



**SENATE COMMUNITY AFFAIRS
LEGISLATION COMMITTEE**

**Consideration of Legislation Referred
to the Committee**

**SOCIAL SECURITY AND VETERANS' AFFAIRS
LEGISLATION AMENDMENT
(RETIREMENT ASSISTANCE FOR FARMERS) BILL 1998**

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ISSN 1440-2572

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REPORT

SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION AMENDMENT (RETIREMENT ASSISTANCE FOR FARMERS) BILL 1998

1. THE INQUIRY

1.1 The Social Security and Veterans' Affairs Legislation Amendment (Retirement Assistance for Farmers) Bill 1998 was introduced into the House of Representatives on 11 March 1998. On 25 March 1998, the Senate, on the recommendation of the Selection of Bills Committee (Report No. 3 of 1998), referred the provisions of the Bill to the Committee for report by 13 May 1998. The reporting date was subsequently extended to 27 May 1998.

1.2 The Committee considered the Bill at a public hearing on 15 May 1998. Details of the public hearing are referred to in Appendix 2. The Committee received 13 submissions relating to the Bill and these are listed at Appendix 1.

2. THE BILL

2.1 The Social Security and Veterans' Affairs Legislation Amendment (Retirement Assistance for Farmers) Bill 1998 proposes amendments to the *Social Security Act 1991* and the *Veterans' Entitlements Act 1986* to enable eligible low income pension age farmers (including veterans) and their partners to transfer their farm and farm assets, up to a maximum of \$500 000, to the next generation without affecting their access to the age or service pension.¹

2.2 The Bill gives effect to a measure announced by the Prime Minister in September 1997 known as the Retirement Assistance for Farmers Scheme (RAFS). The scheme is part of the Government's *Agriculture – Advancing Australia* package. The measure was developed from a recommendation from the Special Rural Task Force (SRTF), which was established to examine the impact of the social security assets test on rural clients.²

2.3 The Bill provides for the scheme's commencement from 15 September 1997, the date the intention to introduce the measure was announced by the Government. The scheme will also be available to pension-age farmers who transferred their properties during the five years prior to 14 September 1997. It is intended that the scheme will operate for three years only, that is, until 14 September 2000.³

2.4 To be eligible for RAFS, farmers will have to:

- own farms to the value of not more than \$500 000 (net of farm debt) per farm;

1 Submission No.10, pp.2-3; Submission No.13, pp.1-2; Submission No.11, pp.1-2; Submission No.13, pp.1-2.

2 Submission No.10, pp.1-2; Submission No.11, pp.1-2.

3 Submission No.10, pp.1-3.

- show a long term involvement on the farm (or in farming) – the farmer must have owned the farm for at least 15 years, or been involved in farming for any period(s) totalling 20 years;
- have an average income of less than the applicable pension rate over the 3 years prior to the transfer (for both farm and non-farm activities);
- be of pension age or will reach that age before 15 September 2000. For farmers who are members of a couple, at least one member of the couple must either be of pension age or will reach that age before 15 September 2000.⁴

2.5 The member of the younger generation, to whom the farm and assets are transferred, will need to show that he/she had been actively involved with the farm during the last 3 years before the transfer.

2.6 The Minister in the Second Reading Speech stated that the purpose of the scheme ‘is to meet welfare and adjustment objectives of farmers by providing a three-year “window of opportunity” for low income, pension age farmers and their partners to gift their farm to the younger generation without affecting their access to the age pension, and to retire from farming with dignity’.⁵ The Minister also noted that:

The measure is targeted at those families who are in hardship because their businesses are capable of supporting only one family but are being required to provide a living for two or more families. It will remove a significant impediment to the intergenerational transfer of the family farm. It represents a considerable concession for farmers.⁶

2.7 The Department of Social Security (DSS) noted the specialised nature of this Scheme indicating that RAFS ‘offers a significant advantage for farmers which is not available to others seeking access to the age pension, including the owners of other family businesses in rural towns, which rely on the viability of the surrounding farms’.⁷

3. ISSUES

3.1 The introduction of this Scheme received general support in evidence received by the Committee, although a number of issues were raised relating primarily to its operation.⁸

Farm equity ceiling

3.2 The Departments of Social Security and Veterans’ Affairs (DVA) stated that the limit of \$500 000 on the net value of the farm is aimed at targeting those farm families in hardship because they own farming properties that are marginal as a result of the farm being required

4 Explanatory Memorandum, p.i.

5 Minister’s Second Reading Speech, House of Representatives, *Hansard*, 11.3.98, p.692. See also *Committee Hansard*, 15.5.98, p.1; Explanatory Memorandum, p.ii.

6 Minister’s Second Reading Speech, p.692.

7 Submission No.10, p.2.

8 *Committee Hansard*, 15.5.98, pp.3,18,22; Submission No.1, p.1; Submission No.5, p.1; Submission No.7, p.1; Submission No.8, p.1; Submission No.9, p.2.

to provide a living for two or more families.⁹ DSS stated that there are 53 900 farmers (19.6 per cent) aged 62 years or over, that is, in the target group in terms of age. Of these 32 340 (60 per cent) own farms with a net asset value of less than \$500 000.¹⁰

3.3 The Department of Primary Industries and Energy (DPIE) noted that the asset limit refers to the *net* value of the asset, that is, net of any debt. Any liabilities relating to the farm can be used to reduce the value of the farm.¹¹

3.4 DSS and DPIE noted that when considering the value of the farm, it is important to have regard to several factors, which may impact on the net value of the farm. These include:

- the value of the house and surrounding land of up to two hectares (the curtilage) will be deducted from the value of the farm being gifted where the farmer retains a life interest in the farm house or excises the farm house and curtilage from the remainder of the farm; and
- only the retiring farmer's equity in the farm will be deducted in determining eligibility for the scheme where the farm is owned in partnership with an eligible descendant(s).¹²

3.5 A number of groups, including the National Farmers' Federation (NFF), claimed that the limit of \$500 000 on gifted assets was set too low, and will result in few farmers qualifying for pensions under the scheme.¹³ One submission cited figures that suggested that only 600 applicants would be eligible.¹⁴ DSS, however, estimated that 2 100 individuals (including partners) will qualify for pensions under RAFS. Of this number, 1 800 will qualify through DSS and 300 through DVA.¹⁵

3.6 The NFF and some other groups argued that the limit on gifted assets should be raised to \$800 000.¹⁶ One witness conceded that if it was not practical to raise the ceiling to \$800 000 then there should be greater flexibility within the proposed limits.¹⁷ DSS responded, however, that if the allowable asset limit were raised to \$800 000 this would effectively allow farms with a gross value of \$1.1 million to qualify under RAFS and would extend the potential eligibility for RAFS to some 85 per cent of pension age farmers, assuming they meet the other eligibility criteria.¹⁸ DSS stated that the total cost of raising the asset limit to \$800 000 plus increasing the allowable income limits to \$20 000 per annum would be \$131 million over the course of the scheme – effectively doubling the cost of the

9 *Committee Hansard*, 15.05.98, pp.23-24; Submission No.10, p.5.

10 *Committee Hansard*, 15.5.98, p.24; Submission No.10, p.4. The figures are based on Australian Bureau of Agricultural and Resource Economics data.

11 Submission No.11, p.3.

12 Submission No.10, p.5; Submission No.11, p.3.

13 *Committee Hansard*, 15.5.98, pp.2,18-20; Submission No.7, p.1. See also Submission No.1, p.3; Submission No.6, p.3; Submission No.8, p.2.

14 Submission No.8, p.1.

15 Submission No.10, p.4 ; *Committee Hansard*, 15.5.98, p.24.

16 *Committee Hansard*, 15.5.98, pp.3,20; Submission No.7, p.1. See also Submission No.8, p.2; Submission No.9, p.2; Submission No.12, p.2.

17 *Committee Hansard*, 15.5.98, p.10.

18 For further details relating to these figures see Submission No.10, p.6.

scheme. It would also increase the number of DSS clients eligible for RAFS to 3 500 people.¹⁹ DSS stated that an assets limit at that level would not be in keeping with the targeting of the measure at those families who are in hardship because their businesses are capable of supporting only one family.²⁰

Income threshold

3.7 As noted above, the income test will apply on the basis of average income received by the individual or couple over the 3 years preceding the transfer of the farm. Some farmers groups and others argued that the income level is too restrictive and should be increased as the income test requirements may exclude some farm families from eligibility under the scheme.²¹

3.8 DSS emphasised, however, that RAFS is targeted to farm families who are in financial hardship. The Department also noted that this income test was recommended by the SRTF in order to ensure that the benefits of the moratorium on gifting was targeted to farmers most in need.²²

3.9 DSS and DPIE noted that the pension income test definition of ‘income’, while not the same as taxable income, does allow for many of the same deductions, including interest paid on farm loans. The Departments also noted that income support payments from DSS and DVA or under the *Farm Household Support Act 1992*, such as Drought Relief Payments, and Austudy payments will not be counted as income under the income test. In addition, only the income of the retiring farmer and their spouse will be taken into account. If the farm is run in partnership, the business partners’ income is not included in the calculation of income. It was also noted that farm losses can be offset against income from other sources.²³

Taxation implications

3.10 Some witnesses raised a number of issues in relation to the taxation implications of the proposed legislation including farm divestment in relation to companies and trust arrangements.²⁴ DPIE advised that a range of taxation issues is currently under discussion with the Australian Taxation Office.²⁵

3.11 In relation to trusts, DSS stated that farmers who have a legal interest in a farm through their role as trustee of a family trust can also qualify under RAFS. It is expected that most farmers in this situation who seek to access the age pension under RAFS will be those who have outstanding loans relating to the establishment of the trust. In order to recover such outstanding loans farmers will need to remove the farm from the trust and gift the farm to an

19 For further details see *Committee Hansard*, 15.5.98, p.31.

20 Submission No.10, p.6.

21 *Committee Hansard*, 15.5.98, pp.3,22; Submission No.7, p.1; Submission No.8, p.2; Submission No.9, p.2.

22 *Committee Hansard*, 15.5.98, p.31; Submission No.10, p.6.

23 Submission No.10, p.6; Submission No.11, p.3.

24 *Committee Hansard*, 15.5.98, pp.6-17; Submission No.3, pp.8-11; Submission No.2, pp.15-22.

25 Submission No.11, p.4. See also *Committee Hansard*, 15.5.98, pp.30-31.

eligible descendant. Farmers who do not seek to recover an outstanding loan can qualify under RAFS by transferring title to the farm and their trusteeship of the family trust to an eligible descendant.²⁶

3.12 With regard to private companies, DSS advised that if a farmer is a shareholder in a private company that runs a farm and wishes to participate in RAFS he/she could dissolve the private company, then gift the farm and farming assets to an eligible descendant. Another option available to the retiring farmer would be to remove the farm from the private company, recover related outstanding loans and gift the farm to an eligible descendant.²⁷

4. RECOMMENDATION

4.1 The Committee reports to the Senate that it has considered the Social Security and Veterans' Affairs Legislation Amendment (Retirement Assistance for Farmers) Bill 1998 and **recommends** that the Bill proceed.

Senator Sue Knowles
Chairman

May 1998

26 Submission No.10, p.9.

27 Submission No.10, p.9.

**SOCIAL SECURITY AND VETERANS' AFFAIRS LEGISLATION
AMENDMENT (RETIREMENT ASSISTANCE FOR FARMERS) BILL 1998**

Additional Comments on behalf of Senator Forshaw and Senator Denman

The Opposition members of the Committee do not oppose the Bill. Indeed we support the principle upon which the Bill is based, namely, to promote the intergenerational transfer of family farms.

However we are concerned that ultimately the Government's proposed scheme will do little to promote the objective.

When the scheme was first announced in late 1997 it was estimated, that some 10,000 families would be able to take advantage. However in evidence to the Committee the Department of Social Security estimated that 2,100 persons would be expected to apply over the 3 years of the scheme. Given that in a majority of cases it will be joint owners of farms who apply the number of farms actually affected by the scheme would be considerably less than 2,100. (See Hansard 15 May 1998, page 25)

Further, various witnesses including the National Farmers' Federation and the NSW Farmers' Association claimed that the asset limit of \$500,000 was too low and that few farmers would qualify for pensions under the scheme. This may well be the case but simply increasing the asset limit is not the answer. Indeed it may negate the primary focus of the scheme which is directed at families who are in severe hardship because the farming enterprise cannot support the entire family and successive generations.

Concerns about the taxation and other legal implications of property transfers under the scheme were also raised during the committee's hearings. Whilst we note that the Department of Primary Industries and Energy advised that these issues were being discussed with the Australian Taxation Office we are concerned that the potential problems raised in evidence by Mr Parker and Mr Thompson are resolved so that eligible persons are not otherwise prohibited from access to the scheme.

Senator Michael Forshaw
(ALP, New South Wales)

Senator Kay Denman
(ALP, Tasmania)

Social Security and Veterans' Affairs Legislation Amendment

(Retirement Assistance for Farmers) Bill 1998

MINORITY REPORT

Senator John Woodley

The Australian Democrats wholeheartedly welcome the introduction of this legislation into the Federal Parliament.

The issue of the intergenerational transfer of farms and the consequent implications for a person's eligibility to the Age Pension is one the Australian Democrats have been concerned about and pursued for a number of years now.

Background

The Democrats recognise the desirability of encouraging the intergenerational transfer of farming properties in terms of:

- (i) the maintenance of the family farm and the accumulated wealth of farming knowledge and experience that entails;
- (ii) the maintenance of the viability and structure of many farming communities;
- (iii) basic fairness; and
- (iv) the encouragement of sustainable agricultural.

Intergenerational transfer of farming properties is, and always has been, an essential component of the Australian farming industry.

As Dr Craik, Executive Director of the National Farmers Federation, said in her evidence to the Committee:(CA2):

The legalistic view is that the older generation owns the land because their name is on the title deeds. But the true position is that these aged Australians consider that they really own very little, that the land and family assets are held in trust for future generations.

To date, however, many retiring farmers have paid a high price in terms of Age Pension foregone for having handed their farms on to the next generation.

An amendment moved by the Australian Democrats back in 1994 was the impetus for a Community Affairs Committee inquiry held to examine the impact on farming families of the income and assets tests which apply to a range of social security payments.

When that Committee reported to the Senate in September 1995 the Democrats submitted a minority report stating that we believed the value of family farms should be exempted from the various social security means tests. We also identified in that report that the social security penalties for intergenerational transfer of farms are a major issue for Australia's family farmers. In an attempt to initiate moves to address that issue, the Democrats included in that minority report a draft bill outlining a system to allow intergenerational transfer of farms without incurring social security penalties.

Whilst that draft bill differs in detail to the Bill currently under consideration, the overall principle of assisting farmers to retire from farming with dignity through a simpler handing on of the farm is shared by both.

Further, as Dr Kingma, Assistant Secretary of the Rural Division of the Department of Primary Industries and Energy testified (CA1):

...retirement from farming of the older generation of farmers should assist their process of adjustment through creating an environment where the younger generation is able to introduce innovative practices and explore new ways of doing things, which is very important as agriculture approaches the 21st century.

The Democrats are pleased that the current government has recognised this problem and have now sought to address it.

The proposed scheme will not only provide a window of opportunity for farmers to transfer their farms without social security penalty but, as Dr Kingma said (CA1), it will also:

...raise the importance with farm families of...succession planning, the need to obtain advice on how to transfer the farm between generations and the need for business planning generally.

Overall concerns

The Democrats recognise that with any measure such as this, it will always be a matter of judgement just how far the benefits of the scheme should be extended. This decision requires the balancing of a number of factors.

We believe, however, that it would be unfortunate if financial considerations were to be given such weight as to negate the positive aspects of the scheme.

We are in no way suggesting that the financial impact of the scheme should not be a primary consideration - it clearly is very important in terms of the most effective use of public funds. There is, however, a point at which what should be a very positive scheme is stymied by restrictive conditions introduced to minimize the cost to government.

That the scheme in its current form may be too restrictive was noted by a number of those who gave evidence to the Committee.

The Executive Director of the National Farmers Federation stated (CA2):

...we are concerned that the limits placed on the package mean that it will be available to too few people.

Ms Wilkes-Bowes from the New South Wales Farmers Federation said (CA3):

The association is very supportive of the policy behind this scheme (but), like NFF, we see the impediments that have been put in terms of eligibility criteria limiting the usefulness of the scheme substantially. We see the equity threshold and the income threshold needing to be raised to make the scheme a true tool for structural adjustment—which is what the government intended the policy for in the first place.

The Reverend Noel Park, Managing Director of Lifeline Darling Downs and South West Queensland, said (CA18):

Rev. Park—Our response to the proposed amendments is not about the concept but about the conditions, which in our experience have meant that our staff have not been able to find any families who would qualify under the conditions as proposed.

Senator WOODLEY—Noel, do you know of any families in your area who will be eligible for take-up of this scheme?

Rev. Park—We have not been able to identify them at this stage. We have four workers in the field. They have talked to a number of families and we also supervise six other rural family support workers in the area. We have not been able to identify those who can see that they would qualify, although there are a number who would like to.

Finally, Ms Corrine Menere, Rural Family Support Worker from the Care Balonne Association in St George Queensland stated (CA19) that of the 700 farming families in the shire in which she works she's had contact with about 400 of those and doesn't expect any to meet the eligibility criteria.

The various eligibility criteria of the scheme mean that, of the 54,000 farmers who meet the age requirements, only around 700 a year are expected to be assisted under the scheme (i.e., 2,100 in total).

Specific concerns and recommendations:

1. "Window of opportunity"

- the scheme is available for 3 years from 15/9/97

The Government has set a sunset clause on the scheme on the basis that, after that 3-year period, farmers should have had the opportunity to more adequately plan their retirement from farming.

No significant justification was provided as to why the starting date of the scheme was set at 15th of September last year other than it was a policy decision by the Government. It seems likely that this was done simply in the belief that it would add more clout to the Prime Minister's announcement on that date.

Whilst that may (or may not) have been true, the reality is that the scheme is effectively non-operational at this stage. To date, no applications have been granted and, not surprisingly, rural counsellors are prudently advising people not to transfer their farms in reliance of this scheme until the legislation is passed.

It now appears the enacting legislation will not be passed until sometime after late June meaning nearly a year of 'operation' will have passed before the scheme is of practical benefit to farmers and can be accessed with any certainty.

The NFF Executive Director stated that the Farmers Federation is not concerned that the window of opportunity applies for just 3 years (CA4). Dr Craik pointed out that (CA5):

A feature of farm organisations in more recent years has been encouraging farmers to develop succession plans. The state farming organisations with accountants and lawyers have started to provide assistance and facilitate their members in developing those, and we support it. The

proposal here is to pick up those who have been caught in a window with a time factor where they have not done that. This gives the chance to deal with that group of people in the next three to five years, plus building on what has already happened in succession planning. We would hope that in the future people do plan more adequately for their retirement.

The Australian Democrats share that hope. We note, however, the evidence of Ms Wilkes-Bowes that (CA4):

...the New South Wales Farmers Association feels that it is too short a window of opportunity, particularly given that the scheme is taking some time to get up and running. We have suggested that it should be open for five years from the date of announcement to provide a decent window of opportunity and to give people time to start their succession planning earlier.

Further, the Rural Spokesperson for the Australian Society of Certified Practising Accountants, Mr Tony Parker stated (CA13):

Here (is) an opportunity to have a transfer without financial hardship to the younger generation and...allow mum and dad to retire with dignity. There needs to be a time frame to achieve the result. I believe that three years is not long enough because by the time the legislation is passed it is going to be June or even later—let us assume it goes through by the end of June.....and the first 12 months will have been lost. That leaves two years of actual legislation in front of the community at large.....I would strongly support, in view of what has happened and what is emerging, the need to have the legislation for five years, because not all farmers will move that quickly

The Democrats are strongly influenced by the evidence of Mr Parker being, as he is, an accountant working day-to-day with the very people this legislation is designed to assist.

As such, the Democrats recommend the introduction of a five (5) year window of opportunity to apply from 15 September 1997.

2. Low income

- the farmer's average income over the past 3 years must be below the maximum pension rate

The Assistant Secretary to the Rural Division of the Department of Primary Industries and Energy, Dr Kingma stated (CA1):

...the RAF scheme is targeted to those farm families in hardship because their businesses are supporting two or more families when in fact the resources are sufficient to support only one family. So the scheme is for farm families in serious financial hardship.

Given that the maximum levels of the Age Pension are set at very modest levels (i.e., single (\$9042pa) or couple (\$15085pa)), it is difficult to imagine that such an income could have supported two families for the past three years.

As the Rev. Noel Park, said (CA18):

Our concern with the figures in the proposed amendments and the proposal is that, if you have got a farm that is only currently generating a level of less than the pension for the older generation, then it is really not a terribly viable proposition for a younger generation to take over. In most cases, that would have meant the younger generation has had to work off farm just to survive, which then makes it difficult with the eligibility.

The Democrats believe that the proposed income limit is far too restrictive and is one of the major limitations which put at risk the positive aspects of this scheme.

The Democrats believe a more appropriate threshold is that suggested by the National Farmers Federation (Sub.7) and the South Australian Farmers Federation (Sub.9) - that is, the total amount pensioners can earn before their pension is reduced. This figure is obtained by adding the maximum rate of pension to the maximum amount of outside income able to be earned before an income test reduction is incurred.

We note the comments of the Policy Officer for the Australian Pensioners and Superannuants Federation, Mr Gerard Thomas, when he said (CA23):

It seemed rather curious to us that, under these arrangements for assistance to farmers, there is a strict requirement that is applied to no other income support for retired people in this country, particularly when you consider, for example, recent measures in the budget—which we welcomed—with Commonwealth health cards for people on modest and high incomes. It struck us as a bit incongruous that people have to have incomes below \$9,000 rather than traditionally at least a part pension and a concession card.....Again, that means that the potential ability of the scheme to assist a lot of farmers can be put into question.

We also note the comments of The Hon Bruce Scott MP in a letter he has apparently sent to his constituents where he said (see attachment to Sub.1):

I also recommended that an amendment of the farmer's income test to permit the earning of income equivalent to what age pension recipients would be entitled to earn from all sources before it begins to affect their entitlement would make the income test more just and reasonable.

Mr Scott MP is Federal Member for Maranoa in Queensland, one of the areas that stand to benefit from this scheme and, as such, is acutely aware of the difficulties being faced by farming families. He is also Minister for Veterans' Affairs and it has been estimated that around 300 veterans will benefit from this scheme.

Currently, to receive the maximum rate of pension, pensioners can also earn outside income up to around \$4,500 per year for couples and \$2,600 for singles. This means their total combined income (i.e., pension plus outside income) before the pension reduces is around \$19,661 for couples and \$11,600 for singles.

Setting the allowable income level for retirement assistance to farmers at these levels has the added benefit that the figures will be increased each year in line with inflation and wages growth. That is, they will receive the indexation and any above-indexation rises granted to the pension as a result of the recent pegging of the pension to 25% of MTAW.

3. Eligible farmers

- farmers must have owned the farm being gifted for 15 years or been in farming for at least 20 years

The Democrats believe this requirement is too stringent and has the potential to lead to inequities. For example, a farmer who has owned his current farm for 14 years and his previous farm for 3 years would be ineligible to transfer his current farm.

We believe that an appropriate test would be to simply require that a farmer has been in farming for at least 15 years.

We also believe that the Secretary should be provided with a discretion to disregard any breaks from farming of up to 6 months where the Secretary is of the opinion that any such break was due to the sale and purchase of successive farms or to exceptional circumstances (eg ill health).

On this point, the Rural Policy Director of the National Farmers Federation, Mr Robert Douglas, said (CA5):

We originally were quite concerned with that same point. We have received assurances that the test would be administered flexibly in cases such as buying and selling a farm. You sell one farm before you go out and buy another. There are very few farmers who are going to sell before they buy. We had received assurances that this would not be an issue, but we were initially concerned. Perhaps the legislation could be changed to make that administrative flexibility legislative certainty. We certainly would support that.

The Democrats agree that legislative certainty in this regard is preferable and, as such, support amendment of the legislation to provide such a Secretarial discretion.

- a 'qualifying farmer' must have "contributed a significant part of his or her labour and capital to the development of a farm or farms and have derived a significant part of his or her income from that farm or those farms" (s.17A(3))

Evidence was given to the Committee that, during drought or due to other exceptional circumstances, some farmers may have generated more income from off-farm sources.

The Rural Family Support Worker from St George in Queensland, Ms Menere, stated (CA21):

A lot of families still had at least one member of the family on the land but were seeking jobs—for example, working in the cotton area or driving dozers—so their income was actually lifted during that time. There were a great deal of people who were actually doing that during the drought—not so much in the last year but definitely prior to that.

Once again, the Democrats believe consideration should be given to providing a Secretarial discretion within this requirement.

That is, we believe that the legislation should be amended to require that a farmer has "derived a significant part of his or her income from the farm or, in the opinion of the Secretary, would have except for exceptional circumstances."

Such exceptional circumstances would include, but not be limited to, those situations in which a farmer had been previously issued with an "exceptional circumstances drought certificate".

4. Eligible farms

- the value of the farm (net of farm debt) must be not more than \$500,000

ABARE figures show that the average net value of all farms is around \$1.05m. The figures for the various sectors of farming are: sheep \$1.1m; beef cattle \$1.35m; dairy cattle \$0.9m; grain \$1.2m; cotton \$2.1m; vegetables \$0.8m; poultry \$0.9m; pigs \$1.2m; sugar \$1.0m;

At the same time however, as the NFF highlighted (CA2):

If you look at the figures from ABARE, they have estimated that the average broadacre farm had a business profit of negative \$1,400 in 1996-97.

Ms Corrine Menere, the Rural Family Support Worker from South West Queensland, stated that she had held a number of information days for families in her shire dealing with the integrated rural policy package for farming and that:

Many families showed interest in this scheme, but upon receiving the financial details from them they were unable to meet the criteria. This is due to the majority of the property values in south-west Queensland being over \$500,000.

The NFF recommend lifting the assets ceiling to \$800,000 (CA3). Further, the Farmers Federation stated (CA3):

the retirement assistance package is the only welfare package that we are aware of where there is actually a sudden death cut-off—that is, you either qualify or you do not. There is not a graduation and part payments. We see that as inequitable and suggest that the existing social security tapers that are in place are provided for the withdrawal of benefits.

As the NFF highlight, the application of a ‘sudden-death’ cut-off means a person whose farm is \$1 below the limit may qualify for full assistance while a person whose farm is \$1 above qualifies for nothing. This will not only lead to injustices but also encourages the use of artificial means of minimising asset levels.

The legislation makes provision for the retiring farmer to excise the farm house and two hectares to live on in retirement. Where this is done, the value of the house and that adjacent land will not be included within the \$500,000 limit. Evidence was given to the Committee, however, that this course of action is not without its difficulties.

The Rev Noel Park from Lifeline in South West Queensland stated (CA18):

My understanding of the problem for most of the local government areas with which we are involved is that it simply is not possible to excise areas of that size in rural subdivisions. It may be possible in a rural residential area but, on farming land, probably somewhere in the area of four hectares would be the absolute minimum that most councils would look at.

Rural accountant, Mr Tony Parker, said (CA-8):

I submit to you and state on the record that, in New South Wales, the creation of a two-hectare block is covered by an environmental plan and the concessional allotment rules. It is up to all local government councils to determine whether they will adopt the concessional allotment rules.....On 23 December, the Gunning Shire Council, which is very close to your borders, ceased to accept any more applications for concessional allotments. That is the case in the majority of councils in New South Wales. Even if your local council accepts that, the council will then look at it and say, ‘We may require a section 94 capital contribution to the infrastructure in the shire,’ like more roads, et cetera. I have spoken to the town planners at Yass and other councils and the cost can range from \$1,000 to \$30,000.....What I would like to state to you is the transfer costs to keep the principal residence is not without considerable financial impact.

The Democrats believe that the \$500,000 limit on farming properties is too restrictive. Whilst noting recommendations to increase this limit to \$800,000 we also note the desirability of a tapered withdrawal of support.

One option which the Democrats believe is worthy of further examination is to, under the existing gifting provisions, simply disregard the first \$500,000 of any farm gifted. This would mean, for example, that a home-owning farming couple with no other financial assets could gift a farm worth up to \$678,500 and receive the full pension or up to \$877,500 and receive a part pension.

A single home-owner would be able to gift a farm worth \$625,750 and receive the full pension or up to \$745,750 and receive a part-pension.

The joint advantages of such a scheme, from the Democrats' point of view, are that it would both raise the assets threshold slightly and at the same time introduce a tapered withdrawal of payments rather than a sudden death withdrawal as the scheme currently proposes.

5. Transferring the whole farm

- the retiring farmer must transfer all farm assets

The Democrats believe this provision needs to be administered in a flexible manner to allow a retiring farmer to retain, for example, a four-wheel-drive/utility or a sheep dog - assets which could, in the strict sense, be seen as farm assets needing to be transferred. We hope the Minister may be able to provide an assurance to the Senate that such a flexible attitude will be adopted.

6. Younger generation:

- farms can be handed on to a "child, step child or adopted child of the person"; "a descendent in direct line of a child"; or any other person, who in the opinion of the Secretary, should be treated as eligible (s.17A(1))

The Democrats believe that eligible descendants should specifically include nephews and nieces. We note that the Secretarial discretion may allow transfers to nephews and nieces but believe it would be preferable to include them in the legislation. This would provide greater certainty for farming families and would ensure more consistent decision making.

- eligible descendants must have, during the 3 years prior to transfer, either been actively involved with the farm or, in the opinion of the Secretary, would have been so involved but for exceptional circumstances beyond their control (s.1185B(d))

Some concern was expressed at the inquiry that a descendant forced to work off-farm may be excluded from eligibility (e.g., Rev Noel Park, Lifeline (CA18); Ms Corrine Menere, Care Balonne Association Inc. (CA20)).

The Democrats believe the legislation should be clarified to ensure that the exceptional circumstances mentioned in proposed section 1185B(d) include, but are not limited to, those situations in which a farmer had been issued with an "exceptional circumstances drought certificate".

This would ensure that descendants forced to work off farm due to the financial impact of drought will not be excluded from the scheme.

Conclusion

The Australian Democrats believe that the above recommendations represent sensible and essential improvements to the Retirement Assistance for Farmers Scheme. We will seek to implement these recommendations when the legislation is debated in the Senate.

Senator John Woodley
Australian Democrats Senator for Queensland

APPENDIX 1

SUBMISSIONS RECEIVED BY THE COMMITTEE

- 1 Lifeline Darling Downs and South West Queensland
- 2 Mr A J Parker, OAM
- 3 Commins Hendriks
- 4 Mr R E Philips
- 5 Ms Loretta Bowman
- 6 Care Balonne Association Inc.
- 7 National Farmers' Federation Australia
- 8 NSW Farmers' Association
- 9 South Australian Farmers Federation
- 10 Department of Social Security
- 11 Commonwealth Department of Primary Industries and Energy
- 12 Australian Pensioners' & Superannuants' Federation
- 13 Department of Veterans' Affairs

APPENDIX 2

PUBLIC HEARING

A public hearing was held on the Bill on 15 May 1998 in Senate Committee Room 2S1.

Committee Members in attendance

Senator Sue Knowles (Chairman)
Senator Kay Denman
Senator Alan Eggleston
Senator Michael Forshaw
Senator John Woodley

Witnesses

National Farmers' Federation

Dr Wendy Craik, Chief Executive Officer
Mr Robert Douglas, Director, Rural Policy
Mr Mark Grimson, Assistant Director, Rural Policy

NSW Farmers' Association

Ms Dee Wilkes-Bowes, Director, Rural Affairs

Mr A J Parker, Accountant

Commins Hendriks

Mr W J Thompson, Solicitor

Lifeline Darling Downs and South West Queensland *via teleconference*

Rev. Noel Park, Managing Director

Care Balonne Association Inc. *via teleconference*

Ms Corrine Menere, Rural Family Support Worker

Australian Pensioners' & Superannuants' Federation *via teleconference*

Mr Gerard Thomas, Policy Officer
Ms Sarah Fogg, Executive Officer

Department of Social Security

Mr Rob Nolan, Assistant Secretary, Special Payments Branch
Ms Glenys McIver, Director, Means Test Policy, Retirement Programs Branch
Mr Lloyd Scholes, Director, Special Benefit and Rural Section, Special Payments Branch
Ms Heather Kempf, Assistant Director, Special Benefit and Rural Section,
Special Payments Branch

Department of Primary Industries and Energy

Dr Onko Kingma, Assistant Secretary, Rural Division

Department of Veterans' Affairs

Mr Bob Hay, Branch Head, Income Support