Family Assistance (Waiver of Debts — Victorian Bushfires) (DEEWR) Specification 2009

A New Tax System (Family Assistance) (Administration) Act 1999


Dated 7 May 2009

Brendan O’Connor
Minister for Employment Participation

1 Name of Specification
This Specification is the Family Assistance (Waiver of Debts — Victorian Bushfires) (DEEWR) Specification 2009.

2 Commencement
This Specification commences on the day after the end of the period for disallowing it.

Note For that period, see section 42 of the Legislative Instruments Act 2003.

3 Definitions
In this Specification:
affected family member, of a person, means an individual:
(a) who is the person’s partner; or
(b) who is the natural parent, adoptive parent or step-parent of the person; or
(c) who is a legal guardian of the person, or was a legal guardian of the person when the person was under 18 years; or
(d) who is the natural child, adoptive child or step-child of the person; or
(e) who is the brother, sister, stepbrother or stepsister of the person.

bushfire period means the period:
(a) beginning on 29 January 2009; and
(b) ending at the end of 29 April 2009.

destroyed, for a person’s principal place of residence, includes damage to the residence to the extent that it must be demolished.

partner means a person who is a member of a couple within the meaning of section 4 of the Social Security Act 1991.

seriously injured, for a person, means:
(a) the person sustained injury; and
(b) either the person was admitted, or required admittance, to hospital.

4 Specification of class of debts
(1) For section 102 of the Act, a debt is in a specified class if:
(a) it was incurred by a person for a period that occurred either wholly or partly during the bushfire period; and
(b) the person was adversely affected by the bushfires in Victoria during the bushfire period.

(2) If the debt relates to a period that partly occurs in the bushfire period, the Secretary, under this instrument, may only waive the part of the debt that is attributable to days occurring in the bushfire period.

5 Adversely affected by the Victorian bushfires
(1) A person is adversely affected by the bushfires in Victoria if, as a direct result of the bushfires:
(a) the person was seriously injured; or
(b) an affected family member of the person was killed; or
(c) the person’s principal place of residence was destroyed; or
(d) the person’s principal place of residence sustained major damage; or
(e) the person was unable to return to his or her principal place of residence for at least 24 hours; or
(f) a utility failure occurred in the person’s principal place of residence; or
(g) the person experienced psychological trauma.

(2) A person is unable to return to the person’s principal place of residence if the person cannot return to the residence, as supported by evidence.
(3) A person’s principal place of residence sustains *major damage* if:
   (a) at least one quarter of the residence has been damaged; or
   (b) the residence became structurally unsound, as supported by evidence.

(4) A place is a person’s *principal place of residence* if:
   (a) the person normally resides in the place; and
   (b) the person has a right or licence entitling the person to reside in the place.

(5) A *utility failure* occurred in a residence if:
   (a) there was a failure in the supply of electricity, water or gas to the residence for at least 48 hours; or
   (b) the sewerage for the residence failed for at least 24 hours; or
   (c) sewerage contamination occurred in the residence.

(6) A person experiences *psychological trauma* if:
   (a) the person was in the immediate area of the bushfires in Victoria; and
   (b) any of the following occurred:
      (i) the person was an eyewitness to a person seriously injured during the bushfires;
      (ii) the person was an eyewitness to the remains, body or bodies of a deceased person or persons killed as a result of the bushfires;
      (iii) the person was separated for at least 24 hours from an affected family member who was in the immediate area of the bushfires;
      (iv) the person’s life was under immediate threat;
      (v) the person’s principal place of residence was under immediate threat;
      (vi) business premises, or other real property, owned by the person, were under immediate threat.

6 **Debts to which section 4 does not apply**

Section 4 does not apply to a debt incurred by a person if the person knowingly made a false or misleading statement, or knowingly provided false information, to the Commonwealth in relation to that debt.