



Social Security Legislation Amendment (Disaster Recovery Allowance) Act 2013

No. 62, 2013

**An Act to amend the law relating to social security,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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**An Act to amend the law relating to social security,
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[Assented to 26 June 2013]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security Legislation
Amendment (Disaster Recovery Allowance) Act 2013*.

2 Commencement

This Act commences on 1 October 2013.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Disaster Recovery Allowance

Part 1—Main amendments

Social Security Act 1991

1 Subsection 23(1)

Insert:

Disaster Recovery Allowance means Disaster Recovery Allowance under Part 2.23B.

2 Subsection 23(1)

Insert:

Part 2.23B major disaster means a disaster in respect of which a determination is in force under section 36A.

3 After section 36

Insert:

36A Part 2.23B major disaster

- (1) The Minister may determine in writing that an event is a Part 2.23B major disaster if the Minister is satisfied that:
 - (a) the event is a disaster that has such a significant impact on one or more industries and/or one or more areas that a government response in the form of income support is required; and
 - (b) the event is of national significance.
- (2) Without limiting the matters to which the Minister may have regard for the purposes of subsection (1), the Minister must have regard to:
 - (a) the extent to which the nature or extent of the disaster is unusual; and
 - (b) the number of workplaces that are disrupted.
- (3) The event may be one that occurs naturally or otherwise.
- (4) The event must be one that occurs in Australia.

- (5) In a determination made under this section, the Minister must do one of the following:
 - (a) specify one or more industries affected by the event and one or more areas affected by the event;
 - (b) specify one or more areas affected by the event.
- (6) A determination made under this section is not a legislative instrument.

4 Subsection 1061JJ(1)

After “AGDRP”, insert “, a Disaster Recovery Allowance”.

5 Paragraph 1061JJ(2)(b)

After “AGDRP”, insert “, a Disaster Recovery Allowance”.

6 After Part 2.23A

Insert:

Part 2.23B—Disaster Recovery Allowance

Division 1—Qualification for Disaster Recovery Allowance

1061KA Qualification for Disaster Recovery Allowance

- (1) A person is qualified for a Disaster Recovery Allowance if:
 - (a) the person is at least 16 years of age; and
 - (b) the person:
 - (i) is an Australian resident; or
 - (ii) is the holder of a visa that is in a class of visas determined by the Minister for the purposes of subparagraph 729(2)(f)(v); and
 - (c) under subsection 36A(1), the Minister determines that an event is a Part 2.23B major disaster; and
 - (d) if the person is under 22 years of age—the Secretary is satisfied that subsection (2) of this section does not apply in relation to the person; and
 - (e) the Secretary is satisfied that subsection (3) or (4) of this section applies in relation to the person; and

- (f) the Secretary is satisfied that the person has suffered a loss of income as a direct result of the event; and
- (g) the person is not receiving a social security entitlement; and
- (h) the person is not receiving a payment prescribed in an instrument under subsection (5) of this section; and
- (i) the Secretary is satisfied that the person satisfies the requirements (if any) prescribed in an instrument under subsection (6) of this section; and
- (j) the person's rate of Disaster Recovery Allowance, worked out under section 1061KC, is greater than nil at the time the claim for payment of Disaster Recovery Allowance is determined by the Secretary.

Qualification rule for persons under 22 years of age

- (2) This subsection applies in relation to a person if:
 - (a) on the day of the determination under subsection 36A(1), the person is wholly or substantially dependent on another person (except the person's partner); and
 - (b) on that day, the person is not a parent of another person; and
 - (c) the person's income in the financial year in which that day occurs will not be more than \$6,403.

Qualification rule if affected industries and areas

- (3) This subsection applies in relation to a person if:
 - (a) under paragraph 36A(5)(a), the Minister specifies, in a determination under section 36A, one or more industries affected by the event and one or more areas affected by the event; and
 - (b) the person earns, derives or receives income from one of those industries and the person does so by working in one of those areas.

Qualification rule if affected areas only

- (4) This subsection applies in relation to a person if:
 - (a) under paragraph 36A(5)(b), the Minister specifies, in a determination under section 36A, one or more areas affected by the event; and
 - (b) either or both of the following apply:

- (i) the person earns, derives or receives income from one of those areas and the person does so by working in one of those areas;
- (ii) the person resides in one of those areas.

Legislative instruments

- (5) The Minister may, in writing, prescribe payments for the purposes of paragraph (1)(h).
- (6) The Minister may, in writing, prescribe requirements for the purposes of paragraph (1)(i).
- (7) An instrument made under subsection (5) or (6) is a legislative instrument, but section 42 (disallowance) of the *Legislative Instruments Act 2003* does not apply to the instrument.

1061KB Disaster Recovery Allowance not payable if assurance of support in force

A person is not qualified for a Disaster Recovery Allowance if the Secretary is satisfied that at the time the person would otherwise have been so qualified:

- (a) an assurance of support was in force in respect of the person (the *assuree*); and
- (b) the person who gave the assurance of support was willing and able to provide an adequate level of support to the assuree; and
- (c) it was reasonable for the assuree to accept that support.

Note: For *assurance of support* see subsection 23(1).

Division 2—Rate of Disaster Recovery Allowance

1061KC Rate of Disaster Recovery Allowance

- (1) The rate of a person's Disaster Recovery Allowance is a daily rate. That rate is worked out by dividing the fortnightly rate worked out in accordance with an instrument under subsection (2) by 14.
- (2) The Minister must, by legislative instrument, specify a method for working out the fortnightly rate of Disaster Recovery Allowance for the purposes of subsection (1).

- (3) That fortnightly rate may be nil.

Maximum rates

- (4) For a person who is under 22 years of age, that fortnightly rate is not to exceed the maximum basic rate of youth allowance that would be payable to the person if:
- (a) the person were qualified for youth allowance; and
 - (b) youth allowance were payable to the person.
- (5) For a person who is at least 22 years of age, that fortnightly rate is not to exceed the maximum basic rate of newstart allowance that would be payable to the person if:
- (a) the person were qualified for newstart allowance; and
 - (b) newstart allowance were payable to the person.

Division 3—Other matters

1061KD Period that Disaster Recovery Allowance is payable

A person's Disaster Recovery Allowance is payable to the person for a period of 13 weeks.

1061KE Non-receipt of social security payment

- (1) This section applies for the purposes of a provision of this or another Act if:
- (a) the provision provides a benefit (whether the benefit is a pension, benefit, payment, supplement or any other sort of benefit) if a person meets specified criteria; and
 - (b) one of the specified criteria is that the person is receiving a social security payment, or is a recipient of a social security payment.
- (2) For the purposes of the provision, a person is not taken to be receiving a social security payment, or to be a recipient of a social security payment, merely because the person receives a Disaster Recovery Allowance.

Social Security (Administration) Act 1999

7 After Subdivision F of Division 1 of Part 3

Insert:

Subdivision FAA—Time limit for claims for Disaster Recovery Allowance

27AA Time limit for claims for Disaster Recovery Allowance

- (1) A claim for a Disaster Recovery Allowance relating to a Part 2.23B major disaster must be lodged within 6 months after the determination of the disaster under section 36A of the 1991 Act.
- (2) However, the claim may be lodged more than 6 months after the determination if the Secretary is satisfied that:
 - (a) there are special circumstances applying to the person's claim that justify a late lodgement; and
 - (b) the claim is lodged within a reasonable period having regard to those circumstances.

8 After subsection 31(1A)

Insert:

- (1B) Section 29 does not apply to a claim for a Disaster Recovery Allowance.

9 Paragraph 144(d)

After "section 36", insert "or 36A".

10 Subclause 1(1) of Schedule 1 (at the end of the definition of *social security periodic payment*)

Add:

; or (k) Disaster Recovery Allowance.

Part 2—Other amendments

Income Tax Assessment Act 1936

11 Subsection 160AAA(1) (paragraph (a) of the definition of *rebatable benefit*)

Omit “or 3.15A”, substitute “, 2.23B or 3.15A”.

*[Minister’s second reading speech made in—
House of Representatives on 20 March 2013
Senate on 16 May 2013]*

(62/13)
