

## EXPLANATORY STATEMENT

### *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2022*

*Social Security Act 1991*

Issued by authority of the Minister for Emergency Management

1. The instrument, Departmental reference LIN 22/104, is made under subsection 1061KA(5) of the *Social Security Act 1991* (the Act).
2. The instrument repeals the *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2013* and the *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2015* in accordance with subsection 33(3) of the *Acts Interpretation Act 1901*, which provides that a power to make a legislative instrument includes a power to amend or repeal that instrument in the same manner, and subject to the same conditions, as the power to make the instrument.
3. The instrument commences on the day after it is registered and is a legislative instrument for the *Legislation Act 2003*.
4. A person may qualify for a Disaster Recovery Allowance if they meet the criteria in subsection 1061KA(1) of the Act, including a requirement that the person does not already receive a ‘social security entitlement’ or another prescribed payment (see paragraphs 1061KA(1)(g) and (h) respectively).
5. Subsection 23(1) of the Act defines a ‘social security entitlement’ to include the age pension, disability support pension, carer and parenting payments, youth allowance, austudy payment, job search allowance, and the jobseeker payment.
6. Subsection 1061KA(5) provides that the Minister may, by legislative instrument, prescribe payments for the purpose of paragraph 1061KA(1)(h).
7. The *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2022* (the Determination) prescribes the same payments which were prescribed by the *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2015*, with the addition of veteran payment under Part IIIAA of the *Veteran’s Entitlements Act 1986*. The Determination removes references to payments no longer in effect (partner and sickness allowances) and removes payments to coincide with the commencement of the relevant provisions of the *Social Security Amendment (Welfare Reform) Act 2019* (bereavement and farm household allowance).
8. Section 1 of the Determination specifies the name of the determination.
9. Section 2 of the Determination provides that the Determination commences on the day after it is registered.

10. Section 3 of the Determination provided that each of the following payments are prescribed payments:
  - (a) parental leave pay under the *Paid Parental Leave Act 2010*;
  - (b) dad and partner pay under the *Paid Parental Leave Act 2010*;
  - (c) service pension within the meaning of subsection 5Q(1) of the *Veteran's Entitlements Act 1986*;
  - (d) income support supplement under Part IIIA of the *Veteran's Entitlements Act 1986*;
  - (e) special benefit under Part 2.15 of the Act;
  - (f) ABSTUDY Living Allowance under the ABSTUDY Scheme (also called the Aboriginal and Torres Strait Islander Study Assistance Scheme);
  - (g) veteran payment under Part IIIAA of the *Veteran's Entitlements Act 1986*.
11. Section 4 of the Determination provides that the *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2013* and the *Social Security (Disaster Recovery Allowance) (Prescribed Payments) Determination 2015* are repealed.
12. The Department of Home Affairs has received advice from the Office of Best Practice Regulation that a regulation impact statement was not required before making this instrument, as the proposed change appears to be machinery in nature and no further analysis (in the form of a Regulatory Impact Statement) is required (OBPR ID: 26476).
13. The Determination is a legislative instrument for the purposes of the *Legislation Act 2003*, but is exempt from disallowance under section 42 of that Act (see subsection 1061KA(7) of the Act).