allowance rate. This means that when a person’s allowance rate for a day is nil, the day does not count towards their four cumulative years of FHA.

However, if a person’s allowance rate has been reduced to nil on a day only because the person had been paid an advance of the pharmaceutical allowance, FHA is still payable and this day counts towards the individual’s four cumulative years of FHA.

Waiting periods served by an individual are not counted for the purpose of calculating their four years of entitlement.

Debt

If a debt is raised that results in FHA not being payable to a person on a day, this day does not count towards the person’s cumulative period of FHA.

Act reference: Farm Household Support Act 2014, section 6, 8(h), 9(j), 37
6 Residence requirements

It is a qualification requirement for FHA that an individual must be an Australian resident and be in Australia. To be an Australian resident, an individual must:

a) reside in Australia, and
b) be one of the following:
   i) an Australian citizen, or
   ii) the holder of a permanent visa, or
   iii) a Special Category Visa (SCV) holder who is a protected SCV holder.

Act reference: *Farm Household Support Act 2014* section 8(f) and 9(h), *Social Security Act 1991* section 7(2)

Note: From 1 July 2016, under the federal normalisation reforms, eligibility for FHA is extended to residents of Norfolk Island as an Australian territory.

For general information on residency refer to the Guide to Social Security Law
7 Waiting periods

NOTE: Recent changes to the FHA has removed the requirement for new FHA recipients to serve an OWP and the LAWP. The Newly Arrived Resident’s Waiting Period remains in effect.

If a new claim has been lodged on or after 5 April 2017, applicants will not need to serve the OWP or the LAWP. If a claim was lodged before 5 April 2017, and a decision has not yet been made on the application, the OWP and the LAWP will not apply to the application. If, however, a decision has already been made concerning the application the OWP and the LAWP may need to be served, depending on personal circumstances.

Individuals qualifying for FHA are subject to waiting periods under the FHS Act. FHA is not payable until all the relevant waiting periods have ended. Waiting periods served by an individual are not counted for the purpose of calculating their four year cumulative period of FHA. Circumstances where a waiting period applies are explored in further detail throughout this section.

Concurrent waiting periods

If more than one waiting period applies to a recipient, FHA is not payable until all the waiting periods have ended. In these cases, the waiting periods are served concurrently and the end date is the day on which the longest period ends.

Exception: A liquid assets test waiting period (LAWP) is always served before an ordinary waiting period (OWP), as these cannot be served concurrently.

Waiver of waiting periods

Recipients who are or would be in severe financial hardship can have certain waiting periods waived, in part or full, as indicated in Table 2.

Table 2 Waiver of waiting periods

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<thead>
<tr>
<th>Name of Period</th>
<th>Details of Waiver</th>
</tr>
</thead>
<tbody>
<tr>
<td>Liquid assets test waiting period</td>
<td>Part or full</td>
</tr>
<tr>
<td>Ordinary waiting period</td>
<td>Part or full</td>
</tr>
</tbody>
</table>

The recipient may seek a waiver on severe financial hardship grounds, when claiming FHA or while serving a waiting period. If granted, the waiver should take effect from the date the recipient claimed severe financial hardship.

Exemption from waiting periods

Recipients can be exempted from some waiting periods in specified circumstances.

For information on the exemption from waiting periods refer to the [Guide to Social Security Law](#).

Act reference: Farm Household Support Act 2014 Part 2, Division 6, Subdivision C

For general information on the application of waiting periods refer to the [Guide to Social Security Law](#).
7.1 Liquid assets test waiting period

Summary

The liquid assets test waiting period (LAWP) applies to recipients whose liquid assets exceed a specified amount on the date of their claim for FHA. The LAWP can vary from 1 to 13 weeks in duration depending on:

a) the value of the recipient's liquid assets; and
b) whether they are a member of a couple; and
c) whether they have dependent children.

Act reference Farm Household Support Act Act 2014 Part 2, Division 6, Subdivision C

Date of commencement for the LAWP

The LAWP commences on the day the person claims farm household allowance.

Calculating the LAWP

The LAWP is calculated differently depending on whether the recipient is single or a member of a couple or has a dependent child. This is explained in Table 3.

Table 3 Calculating the LAWP

<table>
<thead>
<tr>
<th>If the recipient is…</th>
<th>Then the LAWP is calculated by…</th>
</tr>
</thead>
<tbody>
<tr>
<td>a member of a couple, AND/OR has a dependent child,</td>
<td>liquid assets minus the maximum reserve amount (see below), divided by $1,000.</td>
</tr>
<tr>
<td>NOT a member of a couple AND does NOT have a dependent child,</td>
<td>liquid assets minus the maximum reserve amount (see below), divided by $500.</td>
</tr>
</tbody>
</table>

The maximum reserve amounts are:

- $11,000 for a recipient who is a member of a couple and/or has a dependent child
- $5,500 for a recipient who is not a member of a couple and does not have a dependent child.

Note: If the recipient is a member of a couple, the recipient's liquid assets include those of their partner as per the definition of liquid assets provided in Guide to Social Security Law 1.1.L.50

Duration of LAWP

The result of the calculation is the duration of the LAWP, as explained in Table 4.

Table 4 Duration of the LAWP

<table>
<thead>
<tr>
<th>If the result is…</th>
<th>Then the LAWP is…</th>
</tr>
</thead>
<tbody>
<tr>
<td>13 or more</td>
<td>13 weeks</td>
</tr>
<tr>
<td>less than 13</td>
<td>the whole number of weeks, with fractions rounded down to the nearest whole week</td>
</tr>
<tr>
<td>less than one</td>
<td>not served at all</td>
</tr>
</tbody>
</table>
Waiving the LAWP

The LAWP may be waived in full or in part when the Secretary is satisfied that the applicant or recipient is or would otherwise be in severe financial hardship as a result of substantiated unavoidable or reasonable expenditure.

For the purposes of FHA, unavoidable or reasonable expenditure may include upcoming business expenses. A recipient is required to provide substantiate the expenditure for a waiver to be granted.

Examples of what may be considered reasonable expenditure include the reasonable cost of living is an amount deemed by the delegate to be appropriate to the recipient's circumstances. The deemed amount cannot be exceeded. Reasonable costs of living cannot exceed the maximum rate of payment that the recipient would be entitled to.

**Act reference:** *Farm Household Support Act 2014* section 46

For general information on Waiting Periods refer to the [Guide to Social Security Law](#).

### 7.2 Treatment of liquid assets

The value of a recipient's liquid assets determines the duration of the LAWP they will serve.

This section explains the treatment of liquid assets for the purposes of the LAWP of:

- amounts from former employers
- gifts and transfer of liquid assets
- proceeds from the sale of a home
- voluntary one-off payments of non-housing debts
- GST liabilities.

**Amounts from former employers**

Any amount due and able to be paid by a former employer of the person is considered to be a liquid asset, except for amounts that are rolled over.

*Exception:* *Amounts owed to a recipient by a former employer whose assets are frozen because of bankruptcy or litigation.*

**Gifts and transfer of liquid assets**

If a recipient or their partner makes a gift, or transfers their liquid assets to a natural or adopted child within four weeks prior to claiming, the assets are included in calculating the recipient’s liquid asset level. While delegates have some discretion in the application of this provision, it would especially apply if:

a) the recipient or their partner does not receive adequate consideration in money, or money's worth, for their transfer; or

b) the delegate is satisfied that the purpose or dominant purpose of the transfer was so the recipient could obtain FHA.


When proceeds from sale of home are not liquid assets

A recipient or their partner can sell their principal home and have the proceeds disregarded as liquid assets for a period of up to 12 months from the date of sale if:

a) the home that was sold was their residential home; and
b) they are likely to use some or all of the proceeds of the sale to buy another principal home to live in within 12 months from the date of sale.

When voluntary one-off payments of non-housing debts are not liquid assets

A recipient or their partner can make one voluntary payment on a debt or on a number of debts after becoming unemployed or incapacitated, with the non-compulsory amount/s being disregarded in calculating the recipient's liquid asset level. This applies only if:

a) the debt is not related to the principal home or any other residential property; and
b) the payment is voluntary, (i.e. more than the minimum payment); and
c) the payment is the first voluntary payment made on that debt since the recipient became unemployed or incapacitated.

Example: A person has an outstanding credit card balance of $2,000. The minimum payment is $25. Recipient pays balance in full. Liquid assets are reduced by $1,975.

The payment can still be disregarded if the recipient makes the payment while serving a LAWP – that is, after the claim is processed. In this case, the claim may need reassessing to reduce the length of the LAWP.

A one-off debt payment cannot be disregarded if the payment is made after the LAWP has been served. In this case there is no need to reassess the claim.

GST liabilities

Where a recipient is holding net GST liabilities, these amounts will be exempt amounts for the purpose of calculating the LAWP.

Explanation: The net liability is the GST collected less the input tax credits, which are deducted from the amount payable to the ATO.

The person must supply evidence of GST registration otherwise the amounts will be included in the calculation of the LAWP.

The recipient must supply evidence at the end of the payment cycle that the amount was paid to the ATO otherwise an overpayment will be raised and debt recovery will commence.

Explanation: The onus is on the recipient to provide evidence of GST registration if they want their net GST liabilities to be exempt from the LAWP calculation.

Note: GST liabilities are payable to the ATO monthly, quarterly or annually, depending on the business turnover. However, the ATO has advised that businesses can submit their GST liabilities more frequently if they choose to do so. The ATO provides personalised payment books to businesses if they feel that they would prefer to use the weekly or monthly payment options.
However, the recipient should not be compelled to pay their GST more frequently than required by the ATO to exempt the amount for the purpose of calculating the LAWp.

**Recalculating the LAWp**

If the LAWp is recalculated following the voluntary payment of a debt, the calculation should be based solely on the liquid asset amount that was determined at the time of claim, less the payment. Any other expenditure since the date of claim that is not covered by the exempt assets provisions should not further reduce the liquid assets amount.

**Example:** A single recipient is assessed at the time of claim, as having $8,900 in liquid assets. An LAWp of seven weeks is applied from the date of claim.

In week five of the LAWp, the recipient pays $3,200 of their outstanding fuel bill, and presents with funds of $1,500 having spent the rest of the money on general living expenses. As the $3,200 is a one-off voluntary payment, the LAWp is reassessed using the new liquid asset level of $5,700, i.e. $8,900 minus $3,200. The maximum reserve is $5,000. Therefore, the LAWp is recalculated as:

\[
\text{LAWp} = \frac{5,700 - 5,000}{500} = 1.4
\]

This means the recipient has an LAWp of one week only. Their start date is reassessed and they are paid arrears.

**Act reference:** *Farm Household Support Act 2014* section 44, 45, 46

For general information on LAWps refer to the *Guide to Social Security Law*.

**7.3 Newly arrived resident's waiting period**

Most migrants do not have immediate access to FHA when they first arrive in Australia and must serve a newly arrived resident's waiting period (NARWP). This precludes newly arrived residents from receiving the payment for a period of 104 weeks, subject to certain exceptions.

An individual must be an Australian resident and in Australia for the whole duration of the NARWP.

**Act reference:** *Farm Household Support Act 2014* section 42, 43

**7.4 Seasonal worker preclusion period**

**Introduction**

FHA is subject to a seasonal worker preclusion period (SWPP). A SWPP is the period during which a seasonal/intermittent worker is not eligible to receive a social security payment. The SWPP applies to a recipient if they or their partner have been engaged in seasonal work in the six months prior to claiming FHA. Seasonal work means work that, because of its nature or the particular industry, is performed for only part of the year at approximately the same time or times every year. It also includes certain other kinds of intermittent work, such as short-term contract work.

Under the SWPP rules, a person is precluded from receiving a payment for the period of time it would take an average wage earner to earn the same amount of income. This rule only applies to
single people whose earnings from seasonal work exceeded the average weekly ordinary time earnings (AWOTE) or to couples whose combined earnings were more than twice the AWOTE. For example, a person may work at a native plant nursery for six weeks every summer harvesting native grass seed by hand. They are paid $1,000 per day for this period for earnings totalling $30,000. If Average Weekly Ordinary Time Earnings are $1,500 then, the person would serve a SWPP of 20 weeks.

The purpose of the SWPP is to ensure that these workers use their employment income before accessing FHA during the ‘off-season’.

**Is farm work seasonal work?**

Work on the farm enterprise in which a person has a right or interest would not normally be seasonal work, although this will depend on the particular circumstances. However, work that is undertaken on an unrelated farm enterprise may be considered seasonal work, if it satisfies the definition of seasonal work under the section 16A of the *Social Security Act 1991*.

**Act reference:** *Farm Household Support Act 2014 section 48*

For general information on the application of an SWPP refer to the [Guide to Social Security Law](#).

### 7.5 Ordinary waiting period

An ordinary waiting period (OWP) is a waiting period of 7 days that recipients are normally required to serve from their start day for FHA. Circumstances where an OWP does not apply include where the person is granted a waiver due to severe financial hardship because of unavoidable or reasonable expenditure, or has been receiving another income support payment within the last 13 weeks.

**Act reference:** *Farm Household Support Act 2014 section 40, 41*

For general information on the application of an OWP refer to the [Guide to Social Security Law](#).

### 7.6 Income maintenance period

The income maintenance period (IMP) applies when people who have received termination or leave payments have these amounts treated as ordinary income. An IMP applies where an individual:

- is in continuing employment but is on leave and is entitled to receive a leave payment
- has had their employment terminated and receives a termination payment.

For general information on the application of an IMP refer to the [Guide to Social Security Law](#).
8 Multiple entitlement exclusion

A person cannot receive FHA when they are already receiving age pension, a service pension or an income support supplement, or if a social security benefit other than FHA, a social security pension, a service pension or income support supplement becomes payable to the person.

A person should be paid the most appropriate payment for their circumstances. To maintain consistency with other social security payments made under other Acts, there are two exceptions to the multiple entitlement exclusion for FHA. The first applies to a woman who has been receiving a pension under the Veterans’ Entitlements Act 1986 continuously since before 1 November 1986 and was also receiving a social security benefit before that date. The second applies to a person who has made an application for a payment under the ABSTUDY scheme in certain circumstances.

_Act reference: Farm Household Support Act 2014, section 38_

9 Asset hardship rules

The assets test presumes recipients with substantial assets, apart from their principal home, use those assets to produce income for their own support. If substantial assets are held, but they produce little or no income, a person is expected to rearrange their financial affairs before calling on income support through the social security system.

However, sometimes a recipient’s circumstances would mean it is unreasonable to expect them to self-support. The asset hardship rules allow for those recipients to have certain assets disregarded when calculating their payment rate.

The asset hardship rules for FHA are consistent with the rules for mainstream social security benefits.

The hardship provisions apply in relation to the assets test for FHA, including both asset value limits (non-farm assets and farm assets).

For information on the asset hardship rules, refer to the Guide to Social Security Law.
10 FHA pay rates

The rate of payment of FHA is determined by an income test using Newstart Allowance and Youth Allowance rate calculators in the Social Security Act 1991 as applied and notionally modified by the Farm Household Support Act 2014, as indicated in Table 5.

Table 5 FHA pay rates

<table>
<thead>
<tr>
<th>Person who..</th>
<th>FHA rate equivalent to..</th>
<th>Calculated using</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has not turned 22</td>
<td>Youth Allowance</td>
<td>Youth Allowance Rate Calculator</td>
</tr>
<tr>
<td>Has turned 22</td>
<td>Newstart Allowance</td>
<td>Benefit Rate Calculator B</td>
</tr>
</tbody>
</table>

Pay rates are indexed twice a year on 20 March and 20 September (for Newstart equivalent payments) and on 1 January (for Youth Allowance equivalent payments).

Act reference: Farm Household Support Act 2014 section 56, 61; Social Security Act 1991 Youth Allowance Rate Calculator and Benefit Rate Calculator B

For more information refer to the Guide to Social Security Law sections relating to current Newstart & Youth Allowance Rates and Benefits Income Test & Limits.
11 Ancillary benefits

In addition to the base rate of payment, FHA recipients may be entitled to a range of ancillary benefits.

11.1 Energy Supplement

Recipients of FHA who are over 22 are automatically entitled to the Energy Supplement, paid at the same rate as if they were eligible for Newstart Allowance. The rate of this supplement is not affected by an individual reaching pension age.

*Act reference: Farm Household Support Act 2014 section 58, 62*

For general information on the Energy Supplement refer to the *Guide to Social Security Law*.

11.2 Rent Assistance

Rent Assistance (RA) is a supplementary payment added on to the FHA for recipients in the private rental market, in recognition of the housing costs they face.

**Who may be paid RA**

Recipients may be entitled to RA if they pay, or are liable to pay, rent (other than Government rent) above the specified rent threshold in respect of a premises in Australia, and not be any of the following:

- a) an ineligible homeowner; or
- b) an aged care resident or a person who is taken to be an aged care resident for the purposes of the relevant Rate Calculator.

The person must also satisfy the specific RA requirements that apply for Youth Allowance or Newstart allowance, depending on whether they have turned 22.


For general information on Rent Assistance refer to the *Guide to Social Security Law*.

11.3 Pharmaceutical Allowance

The Pharmaceutical Allowance (PhA) helps with the cost of buying prescription medicines.

**Who may be paid PhA**

To qualify for PhA, an FHA recipient must:

- a) have been granted an incapacity exemption from the activity test; or
- b) be single and the main carer of a dependent child.

*Act reference: Farm Household Support Act 2014 section 59, 63*

For general information on PhA refer to the *Guide to Social Security Law*. 
11.4 Telephone Allowance

Telephone Allowance (TAL) is a supplementary allowance intended to assist certain FHA recipients who are telephone subscribers, with the cost of maintaining a telephone service and a home internet connection.

A telephone subscriber is an individual who has a telephone line or mobile phone service connected in either their own name, or their partner’s.

How TAL is paid

TAL is a quarterly payment that is paid into a recipient’s bank account on or after the TAL test days of 1 January, 20 March, 1 July and 20 September each year.

Who may be paid TAL

To qualify for TAL, an FHA recipient must:

a) be over 60 and have been receiving payment continuously for at least 9 months; or
b) be single and the main carer of a dependent child; or

Rate of payment

Recipients of FHA who qualify for TAL, automatically qualify for the increased rate of TAL.

For general information on Telephone Allowance refer to the Guide to Social Security Law.

11.5 Remote Area Allowance

Recipients of FHA may qualify for the Remote Area Allowance (RAA), which helps to meet additional costs associated with residents in remote areas. It recognises that many income support recipients who do not pay tax, or pay very little tax, do not receive the full benefit of tax zone rebates. RAA makes a contribution towards some of the higher costs associated with living in particularly remote areas.

Qualification

To qualify for RAA an individual must:

a) be receiving FHA; and
b) be physically present in a remote area; and

c) have their usual place of residence situated in a remote area.

For general information on RAA refer to the Guide to Social Security Law.

11.6 Bereavement payment

Bereavement payments are made as a temporary continuation of a deceased person’s payment.

Where the individual who has died would have reached the cumulative maximum period of FHA, this does not affect the amount of bereavement payment that is payable to their partner or child.
If the person receiving the bereavement payment reaches the cumulative maximum period of FHA during the period of time calculated in the bereavement payment, this also does not affect the amount of bereavement payment that is payable to the partner or child.

In the event of the death of a farmer, the partner will continue to qualify for FHA for a period of 14 weeks, consistent with the grace period provisions (see Section 3.3 of the FHA Guidelines for more information).

**Act reference:** *Farm Household Support Act 2014* section 96

For general information on bereavement payments refer to the *Guide to Social Security Law*.

### 11.7 Health Care Card

The main purpose of the Health Care Card (HCC) is to assist benefit recipients with certain health care costs, by allowing access to specific services at a concessional rate.

**Automatic issue HCC**

The HCC is issued automatically to people who receive FHA. The HCC is only valid for the duration of time that a recipient is receiving FHA, and is cancelled upon cancellation of an individual's FHA payment. The HCC is also valid whilst an applicant is receiving a nil rate of payment.

### 11.8 FHA Supplement

FHA Supplement is a temporary payment provided to eligible FHA recipients.

**Payment periods**

The supplement payment is delivered in up to two instalments through two payment periods.

The first payment period is from 1 September 2018 to 1 December 2018. The second payment period runs from 2 December 2018 to 1 June 2019. A person must receive payment in each of the periods to receive the maximum amount.

**Act reference:** *Farm Household Support Act 2014* section 89B(2)

**Qualification**

A person is qualified to receive an FHA supplement payment if, during a payment period, that person was payable for at least one day.

A person is entitled to get a maximum of two payments – one during each payment period.

**Act reference:** *Farm Household Support Act 2014* section 89B(1)

**Amount of FHA supplement**

If the person's rate of FHA is, at *any time* during a payment period, calculated by reference to the person being a member of a couple, the amount is $3,000 (per payment).

If the person is not a member of a couple (that is, they are single) the amount is $3,600 (per payment).
**Act reference:** *Farm Household Support Act 2014* section 89C(1)

**Debt**

Unless a person obtained an FHA Supplement payment through fraud, the amount is not recoverable by the Commonwealth.

**Act reference:** *Farm Household Support Act 2014* section 89C(2) and section 89C(3)

### 12 Employment income nil rate period

Recipients of FHA may be subject to an Employment Income Nil Rate Period.

For general information on Employment Income Nil Rate Periods refer to the [Guide to Social Security Law](http://example.com).  

### 13 Payment delivery

FHA is paid fortnightly. The payment is normally delivered to recipients’ accounts one working day after the end of their last entitlement period.

For general information on payment delivery refer to the [Guide to Social Security Law](http://example.com).
14 Advance payments

The primary objective of advance payments is to make payments more flexible to the needs of recipients. An advance is not an additional payment. It is a lump sum payment of a social security entitlement.

Qualification criteria

To qualify for an advance, an applicant must:

a) have received a social security entitlement and/or FHA for the three months immediately before applying for an advance which may include periods covered by the notional continuous period of receipt rules (e.g. a recipient may have been receiving Youth Allowance for two months and Newstart allowance for one month); and

b) lodge the application at an office of the department or a place or with an individual approved for the purpose by the Secretary; and

c) be in Australia when the application is lodged; and

d) request, and be entitled to, between $250 and $500 in advance; and

e) not have received an advance in the last 12 months; and

f) not owe any money to the Commonwealth that is being recovered, or may be recovered, by repayments from their FHA payment; and

g) not be currently repaying a previous advance, (excluding an FTB, PhA or Mobility allowance advance); and

h) be able to repay the advance without suffering financial hardship.

For general information on advance payments refer to the Guide to Social Security Law.
15 Income test

The rate of FHA which is payable is determined according to an income test. This income test is linked to the income test for benefits and allowances under the SSAct. These guidelines set out the policy areas of FHA where it deviates from mainstream social security, in particular around the assessment of business income.

For general information on income testing refer to the Guide to Social Security Law. For a chart outlining the income test refer to the guide to Australian Government payments.

15.1 Ordinary income

Ordinary income means gross income, without any reduction, other than a deduction from business income under SSAct Division 1A of Part 3.10 of Chapter 3. For more information refer to the Guide to Social Security Law sections relating to ordinary income and assessing income and assets of various business structures.

Agistment income and income from leasing land (rental income) is considered to be off-farm income (see section 18 of the FHA Guidelines for more information).

Exempt Lump Sums

Ordinary income excludes maintenance income and exempt lump sums.

Amounts can also be declared as exempt income under the Social Security Act 1991 section 8(11), for example lump sums paid under the Taxi Reform Hardship Fund or the South Australian River Murray Sustainability Irrigation Industry Improvement Program (3IP).


16 Deemed income from financial assets

Social security law uses deeming rules to assess income from financial investments. Deeming assumes that financial investments are earning a certain rate of income regardless of the amount of income they are actually earning.

Generally, a loan from a trust beneficiary to the trustee of that trust, or from a shareholder of a privately controlled company to that company, is treated as a financial asset of the lender and, therefore, subject to deeming.

However, for the purpose of the income test for FHA, a loan is taken not to be a financial asset of a person if:

a) the person makes the loan to the trustee of a trust of which they are a beneficiary or to a company of which they are a shareholder;

b) the loan relates to a farm asset held by the trustee or the company; and

c) the outstanding amount of the principal of the loan exceeds the total value of all financial investments held by the trustee or the company (that is, the financial investments held by the entity are not sufficient to repay the loan).

This exception is only in carefully prescribed circumstances.

This is because these loans often provide the capital injection necessary for a trust or privately controlled company to purchase a farm or farm assets. These assets are generally illiquid in nature and may not generate an actual income that is available to the individual for self-support.

The effect of this is that the loan, to the extent that it meets the above criteria, is not subject to deeming. It does not therefore impact on the rate of FHA.


For general information on deeming refer to the Guide to Social Security Law.
17 Assessment of business income

Unlike income from employment, farm business income can be difficult to predict due to factors such as commodity prices and seasonal conditions. To account for these factors, an estimate of business income is used to determine an individual's rate of payment. At the end of the financial year, individuals who were paid FHA are required to supply their tax returns and financial statements to DHS to reconcile actual business income against their estimate to accurately assess their entitlement for that year.

The purpose of this annual reconciliation is to ensure that FHA recipients have received their correct entitlement for the previous financial year. This reflects the general social security law principle of payment integrity; that the right person receives the right payment at the right time.

Table 6 shows the effect on the FHA entitlement once income has been reconciled.

<table>
<thead>
<tr>
<th>If the estimated business income was...</th>
<th>Then the effect on entitlement is a...</th>
</tr>
</thead>
<tbody>
<tr>
<td>more than the actual assessable business income,</td>
<td>top-up for the difference between the payment received and the entitlement amount, where applicable.</td>
</tr>
<tr>
<td>less than the actual assessable business income,</td>
<td>recoverable debt for the difference between the entitlement amount and the payment received, where applicable.</td>
</tr>
<tr>
<td>equal to the assessable business income</td>
<td>nil adjustment</td>
</tr>
</tbody>
</table>

17.1 Assessment of business income – estimates

Individuals claiming FHA are required to provide an estimate of their business income for the current financial year. Business income means ordinary income of the person in the form of profits from a business carried on by the person. The estimate must be considered reasonable by the Secretary.

Estimated business income is calculated by adding the estimated taxable business income with any re-credited business deductions included in the calculation of estimated taxable income.

Re-credited business deductions include:

- carried forward losses
- capital expenditure
- investments in farm management deposits
- superannuation contributions for the sole trader/partner
- obsolescence
- donations to charities.


**Revision of estimates**

Generally, if the individual provides a total estimate and the calculations are correct then the estimate of business income would be considered reasonable. However, the individual must agree to make any alteration to the estimate if errors or omissions are identified. The estimate must take into account the individual’s financial circumstances for the income year to date, together with any anticipated variations to their income for the remainder of the financial year.

An individual may provide a revised estimate of their business income at any time during the financial year. The revised estimate must reflect their expected net farm business income for each farm business enterprise for the whole of the current financial year.

If an individual wishes to provide an estimate that is lower than their current estimate, they may be required to give a reason for the estimate. Likely reasons for a revised estimate include, but are not limited to:

- disease or pest outbreak
- change in commodity prices
- change in climatic conditions
- a restructure of the business.

If the new estimate is considered reasonable, it is used to determine an individual’s rate of payment for the remainder of the financial year. Where the estimate of business income and other ordinary income exceeds the income test threshold for FHA, the individual’s payments will be cancelled.

**Act reference:** *Farm Household Support Act 2014* Part 2, Division 8, Subdivision D

### 17.2 Assessment of business income – reconciliation

When instigated by a notice, individuals must supply personal and business tax returns and financial statements, or to notify DHS that they are not required to lodge. Extensions to the tax lodgement timeframe may be granted in circumstances where an individual is unable to supply their tax return/s and financial statements due to factors which are outside their control. Even if an individual is no longer receiving FHA payments, they are required to supply tax returns and financial statements to DHS for reconciliation purposes.

The first step of the reconciliation process is to determine the individual’s entitlement for the relevant income year. This relies on the assessment of the individual’s and partner’s actual business income for the relevant income year.

The second step of the reconciliation is to subtract the amount paid to the individual during the relevant income year from the individual’s entitlement. The result of this calculation will result in one of three outcomes, the recipient:

- received the correct payment and no further action is required; or
• was not paid their full entitlement for the financial year and a top-up payment will be made to their nominated bank account; or

• has been overpaid and a debt will be raised in their name for repayment.

Any periods where a recipient was not receiving FHA will not be included in the adjustment.

In all cases where there has been a review of an individual’s entitlements, they must be notified in writing of the outcome.

Where an FHA recipient fails to comply with a notice from DHS to provide details of their actual business income for a financial year and the Secretary is satisfied that compliance with the notice would allow the recipient’s actual business income to be ascertained, a debt equal to the amount of FHA paid in that financial year will be due to the Commonwealth, until such time as the details are provided and the reconciliation process takes place. This is because, in the absence of the actual business income, it is not possible to determine if the person was entitled to receive FHA.

**Act reference:** *Farm Household Support Act 2014* Part 2, Division 8, Subdivision D

For general information on reviews, debts and payment recovery refer to the *Guide to Social Security Law*.

### 17.3 Assessment of business income – allowable and non-allowable deductions

Consistent with social security law, expenses that are incurred in deriving business income can be deducted when calculating an individual’s ordinary income.

For general information about *allowable and non-allowance deductions* or *business deductions and losses* refer to the Guide to Social Security Law.

**Act reference:** *Farm Household Support Act 2014* Part 2, Division 8, Subdivision D

**Income and asset assessment and the forced disposal of livestock**

There is no special treatment of income or assets generated from the forced disposal of livestock for the purposes of assessing income or assets for FHA or other social security payments. However, preferential tax treatments are available.

For more information on tax rules relevant to primary producers refer to the *ATO’s website*. 
18 Off-farm income offset

Note: The off-farm income offset is a complex policy setting. To fully understand its application this section must be read in full, in conjunction with the Farm Household Support Minister's Rule 2014.

FHA allows for deductions to be made from a person's ordinary income for the purposes of the income test in some circumstances. The Farm Household Support Minister's Rule 2014 sets out these circumstances. This includes a deduction from a person's off-farm income for a tax year where an amount has been used to pay interest on a loan related to the farm enterprise. A key requirement of the allowable deduction is that the person's ordinary income from the farm enterprise is less than zero in the relevant tax year (see section 18.1 of the FHA Guidelines for other criteria).

The effect of this is to ensure that a person's rate of payment accurately reflects the money available to that person for their self-support. This setting recognises that farmers experiencing financial hardship often rely on off-farm income to support the farm enterprise rather than using that income for self-support.

In these cases the interest component of farm losses can be used to offset an individual’s off farm income where they meet the criteria listed in the Minister’s Rule, and summarised below.

**Definition of off-farm income**

Off-farm income is any income not earned from the relevant farm enterprise. Examples of off farm income could include (but are not limited to):

- contracting such as harvesting or fencing
- off-farm employment
- agistment income
- interest payments
- rental income (including leasing land for agricultural purposes).

One exception is income from compensation payments, which cannot be included in the offset because it is not considered income for the purpose of social security law.

**18.1 Using the offset**

An amount can be deducted from the assessment of a person's off-farm income for the purposes of the income test in the relevant tax year if:

a) the amount is interest payable during the relevant tax year either by the person or their partner owed to a commercial lender (e.g. a bank) and payable under a written contract; and

b) the loan contract was entered into at least one year prior to the person or their partner claiming Farm Household Allowance and the Secretary is satisfied it cannot be renegotiated with the lender; and
c) the lender is independent from the person and, if applicable, their partner, and does not have a right or interest in the farm or any other asset owned by the person, their partner or the farm enterprise; and

d) the loan is secured by a farm asset of the farm enterprise; and

e) the person’s ordinary income from the farm enterprise is less than zero.

The amount of off-farm income which can be offset against interest repayments is called the ‘allowable deduction’. The maximum allowable deduction using the off-farm income offset for a person and their partner is $80,000 for a tax year. This means, for a farmer and partner applying for the Farm Household Allowance, they may each claim a portion of the deduction, but the total between them cannot exceed $80,000.

Further, the allowable deduction is limited by the total of the amount by which the person’s ordinary income from the farm enterprise is less than zero AND the amount of interest payable on the loan.

Examples of how an applicant may be able to substantiate that they are unable to renegotiate the amount of interest payable during the tax year may include (but are not limited to):

• prior correspondence from the commercial lender that a lower amount cannot be negotiated (particularly if there is a debt mediation process in place)

• if the customer is already being assisted by the Rural Financial Counselling Service, checking with that service to verify that the person is in farm debt mediation, business debt mediation or is under asset management (frequently a precursor to either)

• a statement from the person’s financial adviser or counsellor that a negotiation has taken place with the commercial lender and the lowest possible repayments are in place

• default letters from the commercial lender (particularly threatening foreclosure).

**Note:** Where foreclosure has occurred, an assessment will also be required to determine if the farmer still has effective control of the farm enterprise (see *Farm Household Support Act 2014* section 12).

**Example 1:** Joe has had 2 years of crop failure. As a result Joe has estimated that his income from his farm enterprise will run at a loss of $100,000 for the 2015-16 financial year. Last year Joe was able to negotiate lower interest repayments with the bank. He has approached the bank again this financial year but they will not allow him to renegotiate any further. To help make his repayments Joe has been working for a local contractor and will earn $50,000 in the 2015-16 financial year.

Joe’s bank has frozen his overdraft and the minimum interest repayment for the financial year is $30,000. Since he is unable to renegotiate his interest repayments, and to prevent recovery action by the bank, Joe arranges for his contracting income to be paid directly into his overdraft to meet his repayment obligations. Joe has no money available in his bank accounts and is unable to meet his other obligations.

In this circumstance, the value of the interest payable on the loan ($30,000) can be used to offset off-farm income. This amount is an allowable deduction from Joe’s ordinary income when working out his rate of FHA.
### Table 7 Off-farm income offset example 1

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary income from relevant farm enterprise</td>
<td>$(100,000)</td>
</tr>
<tr>
<td>Off-farm income (contractor income)</td>
<td>$50,000</td>
</tr>
<tr>
<td>Interest repayment</td>
<td>$30,000</td>
</tr>
<tr>
<td>Allowable deduction</td>
<td>$(30,000)</td>
</tr>
<tr>
<td><strong>Assessable income (off-farm income less interest repayment)</strong></td>
<td>$20,000</td>
</tr>
</tbody>
</table>

**Example 2:** Rick and Beth’s annual budget shows that they will make a net loss of $10,000 for the financial year from their farm enterprise. Beth works nine days each fortnight driving the school bus, earning her $15,000 each year. Rick and Beth are under asset management and their bank has already reduced their interest repayments to $12,000 which is the lowest they will accept without foreclosing on the loan. The bank has also warned that all interest payments must be met on time and in full otherwise they will commence recovery action of the full amount owing.

Beth can deduct $10,000 of the interest payable because that equals the amount by which Rick and Beth’s ordinary income from the relevant farm enterprise is less than zero.

### Table 8 Off-farm income offset example 2

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ordinary income from relevant farm enterprise</td>
<td>$(10,000)</td>
</tr>
<tr>
<td>Off-farm income (bus driving)</td>
<td>$15,000</td>
</tr>
<tr>
<td>Interest repayment</td>
<td>$12,000</td>
</tr>
<tr>
<td>Allowable deduction</td>
<td>$(10,000)</td>
</tr>
<tr>
<td><strong>Assessable income (off-farm income less interest repayment)</strong></td>
<td>$5,000</td>
</tr>
</tbody>
</table>

**Example 3:** Jim and Elise are partners in a farm enterprise of which they each own 50%. The farm enterprise financial statements from the previous financial year showed that they made a loss of $110,000. Due to a drought they have destocked all but their breeders and do not expect to make any money this year due to the cost of maintaining their herd. The bank has frozen their overdraft and they owe $90,000 in interest. Jim is a contract harvester and is making $45,000 from this work. Elise also works off-farm and earns $35,000 per year which is used to pay the remaining interest.

As Jim and Elise’s combined income is less than his interest repayments AND less than the amount of the farm business loss, they can deduct the total of their off-farm income ($45,000 + $35,000 = $80,000 which is equal to or less than the $80,000 maximum allowable deduction).
### Offset applicable to Jim

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Estimated income from relevant farm enterprise</td>
<td>$(110,000)</td>
</tr>
<tr>
<td>Interest repayment</td>
<td>$90,000</td>
</tr>
<tr>
<td>Off-farm income</td>
<td>$45,000</td>
</tr>
<tr>
<td>Allowable deduction</td>
<td>$(45,000)</td>
</tr>
<tr>
<td><strong>Assessable income (off-farm income less interest repayment)</strong></td>
<td>zero</td>
</tr>
</tbody>
</table>

### Offset applicable to Elise

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Remaining portion of income from relevant farm enterprise (after the offset is first applied to Jim)</td>
<td>$(65,000)</td>
</tr>
<tr>
<td>Remaining portion of interest repayment</td>
<td>$45,000</td>
</tr>
<tr>
<td>Off-farm income</td>
<td>$35,000</td>
</tr>
<tr>
<td>Allowable deduction</td>
<td>$(35,000)</td>
</tr>
<tr>
<td><strong>Assessable income (off-farm income less interest repayment)</strong></td>
<td>zero</td>
</tr>
</tbody>
</table>

Act reference: *Farm Household Support Act 2014* section 67

For more information, refer to the *Farm Household Support Minister’s Rule 2014*. 
19 Asset test

The asset test for FHA includes two components, a non-farm assets value limit, and a farm asset value limit.

Note: Applicants whose non-farm assets, and/or farm assets exceed the respective value limit are not eligible for FHA (unless they qualify under Asset Hardship provisions). See section 9 of the FHA Guidelines for more information on the application of the asset hardship rules.

19.1 Non-farm assets
The non-farm asset value limit includes all non-farm assets, including liquid assets such as an individual’s cash, shares in public companies, money owing or any other realisable assets which are not farm assets. Farm Management Deposits, and cash held to purchase farm assets such as property are non-farm assets. Consistent with other social security payments, the value of the principal home is excluded from the assets test.

The non-farm asset value limit applies the limit prescribed for Newstart Allowance in the SSAct. This limit is indexed on 1 July each year.

Note: Indexation for both farm assets and non-farm liquid assets was frozen from 1 July 2017.

Where a farmer is involved in forestry activities, for example, when they set aside land for a commercial plantation the assets used for this activity would not be counted towards the farm asset value limit (unless also used wholly or mainly for the purposes of a farm enterprise).

Refer to the guide to Australian Government payments (Table A) for applicable non-farm assets value limits.

Exempt non-farm assets
The value of certain non-farm assets held for the purpose of carrying out a farm enterprise (including shares in the Murray Goulburn Co-operative Co Ltd) can be excluded from the FHA asset test. Specifically, assets which are: not a farm asset as defined in the FHS Act; held for the purpose of carrying out a farm enterprise; not held or capable of being held for a purpose other than the carrying out of a farm enterprise; and not cash or an amount deposited with or lent to a financial institution.

For the avoidance of doubt, this does not provide precedent to disregard assets that are required for the operation of a farm enterprise or farm assets as defined in the FHS Act.

Legislative instrument reference: Farm Household Support (Non-farm Assets) Minister’s Rule 2016

19.2 Farm assets
The farm asset value limit includes the net value of all farm assets. The value of farm assets are calculated by deducting any debt secured against an asset from the current market value of that asset. The net farm asset threshold on commencement of FHA was $2.55 million.
As at 1 July 2018, indexation has increased the net farm asset threshold to $2.6375 million and is indexed each 1 July.

However, from 1 September 2018 until 30 June 2019, the net farm assets value limit is increased to $5 million. After this period, the net farm assets value limit will be returned to its previous value (and will be indexed again on 1 July 2019).

Preserved entitlement to the $5 million assets limit

If a person submits an FHA application during the increased farm assets value period and is subsequently granted payment, that person is entitled to continue being assessed against the increased limit until they exit the FHA program.

**Act reference:** Farm Household Support Act 2014 sections 34-36

**Legislative instrument reference:** Farm Household Support (Farm Assets Value Limit) Minister’s Rules 2018

For general information on assets and how they may affect an individual’s payment, refer to the [Guide to Social Security Law](#).
20 Loans

Consistent with social security law, loans from a trust beneficiary to the trustee of that trust, or from a shareholder of a privately controlled company to that company, are treated as financial assets of the lender. Financial assets are assessed within the non-farm asset value limit.

Under mainstream social security settings these rules ensure that individuals do not structure their finances to increase their entitlement to social security benefits. However, for the purposes of FHA, these rules may exclude a person from payment, even though their net position is no different to a person who has a different business structure and qualifies for payment.

For example, if the lender had structured their business as a sole trader or partnership, any loans made to the business may be regarded as a capital injection and therefore classified as a farm asset, rather than a financial asset, and in turn would be assessed within a higher net farm asset limit.

To avoid inequity between individuals on the basis of business structure, when applying non-farm asset test rules to assess an individual’s eligibility for payment under FHA, the unpaid amount of a loan from a trust beneficiary to the trustee of the trust, or shareholder of a privately controlled company to that company (or a portion of a loan), may be treated as a farm asset rather than a financial asset.

However, this is only in carefully prescribed circumstances, where:

a) the loan was used for the purchase of a right or interest in:
   i) land used wholly or mainly for the purposes of a farm enterprise; or
   ii) livestock, crop, plant or equipment that is produce of a farm enterprise or used wholly or mainly for the purposes of a farm enterprise, unless it is leased out; and
b) the outstanding amount of the principal of the loan exceeds the value of the entity’s financial investments.

Act reference: Farm Household Support Act 2014 section 35
21 Asset disposal (gifting)

For the purposes of FHA, the treatment of the disposal of assets is consistent with mainstream social security benefits.

Once an individual has disposed of a farm asset, it is no longer treated as a farm asset and its value will be assessed under the non-farm asset test.

**Act reference:** *Farm Household Support Act 2014* section 36(4)

For general information on asset disposal, refer to the [Guide to Social Security Law](#).

22 Financial Improvement Agreements

Applicants for FHA must indicate in writing that they are willing to enter into a Financial Improvement Agreement (FIA) and carry out the terms of the agreement. This is a qualification requirement (see section 4 of the FHA Guidelines for more information).

The Secretary has the power to require a person to enter into an FIA.

An FIA is a measurable, incremental planning tool for farmers and their partners to work towards improving their capacity for self-reliance. The FIA is negotiated between the person claiming or receiving FHA and the Secretary (in practice, this is delegated to a DHS Farm Household Case Officer [case officer]) taking into account the person's needs, goals and resources, along with any barriers to them taking action to improve their circumstances. The agreement contains at least one objective, as well as approved activities that are designed to assist them to achieve their objectives and make progress towards their long term goals.

Objectives are likely to be based around:

- increasing capacity to generate income on-farm
- increasing capacity to generate income off-farm
- increasing capacity to generate income from a mixture of on-farm and off-farm activities.
23 Terms of a Financial Improvement Agreement

An FIA must contain at least one compulsory activity. Suitable activities may include:

- undertaking training
- obtaining professional advice
- undertaking study
- actively seeking, or being willing to undertake, paid work in Australia (other than paid work that is unsuitable for the person)
- any other activity that the Secretary regards as suitable for the person.

Undertaking these activities, as set out in the FIA, will mean that the recipient has satisfied the activity test for the relevant period. Failure to satisfy the activity test may result in a qualification failure.

In approving an FIA, consideration is given to the person’s capacity to comply with the requirements, the person’s needs, and the recommendations of the prescribed adviser that are contained in the Farm Financial Assessment (FFA), if applicable.

Unlike Newstart Allowance, there is no requirement for a person who has claimed or is receiving FHA to undertake a minimum number of hours of activities to satisfy the activity test. This recognises the substantial workload of running a farm, which varies over time for the same farm and between different types of farms (for example, the very different demands and operations of broadacre versus dairy farms). As a result, when determining whether to approve activities in a farmer's or their partner's FIA, it is appropriate to consider limiting factors.

Careful information-gathering may be required to establish the contribution of the partner to the farm enterprise. When a partner of a farmer has little or no involvement in the farming operation, the objective/s and activities in the FIA should reflect the circumstances and/or aspirations of the partner. For example, where a partner works off-farm and wishes to gain new skills for employment, activities that support this outcome are appropriate.

Act reference: Farm Household Support Act 2014, sections 14, 15, 16 and 19

23.1 Variation, cancellation and review

An FIA can be varied by negotiation, reviewed from time to time and/or cancelled. Case officers must undertake a review of the FIA in consultation with the recipient at least once every 12 weeks. Reviews can also occur when a case officer considers it appropriate. FIAs must also be reviewed in the recipient's third and final year of payment to consider whether the previous goals and objectives included in their FIA are still relevant and achievable in the final 12 months of payment.
When varying an FIA, the case officer must consider the appropriateness of continuing to use the information in an existing FFA. Where the circumstances of the farm business have undergone a change that significantly affects the operation of the farm enterprise, the case officer may authorise a new FFA to be completed. Payment of a second FFA supplement may be authorised if an additional FFA is required. See section 30.3 of the guidelines for further information about qualification for the Farm Financial Assessment supplement.

The passage of time may not be sufficient grounds to require a new FFA. The person may have experienced a significant break in their payments (for example, often when the farming enterprise was profitable in a good season), but the business has been unable to sustain the recovery. Where the underlying drivers remain the same and the prescribed adviser’s assessment still applies, the person and their case officer may agree that a new FFA is not required.

Information from the Rural Financial Counselling Service regarding farmers who are also being supported by that service, may also be useful to the person and case officer in deciding if a new FFA is warranted.
24 Exemptions from activity test

There is a range of circumstances where an exemption may be given from the FHA activity test. These provisions recognise circumstances impacting on the person and their family and include:

- temporary incapacity
- pregnancy
- attending a training camp as a member of the Defence Reserves
- special circumstances beyond the person’s control
- where complying with the activity test would prevent the person from undertaking essential farm activities
- domestic violence
- responsibilities of parents and foster carers for the care of disabled children.

**Act reference:** *Farm Household Support Act 2014*, sections 22-32

### 24.1 Activity test exemptions – temporary incapacity

A person may be granted a temporary incapacity exemption from the activity test if they are temporarily incapacitated and unable to undertake activities for the purposes of the activity test for eight hours or more per week due to a medical condition arising from sickness or an accident. The Secretary must form the opinion that there are no activities of a kind that the person could be reasonably expected to undertake for the purposes of the activity test for more than eight hours per week, and be satisfied that the incapacity has not been brought about with a view to obtaining an exemption. The person must provide a certificate from a medical practitioner stating their diagnosis, prognosis, period of incapacity, and that they are unable to undertake any activities for the purposes of the activity test for more than eight hours a week.

**Duration of exemption**

If the Secretary is satisfied that the incapacity will continue after the end of the original exemption, then it may be appropriate for the delegate to grant extensions to the maximum exemption period from participation requirements for one or more further periods. If the person:

- substantiates the incapacity with either the original medical certificate if still valid or an additional, valid medical certificate the period of extension is either that stated on the medical certificate or for a maximum of 13 weeks, whichever is the lesser.

- is able to provide other written evidence (other than a medical certificate) and the secretary considers it unreasonable to expect the person to obtain a certificate, then the exemption may be extended by no more than 4 weeks.
Seriously ill

Where a person who is seriously ill and undergoing treatment has been given an initial exemption of 13 weeks, it may be appropriate for the delegate to grant an extension (not exceeding 13 weeks) without requiring the person to provide an additional medical certificate. The delegate may continue to grant extensions without additional medical certificates until the person’s exemption period reaches the period stated on their medical certificate or until a maximum of 52 weeks from the date that the first exemption was granted, whichever is the lesser.

A delegate may only grant subsequent exemptions without requiring the person to provide an additional medical certificate if they continue to meet all criteria for a temporary incapacity exemption and:

a) they have one of the medical conditions listed below; and
b) they are undergoing and/or recovering from intensive medical treatment (such as chemotherapy, radiotherapy) or undertaking rehabilitation for the serious illness; and
c) there is little prospect of significant improvement in the person’s medical condition over the period stated on the medical certificate; and
d) requiring the person to obtain an additional valid medical certificate at the end of each exemption period would place unreasonable physical and/or mental burden and/or stress on the person.

A person may be considered seriously ill if they have one or more of the following medical conditions:

- cancer/leukaemia
- severe stroke
- acquired brain injuries
- serious burns
- serious physical injuries requiring long recovery periods
- severe mental health conditions or drug and/or alcohol addictions for which the person is receiving treatment in an institutional setting.

After a maximum 52 weeks of extensions, a medical reassessment may be required which should indicate whether the condition is permanent, or still temporary.

If the circumstances on which the initial period of exemption were based remain in effect and the person provides an additional valid medical certificate, the delegate may grant a subsequent exemption from activity test requirements for the period on the medical certificate, or 13 weeks, whichever is the lesser.

If the person’s additional medical certificate extends beyond 13 weeks and the person remains seriously ill and is still recovering and/or undergoing treatment, the delegate may grant an additional period of exemption without requiring a further medical certificate.
The total of the exemption periods granted on the basis of this additional medical certificate must not exceed 26 weeks. After the additional 26-week period, all subsequent applications for temporary incapacity exemptions of up to 13 weeks must be supported by an additional valid medical certificate.

24.2 Activity test exemptions – pregnancy
Pregnant women are exempt from the activity test from six weeks before the date they are expected to give birth until the birth of the child, and for six weeks following the birth of the child. These exemptions apply even if the baby is stillborn or placed for adoption.

If at any other time during pregnancy a woman is unable to meet her activity test requirements because of pregnancy-related medical problems, she should apply for an incapacity exemption.

24.3 Activity test exemptions – Defence Force Reserve service
An individual is exempt from the activity test for a period if the person is attending a training camp during the period as a member of the Defence Force Reserves.

24.4 Activity test exemptions – special circumstances
Where circumstances arise that impede, rather than prevent, an individual from meeting their activity test requirements, consideration should be given first to adjusting or reducing these requirements in preference to exempting the individual from the activity test completely.

However, there will sometimes be special circumstances that are beyond an FHA recipient’s control, where it would be unreasonable to expect them to satisfy the activity test for a specific period of time. A special circumstances exemption may be granted if the Secretary is satisfied that such circumstances exist.

The following are categories of special circumstances exemptions that may arise:

- major personal disruption to the recipient’s home
- major personal crisis (including homelessness)
- affected by declared natural disaster, e.g. bushfire, flooding or cyclone
- temporary caring responsibilities
- dad and partner leave
- undertaking jury duty
- being a newly protected witness
- being a newly arrived refugee
- volunteering during a state or national emergency
- undertaking Indigenous cultural business.

A special circumstances exemption can only be granted for up to 13 weeks, and cannot be extended.
For general information on special circumstances refer to the Guide to Social Security Law.

24.5 **Activity test exemptions – essential farm activities**
A farmer may be temporarily exempt from the activity test for a period if the Secretary is satisfied that requiring them to satisfy the activity test during that period would prevent them from undertaking activities that are essential to the operation of the farm. This ensures that the person is not prevented from running their farm business during times of intensive workload, but that they are still required to satisfy the activity test for the majority of their time on payment. The period of exemption must not exceed six weeks and cannot be extended.

Exemptions for essential farm activities cannot be granted where the farmer has already received an exemption for essential farm activities twice in the previous 12 months, regardless of the length of the exemptions.

Some common examples of essential farm activities include:
- sowing and harvest for grain growers
- pruning and harvest on horticultural properties
- lambing, calving and hand rearing or feeding of agricultural livestock.

24.6 **Activity test exemptions – domestic violence**
An exemption from the activity test can be granted for an individual who the Secretary is satisfied has been subjected to domestic violence or other special family circumstances and is the principal carer of at least one child.

In circumstances where an individual is granted an exemption due to domestic violence, the period of exemption is 16 weeks. In circumstances where an individual is granted an exemption due to other special family circumstances, the period of exemption may be determined based on what is considered appropriate for each individual, but cannot exceed 16 weeks. In both cases, additional exemptions of up to 16 weeks at a time can be granted.

24.7 **Activity test exemptions – caring for a child with a disability**
Individuals can be granted an exemption from the activity test where they are the principal carer of a dependent child and the child has a disability, illness, mental health condition or physical condition, and their care needs are such that the Secretary is satisfied the person should not be required to satisfy the activity test for a period.

The period of exemption is determined based on what is considered appropriate in the individual’s circumstances. The initial exemption cannot exceed 12 months. At the end of the exemption period, additional exemptions can be granted, each of which cannot exceed 12 months.
24.8 Activity test exemptions – requirement to satisfy activity test unreasonable

An individual may be granted an activity test exemption if, having regard to all the relevant factors, it would be unreasonable to expect the person to satisfy the activity test for that period. Relevant factors include:

- the location of offices of the Department or the Human Services Department
- difficulties with transport and communication
- the educational, cultural or religious background of the person.
25 Notification of circumstances preventing or affecting compliance

An individual is required to notify DHS of any circumstances preventing or affecting their capacity to comply with the requirements in their FIA within 14 days of the circumstances occurring.

An individual may not be required to notify DHS within this period if the Secretary or a delegate determines in writing that the person could not have reasonably been expected to give the notification under the circumstances.

An individual who does not notify DHS of their inability to comply with their FIA within 14 days of the relevant circumstance occurring may be subject to determination that they have committed a qualification failure. This means that FHA will not be payable until the determination is revoked, and the person will cease to qualify for FHA if they do not rectify the failure to notify within 13 weeks of the determination.

Act reference: Farm Household Support Act 2014, sections 18, 71

26 Qualification failures

Where a person does not comply with the terms of their FIA, they may be subject to a determination that they have committed a qualification failure.

A qualification failure occurs when a person, through their actions (or inactions), fails to:

- comply with a notice requiring them to enter into a FIA by the specified date;
- satisfy the activity test by undertaking the specified activities in the FIA (where the person is not exempt from the activity test);
- notify of circumstances preventing or affecting their capacity to comply with a FIA within 14 days of the circumstances occurring.

A recipient who is determined to have committed a qualification failure will not be eligible to be paid FHA until the determination is revoked. Where this occurs within 13 weeks, payment is automatically restored (but not back paid).

Where it has been more than 13 weeks from the date of decision to determine the qualification failure and the failure has not been rectified, the person ceases to qualify for FHA.

The delegate must not make a determination that a person has committed a qualification failure if the person satisfies the delegate that they have a reasonable excuse.

Act reference: Farm Household Support Act 2014, sections 71-72
27 Conduct failures

The Secretary may determine that a recipient has committed a conduct failure if the person:

- engages in misconduct while undertaking an activity agreed in their FIA
- refuses or fails to accept an offer of suitable employment in accordance with their FIA
- is unemployed as a result (whether direct or indirect) of an act of the person, and it was reasonably foreseeable that acting in that manner could result in the person becoming unemployed.

A conduct failure determination does not result in the recipient becoming ineligible for the payment, but will result in an eight-week period where FHA is not payable unless the determination is earlier revoked. This determination may be revoked if it would cause the person to be in severe financial hardship.

The eight-week non-payment period commences on the day that the delegate determines a failure has occurred.

**Note:** The delegate must not make a determination that a person has committed a conduct failure if the person satisfies the delegate that they have a reasonable excuse.

**Act reference:** *Farm Household Support Act 2014, sections 73-74*
28 Reasonable excuses

Prior to deciding whether to make a determination that a person has committed a conduct or qualification failure, the delegate must consider whether:

   a) the person had a reasonable excuse for the failure; and
   b) notified the appropriate person or body specified in the FIA before the start of the activity; or
   c) the delegate is satisfied that it would have been unreasonable to expect the person to give the notification.

When considering if a person had a reasonable excuse for the failure, the delegate must consider whether the person at the time of the failure:

- was required to undertake farm work that was unforeseen and critical and not the kind of farm work the person would normally undertake at that time
- was required to take on unforeseen family or caring responsibilities
- did not have access to safe, secure and adequate housing
- was using emergency accommodation or a refuge
- had literacy and language skills that affected the conduct of the person resulting in the failure
- had a disability, illness, mental health condition or physical condition
- experienced a drug or alcohol dependency
- was subjected to violence
- was adversely affected by the death of an immediate family member or close relative
- had been imprisoned for more than 14 days and was released not more than 28 days before the time of the failure.

If a person satisfies the delegate that they had a reasonable excuse for the failure after they have made a determination, the determination is taken never to have been made.

**Act reference:** Farm Household Support Act 2014, section 76; Farm Household Support Secretary’s Rule 2014 section 7
29 Activity supplement

To support FHA recipients to undertake activities specified in their FIA, an activity supplement is available (up to a maximum amount over the four years of payment). An individual can receive an activity supplement for each qualifying activity that they undertake (up to the maximum amount) and elect to either receive the activity supplement directly or have it paid to a service provider for the activity.

29.1 Qualification for activity supplement

A person may qualify for the activity supplement for activities already undertaken and activities they intend to undertake in accordance with their FIA. This ensures that the activity supplement is used to assist the person to take steps towards improving their capacity for self-reliance while fulfilling their requirements for FHA.

The purpose of an activity supplement is to help the individual achieve financial self-reliance and not to provide financial assistance for the farm business.

To qualify for activity supplement, an activity must:

- be undertaken for the purposes of the activity test;
- be specified in a FIA in force in relation to the person and be undertaken in accordance with the FIA; and
- fall within the classes of eligible activities prescribed in section 8 of the Farm Household Support Secretary’s Rule 2014, or otherwise be approved in writing by the Secretary.

Activities considered a part of normal farm operations or expenses incurred implementing any advice or training will not be eligible. For example, the activity supplement could be used to fund (all or part of) the fees for eligible training courses, receiving advice or participating in training to assist a transition to an alternative career, development or advice relating to succession planning. However, the activity supplement could not be used for purchase of equipment to implement practices learned in farm business training or recommended by an agricultural adviser.

Where a person undertakes training or receives professional advice, they must provide evidence or a declaration that the advice or training was provided by an appropriately qualified person.

A person is required to make a claim for the supplement within two months of the date the invoice for the activity is provided by the service provider i.e. the date of the invoice. If the person elects to be paid the supplement directly, they must also provide evidence or a declaration (in an approved form) that they paid the service provider for the activity. A person cannot qualify for the supplement if they have already used the maximum amount of activity supplement.

Where an activity costs more than the whole of the activity supplement (or the remaining balance) the person may choose to fund the unfunded portion from their own means.
As at 1 July 2018, a person may claim up to $3,000 in activity supplement over the four years of payment. An additional $1,000 in activity supplement can be claimed where a person begins an activity in their third or fourth year of payment.

The objectives of the additional activity supplement are to:

- support recipients to improve their situation and transition off welfare payments after their participation in the program
- seek to increase an individual’s focus on actions to improve their situation, including finding alternative sources of income/employment well in advance of the expiry of their FHA entitlement.

The additional $1,000 activity supplement should be used where there is a demonstrated need for ‘high value’ activities. That is, the activity should contribute to achieving the objectives listed above and ultimately demonstrably improve a recipient’s self-reliance by the end of their FHA entitlement. Case officers will work with recipients to identify appropriate activities.

**Act reference:** Farm Household Support Act 2014, sections 80-83; Farm Household Support Minister’s Rule 2014, section 8; Farm Household Support Secretary’s Rule 2014, section 8
30 Farm Financial Assessment

The Farm Financial Assessment (FFA) is a comprehensive assessment of the financial position of a farm enterprise and the person for whom the assessment is conducted. It has multiple parts, some of which are completed by the person and some by the person’s prescribed adviser.

The purpose of the assessment is to develop and evaluate options to improve the person’s financial position through an analysis of their resources, liabilities, barriers and goals.

30.1 Requirement for a Farm Financial Assessment

Once prima facie eligibility of the FHA applicant has been established, DHS may issue a notice requiring a person to supply an FFA. The person must submit a completed FFA to DHS within 28 days from the date of notification in writing by the Secretary.

Parts B-D of the FFA must be conducted by an independent prescribed adviser and submitted online in a form approved the Secretary.

A companion guide has been prepared to assist farmers and their prescribed advisers to complete the FFA. The guide is available on the department’s website.

Use of previous Farm Financial Assessments

If an applicant has stopped receiving payment and subsequently re-claims, a new FFA may not be required if their circumstances have not changed substantially since the previous assessment.

Act reference: Farm Household Support Act 2014, sections 85-86; Farm Household Support Minister’s Rule, section 5

30.2 Consequences of failure to obtain Farm Financial Assessment

If a person is required to complete an FFA, they must do so within 28 days of the date the notice was provided to the recipient.

If the FFA is not completed within 28 days of the notice of the requirement being given, FHA will not be payable to the person if the Secretary is satisfied that this is reasonable. This means that a claim that has not been granted will be rejected and a claim that has been granted will have the payment suspended.

A recipient can request an extension of up to a maximum of 28 days to conduct and return the FFA. The period of the extension should not exceed the time that would be reasonably practicable to return the FFA.

If the FFA is not returned within the extended due date (up to 56 days after the initial request), a granted claim will be cancelled.

Act reference: Social Security (Administration) Act 1999, sections 63(2), 64, 80
30.3 Qualification for Farm Financial Assessment supplement

FHA applicants who have been notified by the Secretary that they are required to have a FFA conducted are eligible for the FFA supplement to assist in covering the cost of the FFA. Generally only one supplement is payable, however, the case manager may authorise the payment of a second supplement if an additional FFA was required.

The FFA must be conducted by an independent prescribed adviser and submitted in the approved form. To qualify for the supplement, a person must supply a completed assessment to DHS. The person must also provide the required evidence that the assessment was conducted by a prescribed adviser. (The evidence may be supplied by the prescribed adviser directly to DHS.)

The person must not have previously received an FFA supplement for the FFA.

There are no restrictions on the amount of the FFA supplement that can be used on any single FFA, up to the maximum limit.

The maximum amount payable for the FFA supplement is $1,500.

Act reference: Farm Household Support Act 2014, sections 87, 89; Farm Household Support Minister’s Rule 2014, section 9

30.4 Method of payment of Farm Financial Assessment supplement

The person must make a claim for the FFA supplement within two months of the date the invoice for the assessment is provided i.e. the date of the invoice, and must provide evidence that the assessment was conducted in accordance with the FHS Act.

The FFA supplement can be paid to either the person making the claim for the supplement or to the prescribed adviser. The claimant must elect who is to be paid, in a manner approved by the Secretary. If the claimant elects to be paid directly, then that person must have already paid the prescribed adviser who conducted the assessment.

Act reference: Farm Household Support Act 2014 sections 88-89

30.5 Qualification of prescribed adviser

A person is a prescribed adviser if they:

a) have relevant financial qualifications; and

b) are a member of a professional body whose members normally provide financial advice.

An example of a relevant financial qualification is a qualification:

a) from a tertiary institution in a field that is relevant to giving financial advice; and

b) that is recognised by a professional body whose members normally give financial advice.
A professional body means a body that:

a) has its members practise the same profession; and

b) has enough membership to be considered representative (but not necessarily solely representative) of the profession practised by its members; and

c) sets its own admission requirements, including acceptable qualifications; and

d) sets standards of practice and ethical conduct; and

e) aims to maintain the standard of the profession practised by its members; and

f) has written rules, articles of association, by laws or codes of conduct for its members; and

  g) has the ability to impose sanctions on members who contravene the body's written rules, articles of association, by laws or codes of conduct; and

h) is not conducted for profit.

An FFA must be conducted by a prescribed adviser who is independent from the recipient. This means that they cannot have a right or interest in:

a) the farm; or

b) the farm business; or

c) any asset that is owned by the recipient, or the partner of the recipient.

The requirement for independence minimises the risk of bias or misleading FFAs that do not support effective decision making and planning by the person receiving payment.

**Act reference:** *Farm Household Support Minister’s Rule 2014*, section 5
31 Taxation

The FHA, activity supplement and FFA supplement are taxable payments.

Some expenses incurred in obtaining the activity supplement and FFA supplement may be tax deductible. For further information, please contact the ATO Small Business Hotline on 132 866.

32 Social security law

The FHS Act notionally modifies how the SSAct and the SS(Admin)Act operate so that those Acts can apply in relation to payments made under the FHS Act.

The FHA, activity supplement and the FFA supplement are generally treated as if they were social security payments. As a result, the general rules in the SSAct and SS(Admin)Act, relating to how to make claims, how payments are made and review of decisions, apply in relation payments under the FHS Act.


33 Hardship advance payment

A hardship advance payment is an amount of a claimant's first instalment of FHA, or the first instalment immediately following resumption of payment, to assist people in severe financial hardship. The eligibility for a hardship advance is consistent with mainstream social security payments.

For general information on the hardship advance payment refer to the Guide to Social Security Law.
34 Review and appeals

The rules dealing with review of decisions relating to payments are found in the SSAct and the SS(Admin)Act.

The social security review and appeals system consists of internal and external review mechanisms. An individual affected by a decision made under the social security law may apply for a review of the decision.

An internal review of a decision is conducted by a review officer who had no involvement in making the original decision. The levels of review and appeal, in increasing order, are:

- internal review conducted by a review officer
- an external appeal to the:
  - Administrative Appeals Tribunal
  - Federal Court
  - High Court.

**Act reference:** SS(Admin)Act Part 4 Review of decisions

For further information on review and appeals refer to the Guide to Social Security Law.
35 Overseas portability

The overseas portability provisions allow an individual to continue receiving FHA while overseas for a limited time under specific circumstances.

FHA recipients do not automatically qualify for FHA to be payable when they travel overseas. An allowable absence can be granted:

- to seek eligible medical treatment
- to attend to an acute family crisis
- for a humanitarian purpose.

An allowable absence has the effect of allowing an FHA recipient to continue being paid for up to six weeks if they travel overseas for any of the above purposes. The portability period should only apply up to the period which is reasonable to meet their needs.

The portability period can be extended for:

- a serious accident or illness of the person or family member
- hospitalisation of the person or family member
- a death of a family member
- involvement in custodian proceedings in the country where the person is located
- a legal requirement to remain outside of Australia in connection with criminal proceedings, except where the crime is alleged to have been committed by the person
- a robbery or serious crime committed against the person or family member
- a natural disaster in the country in which the person is located
- industrial action in the country in which the person is located
- war in the country in which the person is located
- under the Medical Treatment Overseas Program administered by the Minister who administers the National Health Act 1953, where financial assistance is payable in respect of the person's absence from Australia.

The portability period cannot be extended unless the event occurred or began during the period of absence from Australia and if the person is not willingly involved or participating in an event of political or social unrest, industrial action or war.

If a farmer has been granted an allowable absence, a qualified partner of the farmer will continue to receive FHA until such a time that it is determined that the farmer no longer meets the qualification criteria.

**Act reference:** Farm Household Support Act 2014 Part 2, Division 7