

Farm Household Allowance

Guidelines - legislative changes from 5 April 2017



For further information

Web	agriculture.gov.au/fha
Email	fha@agriculture.gov.au
Post	Farm Household Allowance Policy and Legislation Section Department of Agriculture and Water Resources GPO Box 858 CANBERRA CITY ACT 2601

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Department of Agriculture and Water Resources

Postal address GPO Box 858 Canberra ACT 2601

Telephone 1800 900 090

Web agriculture.gov.au

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Purpose of this document

This document sets out guidance for assessing applications for the Farm Household Allowance (FHA) programme. Specifically, it provides guidance in relation to the Farm Household Support (Non-farm Assets) Minister's Rule 2016 (the Rule) as amended by the Farm Household Support (Non-farm Assets) Amendment Rule 2016 (Amendment Rule), the further amendments made by the Farm Household Support (Non-farm Assets) Amendment Rule 2017 and the Farm Household Support Act 2014 (FHS Act) as amended by the Farm Household Support Amendment Act 2017 (Amendment Act).

This Guideline must be read in conjunction with the FHS Act, as amended by the Amendment Act, and its explanatory memorandum. It must also be read in conjunction with the Rule and its explanatory statement, and the Amendment Rule and its explanatory statement. All documents are available through legislation.gov.au.

A flow chart detailing the operation of applications under the Farm Household Support Act 2014, as amended by the Amendment Act is at Attachment A.

Context

The FHS Act provides for the payment of Farm Household Allowance (FHA) to eligible farmers and their partners who are in financial hardship.

The FHS Act applies and modifies parts of the Social Security Act 1991 (SS Act) and the Social Security Administration Act 1999 (SSA Act).

There are a number of requirements under the FHS Act that must be satisfied in order for FHA to be payable to a person. This includes the assets test which comprises two components:

- a non farm assets value limit (Tier 1)
- a net farm assets value limit (Tier 2).

To be eligible for FHA, a person's assets (total value of non-farm assets and net farm assets) must not exceed the respective value limits.

Changes to the FHS Act commenced on 5 April 2017 and removed the need for FH A recipients whose claims are assessed on or after 5 April 2017 to serve Ordinary Waiting Periods and/or Liquid Asset Waiting Periods, and to clarify the definition of farm assets.

Arrangements under the Rule

The following guidance applies to arrangements under the Rule, for applications received:

- on or after 6 May 2016 (where an applicant had shares in marketing cooperatives);
- on or after 17 December 2016 (where an applicant had either water assets or shares in marketing cooperatives); and
- before 5 April 2017 (where an applicant had either water assets, as well as shares in marketing cooperatives), where that recipient has not been cancelled off FHA.

Non-Farm Asset Value Limit – Tier 1

The non-farm asset value limit is the same as for Newstart Allowance and is determined in accordance with subsection 611(2) of the SS Act, as applied by section 33 of the FHS Act.

A non-farm asset is an asset other than a farm asset. It encompasses all liquid assets, including an individual's cash, shares, debts or any other realisable asset.

Farm Management Deposits and cash held to purchase farm assets such as property are also non-farm assets.

Act reference: Farm Household Support Act 2014 section 35

Farm Asset Value Limit – Tier 2

The net farm asset value limit is \$2.55 million. A farm asset is defined as:

- a) a right or interest in land that is used wholly or mainly for the purpose of the farm enterprise
- b) a right or interest in livestock, crop, plant or equipment, that is either the produce of a farm enterprise or is used wholly or mainly for the purpose of a farm enterprise
- c) the unpaid portion of a loan which is used to purchase a right or interest covered in (a) or (b) which has been made by a beneficiary of a trust or a shareholder of a privately controlled company, if the outstanding amount of the loan principal exceeds the value of the trustee or company's financial investments.

Act reference: Farm Household Support Act 2014 section 35

Treatment of Shares in Marketing Cooperatives

For claims lodged between 6 May 2016 and 4 April 2017 inclusive, shares in marketing cooperatives held by an individual for the purpose of operating a farm enterprise generally fell within the definition of non-farm assets for the purposes of determining FHA eligibility.

This interpretation does not align with the original policy intent whereby assets related to an applicant's farm enterprise that cannot be liquidated to self-support (or could, but in a way that would defeat the objectives of the FHS Act) should be captured by the definition of a farm asset.

To address this issue, the Minister's Rule modified Division 1 of Part 3.12 of the SS Act to provide that the total value of certain assets, as described below, is disregarded when calculating the value of a person's assets.

To be eligible for the exemption of shares in marketing cooperatives, it must:

- not be a farm asset (as defined by the FHS Act);
- be a farm related asset as defined in the Rule; and
- held wholly or mainly for the purpose of the farm enterprise.

Legislative instrument reference: *Farm Household Support (Non-farm Assets) Minister's Rule 2016, section 4.*

Act reference: Farm Household Support Act 2014 sections 34-35

Treatment of Water Assets

For claims lodged before 5 April 2017, water assets held by an individual for the purpose of operating a farm enterprise generally fell within the definition of non farm assets for the purposes of determining FHA eligibility.

This interpretation does not align with the original policy intent whereby assets related to an applicant's farm enterprise that cannot be liquidated to self-support (or could, but in a way that would defeat the objectives of the FHS Act) should be captured by the definition of a farm asset.

To address this issue, the Amendment Rule modified section 1118 of the SS Act to provide that up to \$1.1 million of the net value of certain assets, as described below, are disregarded when calculating the value of a person's assets (in practice exempting this value from the person's non-farm assets (Tier 1)).

To be eligible for exemption a water asset must:

- not be a farm asset (as defined by the FHS Act);
- be a water asset as defined in the Rule; and
- held wholly or mainly for the purpose of the farm enterprise.

Meaning of a water entitlement asset

The meaning of a water entitlement asset is defined at section 2 of the Farm Household Support (Non-farm Assets) Amendment Rule 2016.

Legislative instrument reference: Farm Household Support (Non-farm Assets) Minister's Rule 2016, section 4.

Act reference: Farm Household Support Act 2014 sections 34-35

Arrangements under the Amended Act

The following guidance applies to arrangements under the FHS Act, as amended by the Amendment Act, for applications received on or after 5 April 2017.

Non-Farm Asset Value Limit – Tier 1

The non-farm asset value limit is the same as for other allowances and is determined in accordance with subsection 611(2) of the SS Act, as applied by section 33 of the FHS Act.

A non-farm asset is an asset other than a farm asset. It encompasses all liquid assets, including an individual's cash, shares (apart from shares used or held for the purpose of operating the farm enterprise), debts or any other realisable asset.

Farm Management Deposits and cash held to purchase farm assets such as property are also non-farm assets.

Act reference: Farm Household Support Act 2014 section 35

Farm Asset Value Limit – Tier 2

The Amendment Act clarifies the asset test treatment of certain assets used or held for the operation of the farm enterprise. This means that, for claims lodged on or after 5 April 2017,

assets used or held mainly for the purpose of operating the farm enterprise, including shares in marketing cooperatives and water assets are now assessed as farm assets rather than as non-farm assets.

The net farm asset value limit is \$2.55 million. Sections 35(1) and 35(2) of FHS Act, as amended by the Amendment Act, define what a farm asset is.

Act reference: Farm Household Support Act 2014 section 35

Meaning of a water entitlement right

The meaning of a water entitlement right is defined at section 35A of the FHS Act, as amended by the Amendment Act.

Removal of Ordinary Waiting Periods (OWP) and/or Liquid Assets Waiting Periods (LAWP)

Amendments to the FHS Act were made on 5 April 2017 so that recipients no longer serve an OWP and/or LAWP before they commence receiving payments. In practice, this means that if an applicant makes a claim for FHA, their claim is determined on or after 5 April 2017 (the claim can have been made before this date), and they are found eligible to receive FHA, they will not be required to serve an OWP and/or LAWP before they can commence payment.

The amendment was made because farmers are already attached to the workforce. Requiring farmers to use liquid assets for self-support risks diverting those assets from supporting the operation of the farm enterprise. Requiring an FHA recipient to wait additional time to receive payment could lead to additional hardship which risks a reduction in their capacity to operate the farm enterprise.