

EXPLANATORY STATEMENT

Issued by authority of the Minister for Emergency Management

Social Security Act 1991

Social Security (Australian Government Disaster Recovery Payment—Western Victoria—Bushfires—February 2024) Determination (No. 2) 2024

Legislative Authority

1. The Australian Government Disaster Recovery Payment (AGDRP) provides an immediate, one-off payment to a person 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 Act, a person is adversely affected by a major disaster if the person is affected by the major disaster in a way determined by the Minister.
4. Subsection 1061L(2) of the Act provides that the Minister may determine in writing, for a major disaster, the circumstances in which persons are to be taken to be adversely affected by the major disaster.
5. Subsection 36(1) 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, or the event is an emergency to which a national emergency declaration relates.

Background

6. On 19 February 2024, the Minister for Emergency Management made the *Social Security (Australian Government Disaster Recovery Payment—Bushfires—Western Victoria—February 2024) Determination 2024* (the previous Determination) under subsection 1061L(2) of the Act.
7. The *Social Security (Australian Government Disaster Recovery Payment—Western Victoria—Bushfires—February 2024) Determination (No. 2) 2024* (the Determination) expands the scope of the determination from the locality of Pomonal identified in the previous Determination to also include the localities of Dadswells Bridge in the Rural City of Horsham local government area, and Raglan in the Shire of Pyrenees local government area. These changes reflect the continuing development of the bushfires in Western Victoria.

Notes on clauses of the Determination

8. Section 1 sets out the name of the Determination.
9. Section 2 provides that the Determination commences immediately after it is signed. For 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 major disaster.
10. Section 3 provides that the Determination is made under subsection 1061L(2) of the Act.
11. Section 4 provides definitions relevant to the Determination, including *Act*, *destroyed*, *immediate family member*, *major asset or assets*, *major damage*, *seriously injured* and *principal place of residence*.
12. Subsection 5(1) provides that the Determination applies to the major disaster being the bushfires that commenced on or after 13 February 2024 in Victoria and which have affected the localities mentioned in Schedule 1.
13. Subsection 5(2) provides that the circumstances in which a person is taken to be adversely affected by the major disaster mentioned in subsection 5(1) are if:
 - (a) the person is seriously injured as a direct result of the major disaster (paragraph 5(2)(a)); or
 - (b) the person is an immediate family member of an Australian citizen or resident who is missing and presumed killed or killed as a direct result of the major disaster (paragraph 5(2)(b)); or
 - (c) the person's principal place of residence has been destroyed or has major damage as a direct result of the major disaster (paragraph 5(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 major disaster; or
 - (e) the person is a carer of a child to whom paragraphs 5(2)(a), (b), (c) or (d) apply (paragraph 5(2)(e)).
14. Subsection 6 provides for the repeal of the *Social Security (Australian Government Disaster Recovery Payment—Bushfires—Western Victoria—February 2024) Determination 2024*.
15. Schedule 1 to the Determination sets out the localities affected by the bushfires.

Consultation

16. The Office of Impact Analysis was consulted prior to making the Determination and advised that an impact analysis was not required. The OIA reference number is OIA24-06818. The National Emergency Management Agency (NEMA) consulted with Emergency Recovery Victoria on the impact of the bushfires on communities and the current assistance that has been made available to impacted individuals and communities.
17. Information about the support made available to individuals affected by this event will be made available on NEMA's website.

Other matters

18. Subsection 1061L(3) of the Act provides that a determination made under section 1061L is a legislative instrument. Subsection 1061L(3) of the Act provides that section 42 of the *Legislation Act 2003* does not apply to it. The Determination is therefore exempt from disallowance by Parliament, in accordance with subsection 44(2) of the *Legislation Act 2003*.