

2010-2011-2012-2013

The Parliament of the  
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

*Presented and read a first time*

**Social Security Legislation Amendment  
(Disaster Recovery Allowance) Bill 2013**

**No.     , 2013**

*(Emergency Management)*

**A Bill for an Act to amend the law relating to social  
security, and for related purposes**



---

## Contents

1	Short title.....	1
2	Commencement.....	1
3	Schedule(s).....	1
	<b>Schedule 1—Disaster Recovery Allowance</b>	<b>3</b>
	Part 1—Main amendments	3
	<i>Social Security Act 1991</i>	3
	<i>Social Security (Administration) Act 1999</i>	8
	Part 2—Other amendments	10
	<i>Income Tax Assessment Act 1936</i>	10



1     **A Bill for an Act to amend the law relating to social**  
2     **security, and for related purposes**

3     The Parliament of Australia enacts:

4     **1 Short title**

5                     This Act may be cited as the *Social Security Legislation*  
6                     *Amendment (Disaster Recovery Allowance) Act 2013*.

7     **2 Commencement**

8                     This Act commences on 1 October 2013.

9     **3 Schedule(s)**

10                    Each Act that is specified in a Schedule to this Act is amended or  
11                    repealed as set out in the applicable items in the Schedule

---

1  
2

concerned, and any other item in a Schedule to this Act has effect according to its terms.

1 **Schedule 1—Disaster Recovery Allowance**

2 **Part 1—Main amendments**

3 *Social Security Act 1991*

4 **1 Subsection 23(1)**

5 Insert:

6 *Disaster Recovery Allowance* means Disaster Recovery Allowance  
7 under Part 2.23B.

8 **2 Subsection 23(1)**

9 Insert:

10 *Part 2.23B major disaster* means a disaster in respect of which a  
11 determination is in force under section 36A.

12 **3 After section 36**

13 Insert:

14 **36A Part 2.23B major disaster**

- 15 (1) The Minister may determine in writing that an event is a  
16 Part 2.23B major disaster if the Minister is satisfied that:
- 17 (a) the event is a disaster that has such a significant impact on  
18 one or more industries and/or one or more areas that a  
19 government response in the form of income support is  
20 required; and  
21 (b) the event is of national significance.
- 22 (2) Without limiting the matters to which the Minister may have  
23 regard for the purposes of subsection (1), the Minister must have  
24 regard to:
- 25 (a) the extent to which the nature or extent of the disaster is  
26 unusual; and  
27 (b) the number of workplaces that are disrupted.
- 28 (3) The event may be one that occurs naturally or otherwise.

- 1 (4) The event must be one that occurs in Australia.
- 2 (5) In a determination made under this section, the Minister must do  
3 one of the following:
- 4 (a) specify one or more industries affected by the event and one  
5 or more areas affected by the event;
- 6 (b) specify one or more areas affected by the event.
- 7 (6) A determination made under this section is not a legislative  
8 instrument.

9 **4 Subsection 1061JJ(1)**

10 After “AGDRP”, insert “, a Disaster Recovery Allowance”.

11 **5 Paragraph 1061JJ(2)(b)**

12 After “AGDRP”, insert “, a Disaster Recovery Allowance”.

13 **6 After Part 2.23A**

14 Insert:

15 **Part 2.23B—Disaster Recovery Allowance**

16 **Division 1—Qualification for Disaster Recovery Allowance**

17 **1061KA Qualification for Disaster Recovery Allowance**

- 18 (1) A person is qualified for a Disaster Recovery Allowance if:
- 19 (a) the person is at least 16 years of age; and
- 20 (b) the person:
- 21 (i) is an Australian resident; or
- 22 (ii) is the holder of a visa that is in a class of visas  
23 determined by the Minister for the purposes of  
24 subparagraph 729(2)(f)(v); and
- 25 (c) under subsection 36A(1), the Minister determines that an  
26 event is a Part 2.23B major disaster; and
- 27 (d) if the person is under 22 years of age—the Secretary is  
28 satisfied that subsection (2) of this section does not apply in  
29 relation to the person; and



- 1 (e) the Secretary is satisfied that subsection (3) or (4) of this  
2 section applies in relation to the person; and  
3 (f) the Secretary is satisfied that the person has suffered a loss of  
4 income as a direct result of the event; and  
5 (g) the person is not receiving a social security entitlement; and  
6 (h) the person is not receiving a payment prescribed in an  
7 instrument under subsection (5) of this section; and  
8 (i) the Secretary is satisfied that the person satisfies the  
9 requirements (if any) prescribed in an instrument under  
10 subsection (6) of this section; and  
11 (j) the person's rate of Disaster Recovery Allowance, worked  
12 out under section 1061KC, is greater than nil at the time the  
13 claim for payment of Disaster Recovery Allowance is  
14 determined by the Secretary.

15 *Qualification rule for persons under 22 years of age*

- 16 (2) This subsection applies in relation to a person if:  
17 (a) on the day of the determination under subsection 36A(1), the  
18 person is wholly or substantially dependent on another  
19 person (except the person's partner); and  
20 (b) on that day, the person is not a parent of another person; and  
21 (c) the person's income in the financial year in which that day  
22 occurs will not be more than \$6,403.

23 *Qualification rule if affected industries and areas*

- 24 (3) This subsection applies in relation to a person if:  
25 (a) under paragraph 36A(5)(a), the Minister specifies, in a  
26 determination under section 36A, one or more industries  
27 affected by the event and one or more areas affected by the  
28 event; and  
29 (b) the person earns, derives or receives income from one of  
30 those industries and the person does so by working in one of  
31 those areas.

32 *Qualification rule if affected areas only*

- 33 (4) This subsection applies in relation to a person if:

**Schedule 1** Disaster Recovery Allowance  
**Part 1** Main amendments

---

- 1 (a) under paragraph 36A(5)(b), the Minister specifies, in a  
2 determination under section 36A, one or more areas affected  
3 by the event; and  
4 (b) either or both of the following apply:  
5 (i) the person earns, derives or receives income from one of  
6 those areas and the person does so by working in one of  
7 those areas;  
8 (ii) the person resides in one of those areas.

9 *Legislative instruments*

- 10 (5) The Minister may, in writing, prescribe payments for the purposes  
11 of paragraph (1)(h).  
12 (6) The Minister may, in writing, prescribe requirements for the  
13 purposes of paragraph (1)(i).  
14 (7) An instrument made under subsection (5) or (6) is a legislative  
15 instrument, but section 42 (disallowance) of the *Legislative*  
16 *Instruments Act 2003* does not apply to the instrument.

17 **1061KB Disaster Recovery Allowance not payable if assurance of**  
18 **support in force**

19 A person is not qualified for a Disaster Recovery Allowance if the  
20 Secretary is satisfied that at the time the person would otherwise  
21 have been so qualified:

- 22 (a) an assurance of support was in force in respect of the person  
23 (the *assuree*); and  
24 (b) the person who gave the assurance of support was willing  
25 and able to provide an adequate level of support to the  
26 assuree; and  
27 (c) it was reasonable for the assuree to accept that support.

28 Note: For *assurance of support* see subsection 23(1).

1 **Division 2—Rate of Disaster Recovery Allowance**

2 **1061KC Rate of Disaster Recovery Allowance**

- 3 (1) The rate of a person's Disaster Recovery Allowance is a daily rate.  
4 That rate is worked out by dividing the fortnightly rate worked out  
5 in accordance with an instrument under subsection (2) by 14.
- 6 (2) The Minister must, by legislative instrument, specify a method for  
7 working out the fortnightly rate of Disaster Recovery Allowance  
8 for the purposes of subsection (1).
- 9 (3) That fortnightly rate may be nil.

10 *Maximum rates*

- 11 (4) For a person who is under 22 years of age, that fortnightly rate is  
12 not to exceed the maximum basic rate of youth allowance that  
13 would be payable to the person if:  
14 (a) the person were qualified for youth allowance; and  
15 (b) youth allowance were payable to the person.
- 16 (5) For a person who is at least 22 years of age, that fortnightly rate is  
17 not to exceed the maximum basic rate of newstart allowance that  
18 would be payable to the person if:  
19 (a) the person were qualified for newstart allowance; and  
20 (b) newstart allowance were payable to the person.

21 **Division 3—Other matters**

22 **1061KD Period that Disaster Recovery Allowance is payable**

23 A person's Disaster Recovery Allowance is payable to the person  
24 for a period of 13 weeks.

25 **1061KE Non-receipt of social security payment**

- 26 (1) This section applies for the purposes of a provision of this or  
27 another Act if:  
28 (a) the provision provides a benefit (whether the benefit is a  
29 pension, benefit, payment, supplement or any other sort of  
30 benefit) if a person meets specified criteria; and

1 (b) one of the specified criteria is that the person is receiving a  
2 social security payment, or is a recipient of a social security  
3 payment.

4 (2) For the purposes of the provision, a person is not taken to be  
5 receiving a social security payment, or to be a recipient of a social  
6 security payment, merely because the person receives a Disaster  
7 Recovery Allowance.

8 ***Social Security (Administration) Act 1999***

9 **7 After Subdivision F of Division 1 of Part 3**

10 Insert:

11 **Subdivision FAA—Time limit for claims for Disaster Recovery**  
12 **Allowance**

13 **27AA Time limit for claims for Disaster Recovery Allowance**

14 (1) A claim for a Disaster Recovery Allowance relating to a Part 2.23B  
15 major disaster must be lodged within 6 months after the  
16 determination of the disaster under section 36A of the 1991 Act.

17 (2) However, the claim may be lodged more than 6 months after the  
18 determination if the Secretary is satisfied that:

19 (a) there are special circumstances applying to the person's  
20 claim that justify a late lodgement; and

21 (b) the claim is lodged within a reasonable period having regard  
22 to those circumstances.

23 **8 After subsection 31(1A)**

24 Insert:

25 (1B) Section 29 does not apply to a claim for a Disaster Recovery  
26 Allowance.

27 **9 Paragraph 144(d)**

28 After "section 36", insert "or 36A".

1 **10 Subclause 1(1) of Schedule 1 (at the end of the definition**  
2 **of social security periodic payment)**

3 Add:  
4 ; or (k) Disaster Recovery Allowance.

1 **Part 2—Other amendments**

2 *Income Tax Assessment Act 1936*

3 **11 Subsection 160AAA(1) (paragraph (a) of the definition of**  
4 ***rebatable benefit*)**

5 Omit “or 3.15A”, substitute “, 2.23B or 3.15A”.