



Social Security (Waiver of Debts — Disasters) (FaHCSIA) Specification 2011

Social Security Act 1991

I, JENNY MACKLIN, Minister for Families, Housing, Community Services and Indigenous Affairs, make this Specification under subsection 1237AB (1) of the *Social Security Act 1991*.

Dated 16th July 2011

J Macklin

Minister for Families, Housing, Community Services and Indigenous Affairs

1 Name of Specification

This Specification is the *Social Security (Waiver of Debts — Disasters) (FaHCSIA) Specification 2011*.

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:

Act means the *Social Security Act 1991*.

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.

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

disaster means:

- (a) the heavy rainfall, storm damage and associated flooding in Queensland that began in November 2010 and continued into January 2011;
- (b) the flooding in New South Wales determined to be a major disaster on 14 January 2011;
- (c) the flooding in Victoria determined to be a major disaster on 19 January 2011; and
- (d) the severe weather, storm surges and flooding in Queensland that resulted from Tropical Cyclone Yasi.

disaster period means the period:

- (a) beginning 1 November 2010; and
- (b) ending 19 March 2011.

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

For subsection 1237AB (1) 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 disaster period; and
- (b) the person was adversely affected by a disaster during the disaster period; and
- (c) if the debt was incurred for a period occurring partly during the disaster period — it is the part of the debt attributable to days occurring in the disaster period.

5 Adversely affected by the disasters

- (1) A person is adversely affected by a disaster if, as a direct result of the disaster:
 - (a) the person was seriously injured; or

- (b) an affected family member of the person was killed; or
 - (c) an affected family member of the person was seriously injured; or
 - (d) the person's principal place of residence was destroyed; or
 - (e) the person's principal place of residence sustained major damage; or
 - (f) the person was unable to return to his or her principal place of residence for at least 24 hours; or
 - (g) a utility failure occurred in the person's principal place of residence; or
 - (h) 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 disasters; and
 - (b) any of the following occurred:
 - (i) the person was an eyewitness to a person being seriously injured during the disasters;
 - (ii) the person was an eyewitness to the remains or body of a deceased person killed as a result of the disasters;
 - (iii) the person was separated for at least 24 hours from an affected family member who was in the immediate area of the disasters;
 - (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 the following:

- (a) a debt incurred wholly or partly from the debtor or another person knowingly:
 - (i) making a false statement or a false representation; or
 - (ii) failing or omitting to comply with a provision of the social security law; or
- (b) a debt incurred under Division 5 of Part 3.14 of the Act.