



# **Social Security (Australian Government Disaster Recovery Payment) Determination 2012 (No. 3)**

**as amended**

made under subsection 106IL (2) of the

*Social Security Act 1991*

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This compilation was prepared on 20 April 2012  
taking into account amendments up to *Social Security (Australian Government  
Disaster Recovery Payment) Amendment Determination 2012 (No. 2)*

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**1 Name of Determination** [see Note 1]

This Determination is the *Social Security (Australian Government Disaster Recovery Payment) Determination 2012 (No. 3)*.

**2 Commencement** [see Note 1]

This Determination commences on the day after it is registered.

**3 Definitions**

(1) In this Determination:

*Act* means the *Social Security Act 1991*.

***destroyed***, for a place of residence, includes a residence damaged to the extent that it must be demolished.

***immediate family member***, of a person, means:

- (a) the person's partner; or
- (b) the person's natural child, adoptive child or stepchild; or
- (c) the person's natural parent, adoptive parent or step-parent; or
- (d) the person's legal guardian; or
- (e) the person's brother, sister, stepbrother or stepsister.

*Note* This term is used in a different sense to that used in the Act.

***major damage***, for a residence, means:

- (a) damage to at least a quarter of the interior of the residence; or
- (b) that the residence is structurally unsound; or
- (c) damage to the residence that exposes at least a quarter of the interior of the residence to the elements; or
- (d) sewage contamination of the interior of the residence, or of the water supply to the residence.

***seriously injured***, for a person, means:

- (a) the person has sustained an injury; and
- (b) because of the injury:
  - (i) the person was admitted to hospital; or
  - (ii) under normal circumstances, the person would have been admitted to hospital.

***utility service*** means one of the following services:

- (a) water;
- (b) electricity;
- (c) gas;
- (d) sewerage.

- (2) In this Determination:
- (a) a place of residence is a person's *principal place of residence* if the person regularly lives at the place with a degree of settled purpose and the person has a lawful right to reside at the place; and
  - (b) it is possible for a person to have more than one principal place of residence; and
  - (c) a prison or place of detention is not a principal place of residence; and
  - (d) a secondary residence used for holidays is not a principal place of residence.

#### **4 Person adversely affected by a major disaster**

For subsection 1061L (2) of the Act, a person is adversely affected by a major disaster mentioned in Schedule 1 if the person is affected in a way mentioned in Schedule 2.

*Note* Subsection 36 (1) of the *Social Security Act 1991* allows the Minister to determine, in writing, that an event is a major disaster if the event is a disaster that has such significant impact on individuals that a government response is required.

**Schedule 1      Major disaster** [see Note 2]

The flooding that began on 26 February 2012 which affected the Victorian Local Government Areas of Moira and Greater Shepparton is a major disaster.

## **Schedule 2      Circumstances in which person adversely affected**

A person is adversely affected by a major disaster mentioned in Schedule 1 if:

- (a) as a direct result of the disaster:
  - (i) the person is seriously injured; or
  - (ii) the person is an immediate family member of an Australian who is killed; or
  - (iii) the person's principal place of residence has been destroyed or has sustained major damage; or
  - (iv) the person is unable to gain access to his or her principal place of residence for at least 24 hours because:
    - (A) access to the place of residence is cut off; or
    - (B) the person is unable to leave a place affected by the disaster;
  - (v) the person is stranded in his or her principal place of residence for at least 24 hours, or
- (b) as a result of the disaster, the person's principal place of residence was without a particular utility service for a continuous period of 48 hours; or
- (c) the person is the principal carer of a child to whom paragraph (a) or (b) applies.

Table of Instruments

## Notes to the *Social Security (Australian Government Disaster Recovery Payment) Determination 2012* (No. 3)

### Note 1

The *Social Security (Australian Government Disaster Recovery Payment) Determination 2012* (No. 3) (in force under subsection 1061L (2) of the *Social Security Act 1991*) as shown in this compilation is amended as indicated in the Tables below.

### Table of Instruments

Title	Date of FRLI registration	Date of commencement	Application, saving or transitional provisions
<i>Social Security (Australian Government Disaster Recovery Payment) Determination 2012</i> (No. 3)	16 Mar 2012 (see F2012L00594)	17 Mar 2012	
<i>Social Security (Australian Government Disaster Recovery Payment) Amendment Determination 2012</i> (No. 2)	19 Apr 2012 (see F2012L00889)	20 Apr 2012	—

## **Note 2**

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## **Note 2**

Schedule 1 — Schedule 1 [item 1] of the *Social Security (Australian Government Disaster Recovery Payment) Amendment Determination 2012 (No. 2)* provides as follows:

### **[1]      Schedule 1**

*insert*

Indigo and Towong

The proposed amendment was misdescribed and is not incorporated in this compilation.