

EXPLANATORY STATEMENT

Social Security (Australian Government Disaster Recovery Payment—Victorian storms and floods) Determination 2021 (No. 8)

Social Security Act 1991

Issued by authority of the Minister for Emergency Management and National Recovery and Resilience

1. The Australian Government Disaster Recovery Payment (the AGDRP) provides an immediate, one-off payment to Australians adversely affected by a major disaster.
2. Section 1061K of the *Social Security Act 1991* (the Act) specifies the qualification criteria for the AGDRP. One of the qualification criteria requires a person to be “adversely affected by a major disaster”.
3. Subsection 1061L(1) of the Act provides that, for the purposes of the Act, a person is adversely affected by a major disaster if the person is affected by the disaster in a way determined by the Minister in relation to the disaster.
4. Subsection 1061L(2) of the Act provides that the Minister may determine in writing, in relation to a major disaster, the circumstances in which persons are to be taken to be adversely affected by the disaster.
5. Section 36 of the Act empowers the Minister to determine in writing that an event is a ‘major disaster’ if the Minister is satisfied that an event is a disaster that has such a significant impact on individuals that a government response is required.
6. The Minister has made a determination under section 36(1) of the Act that applies only to the severe storms and associated flooding that occurred between 9 June 2021 and 17 June 2021 in Victoria affecting the local government areas of Bass Coast, Baw Baw, Cardinia, Hepburn, Latrobe, Macedon Ranges, Moorabool, Mornington Peninsula, South Gippsland, Wellington and Yarra Ranges.
7. The *Social Security (Australian Government Disaster Recovery Payment—Victorian storms and floods) Determination 2021 (No. 8)* (the Determination) gives effect to the disaster referred to above and sets out the circumstances in which a person is to be ‘adversely affected’ by the major disaster.
8. Section 1 of the Determination specifies the name of the determination.
9. Section 2 provides that the Determination commences on the day it is signed. For the purposes of section 12 of the *Legislation Act 2003*, the Determination may commence before it is registered as it will not disadvantage any persons adversely affected by the disaster.
10. Section 3 of Determination contains definitions relevant to the determination.
11. Subsection 4(1) of the Determination provides that the Determination applies to the major disaster being the severe storms and associated flooding that occurred between 9 June 2021 and 17 June 2021 in Victoria affecting the local government areas of Bass Coast, Baw Baw,

Cardinia, Hepburn, Latrobe, Macedon Ranges, Moorabool, Mornington Peninsula, South Gippsland, Wellington and Yarra Ranges.

12. Subsection 4(2) of the Determination provides that the circumstances in which a person will be taken to be adversely affected by the major disaster described in subsection 4(1) are where:
 - a. the person is seriously injured as a direct result of the disaster (paragraph 4(2)(a)); or
 - b. the person is an immediate family member of an Australian who is killed as a direct result of the disaster (paragraph 4(2)(b)); or
 - c. the person's principal place of residence has been destroyed or has major damage as a direct result of the disaster (paragraph 4(2)(c)); or
 - d. a major asset or assets of the person has or have been destroyed or suffered major damage as a result of the disaster; or
 - e. the person is a principal carer of a child to whom paragraphs 4(2)(a), (b), (c) or (d) apply (paragraph 4(2)(e)).
13. Section 5 of the Determination provides that the *Social Security (Australian Government Disaster Recovery Payment – Victorian storms and floods) Determination 2021 (No.7)* is repealed, as enabled under section 33(3) of the *Acts Interpretation Act 1901*.
14. Section 6 provides that despite the operation of section 5, anything done under the *Social Security (Australian Government Disaster Recovery Payment – Victorian storms and floods) Determination 2021 (No.7)* continues to be in effect.
15. The terms 'destroyed', 'immediate family member', 'major asset or assets', 'major damage' and 'seriously injured' are defined in subsection 3(1) of Determination. Subsection 3(2) defines what a 'principal place of residence' is.
16. Subsection 1061L(3) of the Act provides that a determination under section 1061L is a legislative instrument. However, this instrument is not subject to disallowance by the Parliament as subsection 1061L(3) of the Act provides that section 42 of the *Legislation Act 2003* does not apply to the Determination.
17. Formal consultation has not been undertaken as the Determination was required to commence as a matter of urgency.