

# Natural Disaster Relief and Recovery Arrangements

DETERMINATION

2011

Version 1



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# NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS

## DETERMINATION OF TERMS AND CONDITIONS

by the

**Attorney-General**

### PRELIMINARY

I, ROBERT McCLELLAND, Attorney-General, consistent with Section 15 of the *Appropriation Act (No 2) 2006-07*, and for the purpose of any Appropriation Act which similarly authorises the Minister for Local Government, Territories and Roads to determine the terms and conditions applicable to payments of financial assistance from the Commonwealth to the states or the Australian Capital Territory or the Northern Territory for the purposes of natural disaster relief and recovery, hereby determine that payments of such assistance under an Appropriation Act shall be made on the terms and conditions which are recorded in this document.

This document incorporates a statement of the Natural Disaster Relief and Recovery Arrangements, and of the related administrative procedures, schedules and guidelines, which will operate from the date of signature.

**Robert McClelland**  
**Attorney-General**

/ / 2011

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## 1 INTRODUCTORY

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### 1.1 Aim and overview of the Natural Disaster Relief and Recovery Arrangements

- 1.1.1 *Natural disasters* often result in large-scale expenditure by *state* governments in the form of disaster relief and recovery payments and infrastructure restoration. To assist with this burden, the Commonwealth has made arrangements to provide financial assistance to the *states* in some circumstances. Usually the assistance is in the form of partial reimbursement of actual expenditure.
- 1.1.2 The Commonwealth's assistance is intended to be directed to *state* measures that complement other strategies in relation to *natural disasters*, such as insurance and *disaster mitigation* planning and implementation.
- 1.1.3 The arrangements (called the 'Natural Disaster Relief and Recovery Arrangements') are set out in this Determination and are administered by the Department of Transport and Regional Services.

### 1.2 Basic principle for assistance to *states*

- 1.2.1 The Commonwealth may make payments to a *state* in partial reimbursement for *state expenditure* in relation to a *natural disaster*.
- 1.2.2 The payments may be made if:
- a) the *state expenditure* is on *eligible measures* (as defined in this Determination); and
  - b) the *state expenditure* meets certain financial requirements set out in this Determination; and
  - c) the *state* meets other conditions set out in this Determination.

Note: The rules about *state expenditure* and financial requirements are set out in Part 5. The conditions are set out in Part 4.

- 1.2.3 Although payments are generally made after the *state* has submitted a claim for financial assistance, the Commonwealth may provide advance payments if the *Minister* is satisfied that exceptional circumstances exist.

### 1.3 Dictionary of terms used in this Determination

A number of terms used in the Determination are given special meanings. These terms are set out in the Dictionary at clause 8.1 and italicised throughout the Determination.

## 2 WHAT TYPES OF NATURAL DISASTER ARE COVERED?

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### 2.1 Meaning of *natural disaster*

- 2.1.1 In this Determination *natural disaster* means a serious disruption to a community or region caused by the impact of a naturally occurring rapid onset event that threatens or causes death, injury or damage to property or the environment and which requires significant and coordinated multi-agency and

community response. Such serious disruption can be caused by any one, or a combination, of the following natural hazards: bushfire; earthquake; flood; storm; cyclone; storm surge; landslide; tsunami; meteorite strike; or tornado.

2.1.2 The following are not *natural disasters* for the purposes of this Determination:

- a) drought;
- b) frost;
- c) heatwave;
- d) epidemic;
- e) events where human activity is a significant contributing cause (for example, poor environmental planning, commercial development, personal intervention (other than arson), or accident).

### **3 WHAT IS AN *ELIGIBLE MEASURE*?**

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#### **3.1 Meaning of *eligible measure***

In this Determination *eligible measure* means an act of relief or recovery that:

- a) is carried out to alleviate damage or distress arising as a direct result of a *natural disaster*; and
- b) is of a type described as a *Category A, Category B, Category C or Category D measure* in this part (see below).

#### **3.2 Meaning of *Category A measure***

3.2.1 A *Category A measure* is a form of emergency assistance that is given to *individuals* to alleviate their personal hardship or distress arising as a direct result of a *natural disaster*.

3.2.2 The assistance may be for one or more of the following:

- a) emergency food, clothing or temporary accommodation;
- b) repair or replacement of essential items of furniture and personal effects;
- c) essential repairs to housing, including temporary repairs and repairs necessary to restore housing to a habitable condition;
- d) demolition or rebuilding to restore housing to a habitable condition;
- e) removal of debris from residential properties to make them safe and habitable;
- f) extraordinary counter disaster operations of direct assistance to an *individual* (for example, operations to protect a threatened house or render a damaged house safe and habitable);
- g) personal and financial counselling aimed at alleviating personal hardship and distress arising as a direct result of the *natural disaster*;
- h) extraordinary costs associated with the delivery of any of the above forms of assistance (for example, costs of evacuation or establishment and operation of evacuation centres and recovery centres, being costs which



exceed the costs that a *state* could reasonably have expected to incur for these purposes).

### 3.3 Meaning of *Category B measure*

3.3.1 A *Category B measure* is assistance of one of the following types:

- a) restoration or replacement of certain *essential public assets* damaged as a direct result of a *natural disaster*. The assistance must meet the requirements set out in clause 3.6;
- b) loans, subsidies or grants listed in subclause 3.3.2 to alleviate the financial burden of costs incurred by certain businesses, *primary producers*, voluntary non-profit bodies and *individuals* as a direct result of a *natural disaster*. The assistance must meet the requirements set out in clause 3.7;
- c) counter disaster operations for the protection of the general public. The assistance must meet the requirements set out in clause 3.8.

3.3.2 The assistance referred to in subclause 3.3.1(b) may be one or more of the following:

- a) a scheme of loans assistance at a concessional interest rate to *small businesses* or *primary producers* (see also subclause 3.7.1);
- b) a scheme of loans assistance at a concessional interest rate to needy *individuals* or voluntary non-profit bodies (see also subclause 3.7.2);
- c) freight subsidy to *primary producers* (see also subclause 3.7.3);
- d) interest rate subsidy to *small businesses* or *primary producers* (see also subclause 3.7.4);
- e) grants to needy *individuals* or voluntary non-profit bodies (see also subclause 3.7.5);

Note: for further information regarding loans assistance, see clauses 5.11—5.13.

3.3.3 The assistance referred to in subclause 3.3.2 is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

### 3.4 Meaning of *Category C measure*

3.4.1 A *Category C measure* is a community recovery package designed to support a holistic approach to the recovery of regions, communities or sectors severely affected by a *natural disaster*. The package comprises one or more of the following:

- a) a **community recovery fund** in circumstances where a community is severely affected and needs to restore social networks, community functioning and community facilities. Expenditure from the fund is aimed at community recovery, community development and community capacity building, and is administered by the *state* government in close collaboration with local government bodies or other community bodies;
- b) **recovery grants for small businesses** where the business sector is severely affected and the community risks losing essential businesses. Grants to *small businesses* are aimed at covering the cost of clean-up and reinstatement, but not at providing compensation for losses;

- c) **recovery grants for *primary producers*** where the farming sector is severely affected, with threats to viability and disruption of production likely to extend beyond the current season. Grants to *primary producers* are aimed at covering the cost of clean-up and reinstatement, but not at providing compensation for losses.

Note: for further information regarding the community recovery package, see Guideline 4/2007.

3.4.2 In order to qualify as a *Category C measure* in relation to a *natural disaster*, the recovery assistance must meet the following conditions:

- a) it either meets the intent of the community recovery package, or it contains only variations that have been approved by the *Minister* in writing;
- b) the use of that assistance has been approved by the Prime Minister in writing in relation to the disaster; and
- c) it meets any other conditions imposed by the *Minister* in writing.

3.4.3 The assistance referred to in subclause 3.4.1 is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

### **3.5 Meaning of *Category D measure***

A *Category D measure* is an act of relief or recovery carried out to alleviate distress or damage in circumstances that are, in the opinion of the *Minister*, exceptional.

### **3.6 Additional requirements for *Category B measures*—restoration or replacement of *essential public assets***

#### **Meaning of *essential public asset***

3.6.1 An *essential public asset* is an asset of an eligible undertaking that, in the judgement of the *state* concerned:

- a) is an integral and necessary part of the *state's* infrastructure; and
- b) would, if lost or damaged, severely disrupt the normal functioning of a community; and
- c) would, if lost or damaged, be restored or replaced as a matter of urgency.

#### **Meaning of *eligible undertaking***

3.6.2 An *eligible undertaking* is a body that:

- a) is one of the following:
  - i) a department or other agency of a *state* government; or
  - ii) established by or under a law of a *state* for public purposes (for example, a local government body); and
- b) provides community, social or economic services free of charge or at a nominal charge well below the costs of production.

3.6.3 A body that does not meet the requirements of subclause 3.6.2 is nevertheless taken to be an *eligible undertaking* if the *Minister* has agreed in writing, in the

light of special circumstances presented by a *state*, that the body should be treated as an *eligible undertaking* for the purposes of this Determination.

***Essential public asset restoration or replacement to pre-disaster standard***

3.6.4 The requirements for restoration or replacement of an asset are:

- a) the asset is an *essential public asset*; and
- b) the restoration or replacement results in the asset being restored or replaced to its pre-disaster standard, in accordance with current building and engineering standards.

***Essential public asset betterment***

3.6.5 In this Determination ***betterment***, in relation to an asset, means the restoration or replacement of the asset to a more disaster-resilient standard than its pre-disaster standard.

3.6.6 *Betterment* of an asset will be considered an eligible measure if:

- a) the asset is an *essential public asset*; and
- b) the *state* informs the *Secretary* of its decision to restore the asset to a more disaster-resilient standard, and of its reasons for doing so; and
- c) the *Secretary* is satisfied with the cost effectiveness of the proposal; and
- d) the *Secretary* is satisfied that the increased disaster-resilience of the asset will mitigate the impact of future *natural disasters*.

**3.7 Additional requirements for *Category B measures*—loans, subsidies or grants**

***Loans assistance to a small business or primary producer***

3.7.1 The requirements for a scheme of loans assistance at a concessional interest rate to a *small business* or *primary producer* are:

- a) the loan is made by the *state* to a *small business* or *primary producer*; and
- b) the *state* is satisfied that the borrower's assets (including fodder) have been significantly damaged by the *natural disaster*; and
- c) the *state* is satisfied that the borrower has no reasonable prospect of obtaining commercial finance but has a reasonable prospect of long-term viability for the business; and
- d) the loan is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

***Loans assistance to a needy individual or voluntary non-profit body***

3.7.2 The requirements for a scheme of loans assistance at a concessional interest rate to a needy *individual* or voluntary non-profit body are:

- a) the loan is made by the *state* to a needy *individual* or voluntary non-profit body; and
- b) the *state* is satisfied that the borrower's assets have been significantly damaged by the *natural disaster*; and

- c) the *state* is satisfied that the borrower has no reasonable prospect of obtaining commercial finance; and
- d) the loan is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**Freight subsidy to a *primary producer***

3.7.3 The requirements for a freight subsidy scheme to a *primary producer* are:

- a) the grant is made by the *state* to a *primary producer*; and
- b) the grant reimburses the *primary producer* a maximum of 50 per cent of the costs to the producer of transporting any of the following as a direct result of a *natural disaster*:
  - (i) livestock;
  - (ii) fodder or water for livestock;
  - (iii) building or fencing equipment or machinery; and
- c) the grant is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**Interest rate subsidy to a *small business* or *primary producer***

3.7.4 The requirements for an interest rate subsidy scheme to a *small business* or a *primary producer* are:

- a) the subsidy is paid by the *state* to an authorised deposit taking institution; and
- b) the subsidy reimburses the authorised deposit taking institution for the concessional interest rate it gives on loans to *small businesses* and *primary producers* whose assets have been significantly damaged by a *natural disaster*; and
- c) the subsidy is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

Note: for further detail see Guideline 2/2007.

**Grants to a needy *individual* or voluntary non-profit body**

3.7.5 The requirements for a scheme of grants to a needy *individual* or voluntary non-profit body are:

- a) the *state* is satisfied that the recipient's assets have been significantly damaged by a *natural disaster*; and
- b) the *state* is satisfied that the recipient has no reasonable prospect of obtaining commercial finance; and
- c) the grant is established in accordance with the requirements (if any) of Schedule 1 of this Determination.

**3.8 Additional requirements for *Category B measures*—counter disaster operations for the protection of the general public**

The requirements for counter disaster operations referred to in subclause 3.3.1(c) are:

- a) the costs are associated with counter disaster operations carried out to protect communities and ensure public health and safety in public urban areas; and
- b) the costs exceed the costs that a *state* could reasonably have expected to incur for these purposes; and
- c) the operations carried out were intended to result in less *Category A* assistance being required.

## **4 GENERAL CONDITIONS FOR COMMONWEALTH ASSISTANCE**

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### **4.1 General principle to be observed by *state* with regard to eligible measures**

In carrying out, or contributing to the cost of, *eligible measures*, the *state* must act consistently with the general policy that:

- a) its assistance is not to supplant, or operate as a disincentive for, self-help by way of either insurance or appropriate strategies of *disaster mitigation*; and
- b) as far as practicable, its assistance is to be designed to achieve an efficient allocation of resources.

### **4.2 Notification**

When a *natural disaster* occurs and the relevant *state* knows, or expects, the disaster to be an *eligible disaster* the *state* must notify the *Secretary* of that fact as soon as practicable. The notification must be in the form set out in Attachment A (Notification Form).

### **4.3 *State* must publicly acknowledge Commonwealth assistance**

4.3.1 If the Commonwealth gives assistance to a *state* in relation to an *eligible measure*, the *state* must acknowledge the Commonwealth's contribution of relief and recovery assistance.

4.3.2 At a minimum, this acknowledgement is to appear:

- a) in announcements of assistance to victims, such as press releases and websites; and
- b) in recovery centres or the like; and
- c) in advice to the public about the availability of relief and recovery assistance.

4.3.3 Evidence that acknowledgement has occurred is to be provided to the Commonwealth at the time the *state* submits a claim.

### **4.4 *State* must implement *natural disaster mitigation* strategies**

4.4.1 A condition of assistance for restoration or replacement of an *essential public asset* is that:

- a) the *state* has developed and implemented *natural disaster mitigation* strategies in respect of likely or recurring disasters, and has also encouraged local government bodies to develop and implement such

strategies. (These strategies may have been developed by Commonwealth, *state* or local government bodies); and

- b) if the *state's* assistance has been for the restoration or replacement of an asset of a local government body, and the local government body had not developed and implemented appropriate *natural disaster mitigation* strategies in respect of likely or recurring disasters—the assistance the *state* would otherwise have given to the local government body is reduced by 10 per cent.

4.4.2 A *state*, or a local government body, is taken to have met the *disaster mitigation* requirement in subclause 4.4.1 by appropriate participation in a relevant Commonwealth programme. Commonwealth programmes include:

- a) the Natural Disaster Risk Management Studies Programme;
- b) the Natural Disaster Mitigation Programme;
- c) the Regional Flood Mitigation Programme;
- d) the Bushfire Mitigation Programme.

Note: for further details on establishing that *disaster mitigation* strategies are in place, see Guideline 3/2007.

4.4.3 Evidence of appropriate *natural disaster mitigation* strategies is to be provided at the time a *state* makes a claim under the Natural Disaster Relief and Recovery Arrangements.

#### **4.5 State must have reasonably adequate capital or access to capital**

4.5.1 A condition of assistance to a *state* in relation to an *eligible measure* is that a *state* must have reasonably adequate capital or access to capital to fund liabilities or infrastructure losses before being granted access to funds under this Determination, including through, but not limited to, the following mechanisms:

- a) commercial insurance/reinsurance;
- b) any *state*-COAG reinsurance fund or pool; and
- c) *state* department premium contributions (i.e. internal *state* funds).

Note: **reasonably adequate capital** will be as measured in relation to the benchmarks established under clause 6 of Guideline 1/2011.

#### **4.6 State must submit independent assessment of state insurance arrangements**

4.6.1 A condition of assistance to a *state* in relation to an *eligible measure* is that a *state* is required to have an independent assessment of their insurance arrangements undertaken by an independent and appropriate specialist (such as a *state* Auditor-General).

4.6.2 The *state* must publish the outcome of the independent assessment, taking into consideration the need to protect any commercial in confidence material, and provide the outcome of the independent assessment to the *Secretary*.

4.6.3 The first independent assessment must be published and provided to the *Secretary* by 30 September 2011, with further independent assessments required:

- a) at intervals no greater than three years apart; and
- b) following any significant change in the *state's* insurance arrangements (including any reduction in the policy limit purchased), or a major insurable disaster occurring in the *state*.

4.6.4 The Commonwealth will conduct a review of a *state's* independent assessment in conjunction with the *state*. The review will be guided by the following principles:

- a) a *state* has a responsibility to put in place insurance arrangements which are cost effective for both the *state* and the Commonwealth;
- b) the financial exposure borne by taxpayers (at both levels of Government) under this Determination should be minimised; and
- c) the onus is on a *state* to explore a range of insurance options in the market place and assess available options on a cost-benefit basis.

Note: for further details on the purpose and process for the review of the independent assessment of insurance arrangements, see Guideline 1/2011.

4.6.5 In the event that, as a result of the review the Commonwealth Attorney-General recommends changes to a *state's* insurance arrangements, and the *state* fails to take appropriate action within a reasonable time in response to those recommendations, then the amount that a *state* would be reimbursed under this Determination will be reduced in accordance with the above principles.

#### **4.7 State must submit Post Disaster Assessment Report**

4.7.1 Post disaster assessment reporting will allow for the collection of consistent national data on the cost of *natural disasters* and will enable improved national understanding on the cost of response, relief, and recovery measures following *natural disaster* events.

4.7.2 A Post Disaster Assessment Report must be submitted to the *Secretary* within three years after the end of the *financial year* in which an *eligible disaster* occurred. The report must be in the form provided in Attachment F (Post Disaster Assessment Report).

#### **4.8 State must provide expenditure estimates**

4.8.1 Each *state* must provide to the *Secretary*, for budgetary purposes, its latest estimates of forecast total *state expenditure* on *eligible disasters* for the remainder of the current *financial year* and for the next *financial year*. The estimates must be provided:

- d) by 31 January of each year; and
- e) if the *Secretary* requests, at any other time.

4.8.2 The estimated expenditure is to be broken down as follows:

- *Category A measures*; and
- *Category B measures* (excluding *concessional interest rate loan* expenditure); and
- *concessional interest rate loan* expenditure; and

- *Category C measures*; and
- *Category D measures*.

## 5 HOW IS THE LEVEL OF ASSISTANCE CALCULATED?

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### 5.1 Overview

#### Eligibility for assistance

- 5.1.1 Eligibility for Commonwealth assistance in a *financial year* is worked out on the basis of *state expenditure* in that year on *eligible disasters* (see clauses 5.2 – 5.4).

#### Rate of assistance

- 5.1.2 If a *state* is eligible for assistance in a *financial year*, the rate of the assistance is worked out on the basis of the *state's* two thresholds for that *financial year* and the amount of its expenditure in that year on all *eligible disasters* (see clauses 5.7 – 5.10).

#### Reduction in rate of assistance

- 5.1.3 If a *state* fails to take appropriate action within a reasonable time in response to the Commonwealth Attorney-General's recommendations for changes to a *state's* insurance arrangements (see clause 4.6.5) then the rate of the assistance calculated under this Part 5 may be reduced.

### 5.2 Meaning of *state expenditure*

- 5.2.1 In this Determination *state expenditure* means the amount actually spent, or expected to be spent within 6 months, by a *state* in respect of an *eligible measure*.
- 5.2.2 The amount includes the cost to the *state* of *eligible measures* in the form of non-monetary assistance (for example, goods, waived revenue, free or subsidised services).
- 5.2.3 The amount includes the cost to the *state* of *eligible measures* in the form of *concessional interest rate loans*.

Note: if any part of *state expenditure* is in the form of *concessional interest rate loans*, a component of the Commonwealth assistance will also be in the form of a loan—see clause 5.11.

- 5.2.4 The amount must be spent, or the cost incurred, by the *state* within the *allowable time limit*.
- 5.2.5 The amount does not include any of the following:
- amounts that the *state* has recovered or may recover from any source;
  - amounts that a person is liable to reimburse to the *state* (including amounts attributable to GST);



- c) amounts directly or indirectly receivable from the Commonwealth under a joint Commonwealth/*state* financial arrangement or some other form of specific purpose financial assistance to a *state*;
- d) amounts attributable to salaries or wages or other ongoing administrative expenditure for which the *state* would have been liable even though the *eligible measure* had not been carried out;
- e) amounts that have been transferred from a *state* to a department or other agency of the *state* government for possible expenditure on an *eligible measure*, but have not yet been spent by that agency.

### **5.3 Meaning of *allowable time limit***

In this Determination *allowable time limit* means:

- a) for expenditure on restoration or replacement of an *essential public asset*:
  - (i) the period of 24 months after the end of the *financial year* in which the relevant disaster occurred; or
  - (ii) if there are exceptional circumstances presented by a *state* and accepted by the *Secretary*—such longer period as the *Secretary* specifies;
- b) for expenditure on any other *eligible measure*—the period of 24 months after the end of the *financial year* in which the relevant disaster occurred.

### **5.4 Meaning of *eligible disaster***

In this Determination *eligible disaster* means a *natural disaster* on which *state expenditure* on *eligible measures* exceeds the *small disaster criterion*.

### **5.5 Meaning of *small disaster criterion***

In this Determination, *small disaster criterion* means:

- a) the amount published by the *Secretary* from time to time for the purposes of this Determination, being the amount of \$240,000 as affected by movements in the Consumer Price Index.

Note: The *financial year* amount is outlined of Schedule 1 of this Determination.

### **5.6 Is assistance payable for *state expenditure* on a particular disaster?**

If:

- a) *state expenditure* has been incurred in a particular *financial year* on a *natural disaster*; and
- b) the disaster is an *eligible disaster*;

Commonwealth assistance is payable in relation to that expenditure, and is worked out according to the formula in clause 5.8.

Note 1: if the *state expenditure* is incurred on a disaster that is not an *eligible disaster* (ie, the expenditure on the disaster did not exceed the *small disaster criterion*), no Commonwealth assistance is payable under the Natural Disaster Relief and Recovery Arrangements in relation to that expenditure.

Note 2: the *state expenditure* does not have to be incurred in the same *financial year* that the disaster occurred. However, there are time limits on *state expenditure*—see clause 5.3.

## **5.7 Basis for calculation of assistance—*first and second threshold***

- 5.7.1 If Commonwealth assistance is payable under subclause 5.1.1 in relation to *state expenditure* on an *eligible disaster*, the calculation of the assistance is based on:
- a) the *first threshold*, being 0.225 per cent of the *state's* total general government sector revenue and grants in the *financial year* two years prior to the relevant *financial year*<sup>1</sup>; and
  - b) the *second threshold*, being 1.75 times the *state's first threshold*.
- 5.7.2 The *Secretary* must inform the *states*, in writing, of their respective thresholds as soon as the figures are available from the Australian Bureau of Statistics.

## **5.8 Formula for calculation of amount of Commonwealth assistance**

- 5.8.1 Commonwealth assistance during a *financial year* for *state expenditure* on *Category A, B and C measures* is calculated at the rate of:
- a) if the *state's first threshold* has not been exceeded—50 per cent of *state expenditure* on *Category A and C measures* for one or more *eligible disasters*; and
  - b) if the *state's first threshold* has been exceeded—50 per cent of *state expenditure* on *Category A, B and C measures* for one or more *eligible disasters*, between a *state's first and second threshold*; plus 75 per cent of all such *state expenditure* in excess of the *state's second threshold*.
- 5.8.2 If the *state's first threshold* has been exceeded but the assistance calculated under subclause 5.8.1(a) would be greater than that calculated under subclause 5.8.1(b), the *state* may opt to restrict its claim to the *Category A and Category C* component calculated under subclause 5.8.1(a) (even though its first threshold has been exceeded).
- 5.8.3 Commonwealth assistance during a *financial year* for *state expenditure* on *Category D measures* for one or more *eligible disasters* is to be calculated at the rate determined by the Commonwealth.

## **5.9 Calculation of assistance if *state* has paid two-thirds or more of *betterment costs of local government asset***

- 5.9.1 If:
- a) a *state* has given assistance for the *betterment* of an *essential public asset* owned by a local government body; and
  - b) the *state's* assistance represents two-thirds or more of the total cost of the *betterment*;
- then, for the purpose of calculating Commonwealth assistance under clause 5.8, the amount of *state expenditure* attributable to the *betterment* is taken to be two-thirds of the total cost of the *betterment*.

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<sup>1</sup> As produced by the Australian Bureau of Statistics, Catalogue No. 5501.0.

5.9.2 However, if the asset in question is the asset of a remote indigenous community or a low financial capacity local government body, and the *Secretary* is satisfied that there are exceptional circumstances, the *Secretary* may agree to waive the rule in subclause 5.9.1.

### 5.10 How advance payment affects payment of entitlement

In making payment to a *state* of assistance calculated under clause 5.8, any amount of advance payment made by the Commonwealth in respect of an *eligible disaster* under subclause 1.2.3 is to be deducted from the entitlement calculated.

### 5.11 Commonwealth loan to a state

Under subclauses 3.3.2(a) and 3.3.2(b), certain *concessional interest rate loans* provided by a *state* to a needy *individual*, voluntary non-profit body, *primary producer* or *small business* are *Category B measures*. If there has been *state expenditure* in a year on such loans, a component of the Commonwealth assistance calculated under clause 5.8 may be provided to the *state* in the form of a *concessional interest rate loan*. The amount of that component is the same proportion of total Commonwealth assistance as the proportion that the loan principal provided by the *state* is of total *state expenditure* in that year. The amount is calculated under the following formula:

**CL = (CA - CCATAC) x (SL / (SE-SCATAC)) where:**

|        |   |   |
|--------|---|---|
| CL     | = | the amount of the loan component of the Commonwealth to that <i>state</i> in respect of that <i>financial year</i> ;  |
| CA     | = | total Commonwealth assistance to the <i>state</i> , as calculated under clause 5.8;   |
| CCATAC | = | Commonwealth assistance in respect of <i>state expenditure</i> on <i>Category A and Category C measures</i> during that <i>financial year</i> , (being equal to 50 per cent of SCATAC); |
| SL     | = | total loans made by the <i>state</i> during that <i>financial year</i> under subclauses 3.3.2(a) and (b);   |
| SE     | = | total <i>state expenditure</i> on all <i>eligible measures</i> during that <i>financial year</i> ;  |
| SCATAC | = | total <i>state expenditure</i> on <i>Category A and C measures</i> during that <i>financial year</i> .  |

### 5.12 Concessional interest rate charged by the Commonwealth

5.12.1 A loan to a *state* is subject to a concessional interest rate determined by the *Secretary* at the beginning of each *financial year*, having regard to market interest rates at the time. The interest rate so determined applies to all outstanding loans to a *state*.

- 5.12.2 The concessional interest rate is established in accordance with the requirements (if any) of Schedule 1 of this Determination.
- 5.12.3 Interest on a loan to a *state* begins to accrue following the end of the *financial year* in which the Commonwealth made the loan. Annual interest payable is calculated on the balance of outstanding loans at the beginning of a *financial year*. Interest must be paid to the Commonwealth on or before 15 June in each year the interest is due.
- 5.12.4 The principal of a loan to a *state* is repayable to the Commonwealth by that *state* in eight equal annual instalments. These fall due on or before 15 June in each successive *financial year* commencing in the second year after the end of the year in which the loan was made.
- 5.12.5 The *Secretary* must inform the *states* of the rate as soon as practicable.

### **5.13 State interest rate**

- 5.13.1 In setting the *state's* interest rate on *concessional interest rate loans* in a *financial year*, the *state* must have regard to the following factors:
- a) the rate set by the Commonwealth under clause 5.12 for that *financial year*;
  - b) the desirability of the *state's* rate not exceeding that rate, except to the extent estimated by the *state* as necessary to cover administration costs and bad debts.
- 5.13.2 If the *state* considers it appropriate to charge an interest rate which exceeds the rate estimated to cover administration costs and bad debts, interest set by the Commonwealth at the commencement of a year and equivalent interest set by the *state*, the *state* must pay to the Commonwealth, on or before 15 June in each successive year until maturity of the loan, an amount equal to three-quarters of the Commonwealth loan proportion of the interest receipts associated with the margin.
- 5.13.3 The *state* must review the interest rate charged to borrowers from time to time, making adjustments where appropriate to accommodate any improvement in the circumstances of the recipient.
- 5.13.4 The amount of each loan made by the *states* to *individuals* and organisations eligible for Commonwealth assistance may be subject to ceilings determined by the *Minister* to apply from a specified date (normally 1 July) until amended. The ceilings on loans must be determined having regard to movements in prices since the ceilings were last amended.

## **6 WHAT IS THE CLAIMS PROCESS?**

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### **6.1 Submitting a claim**

If a *state* has notified the *Secretary* of the occurrence of an *eligible disaster* under clause 4.2, the *state* may submit a claim to the *Secretary* for financial

assistance in respect of *state expenditure* on *eligible measures* for that disaster. The claim may be submitted at any time and must be in the form set out in Attachment B (General Claim Form) and Attachment C (Expenditure Breakdown Form).

Note 1: see clause 7.4 regarding the acceptance of an audited financial statement as a claim.

Note 2: for further details on submitting a claim see Guideline 1/2007.

## **6.2 Claim must be supported by certified statement of expenditure**

Each general claim must be supported by a statement certified by an officer of the *state* Treasury, or an officer of the agency which has responsibility for the *state* in relation to the Natural Disaster Relief and Recovery Arrangements. The statement must be in the form set out in Attachment B (General Claim Form).

## **6.3 Commonwealth may request additional information**

After receipt of a claim, the *Secretary* may at any time ask the *state* to provide information that the *Secretary* considers necessary to ensure that payment is in accordance with the principles and guidelines in this Determination.

## **6.4 Process for resolving disagreement about claimed amount**

A *state* must provide the information requested by the *Secretary* within a reasonable time. If the information indicates that payment of all or part of the amount of the claim would be inconsistent with this Determination, payment in respect of that part or amount will be withheld. If no agreement can be reached between officials of the *state* and the *Secretary*, the matter is to be referred for resolution to the *Minister*.

# **7 WHAT ARE THE ACQUITTAL AND AUDIT REQUIREMENTS?**

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## **7.1 State must provide audited financial statement**

If a *state* has:

- a) made a claim under clause 6.1, or
- b) received an advance payment from the Commonwealth under subclause 1.2.3;

the *state* must provide an audited financial statement in support of that claim or as evidence of *state expenditure* of the advance payment, as the case requires. The statement must be in the form of Attachment C (Expenditure Breakdown Form), Attachment D (Independent Audit Report) and Attachment E (Audited Financial Statement Claim Form) and must be certified by the Auditor-General of that *state* (or his or her delegate).

Note 2: for further details on submitting a claim see Guideline 1/2007.

## **7.2 Time limit for provision of audited financial statement**

An audited financial statement in support of a claim must be made as soon as practicable after the end of the *financial year* in which the claim, or advance

payment, was made. If the *state* is unable to comply within 6 months after the end of the *financial year*, it must write to the *Secretary* seeking an extension of time.

### **7.3 Payment of difference between amount claimed and amount indicated by audited financial statement**

If an audited financial statement provided by a *state* reveals a difference between the amount of assistance provided and the amount of assistance calculated under this Determination, the difference is due and payable (by the *state*, or by the Commonwealth, as the case requires) within 2 months after the *Secretary* notifies the *state* of the difference.

### **7.4 Audited financial statement may be treated as claim**

If a *state* has not made a claim under clause 6.1, it may make a claim at any time in the form of an audited financial statement. The statement must be in the form of Attachment C (Expenditure Breakdown Form), Attachment D (Independent Audit Report) and Attachment E (Audited Financial Statement Claim Form) and must be certified by the Auditor-General of that *state* (or his or her delegate).

## **8 DICTIONARY OF TERMS**

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### **8.1 Dictionary**

In this Determination:

*allowable time limit* has the meaning given in subclause 5.3.

*betterment* has the meaning given in subclause 3.6.5.

*Category A measure* has the meaning given in clause 3.2.

*Category B measure* has the meaning given in clause 3.3.

*Category C measure* has the meaning given in clause 3.4.

*Category D measure* has the meaning given in clause 3.5.

*concessional interest rate loan* means a loan made by a *state* under a scheme referred to in subclauses 3.3.2(a) or 3.3.2(b).

*Department* means the Australian Government Department of Transport and Regional Services.

*disaster mitigation* means measures taken in advance of, or after, a disaster aimed at decreasing or eliminating its impact on society and the environment.

*eligible disaster* has the meaning given in clause 5.4.

*eligible measure* has the meaning given in clause 3.1.

*eligible undertaking* has the meaning given in subclauses 3.6.2 and 3.6.3.

**essential public asset** has the meaning given in subclause 3.6.1.

**farm enterprise** means an activity listed in Division A of the *Australian and New Zealand Industrial Classification* published by the Australian Bureau of Statistics.

**financial year** means a period of 12 months commencing on 1 July.

**first threshold** has the meaning given in subclause 5.7.1(a).

**individual** means a natural person.

**Minister** means the Commonwealth Minister for Local Government, Territories and Roads.

**natural disaster** has the meaning given in clause 2.1.1.

**person** means an *individual*, a body politic, or a body corporate.

**primary producer** means an *individual*, partnership, trust or company that:

- a) has a right or interest in a *farm enterprise*; and
- b) contributes a significant part of his, her or its labour and capital to the enterprise; and
- c) derives at least 51 per cent of his, her or its income from the enterprise.

**second threshold** has the meaning given in subclause 5.7.1(b).

**Secretary** means the Secretary of the *Department*. A reference to the Secretary includes a reference to an appropriate official of the *Department*.

**small business** means a business, other than a *farm enterprise*, that employs fewer than 20 full-time equivalent staff. That is, the sum total of all standard hours worked by all employees (whether full-time or part-time) is less than the number of standard hours that would be worked by 20 full-time employees).

**small disaster criterion** has the meaning given in clause 5.5.

**state** includes the Australian Capital Territory and the Northern Territory.

## **8.2 Interpretation**

In this Determination:

- 8.2.1 The singular includes the plural and vice versa, and a gender includes other genders.
- 8.2.2 Clause and subclause headings are inserted for convenience only and have no effect in limiting or extending the language of the provisions of this Determination.
- 8.2.3 Notes and examples to provisions of this Determination form part of the Determination but if there is any inconsistency between a provision of this Determination and a note or example, the provision prevails.

- 8.2.4 Another grammatical form of a defined word or expression has a corresponding meaning.
- 8.2.5 If a day on or by which an obligation must be performed or an event must occur is not a business day, the obligation must be performed or the event must occur on or by the next business day.
- 8.2.6 Clause 8.1 and this clause also apply to the interpretation of any schedule, guideline or other instrument issued under this Determination.

## **9 MISCELLANEOUS**

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### **9.1 Guidelines**

The *Secretary* may issues guidelines from time to time to:

- a) provide clarification of the interpretation and administration of this Determination; and
- b) to provide assistance and guidance on the forms and procedures to be adopted by the *states* for obtaining payments under this Determination.





# NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS

## Schedule 1

This Schedule is issued as necessary to establish the rates and ceilings for Natural Disaster Relief and Recovery Arrangements reimbursement for eligible measures taken on natural disaster relief and recovery.

### **Subclause 3.3.2(a) and 3.7.1 — Loans to small businesses or *primary producers***

Amounts to be established by the *state*.

### **Subclause 3.3.2(b) and 3.7.2 — Loans or grants to *individuals* and voluntary non-profit bodies**

A maximum loan of \$100,000 and grant of \$5,000 to any one applicant with the first \$30,000 (or part thereof) by way of combination of loan and grant in the ratio 5:1.

### **Subclause 3.3.2(d) and 3.7.4 — Interest rate subsidy**

Maximum allowable loan amount that qualifies for the interest subsidy is to be established by the *states*.

The maximum Commonwealth contribution is calculated using an interest rate based on 50 per cent of the ten-year Treasury bond rate averaged over April – May – June for the applicable financial year. The subsidy shall be the lesser of this amount or 50 per cent of the actual (commercial) interest amount.

### **Subclause 3.3.2(e) and 3.7.5 – Grants to needy *individuals* and voluntary non-profit bodies**

A maximum grant of \$10,000 for voluntary non-profit bodies and \$5,000 for needy *individuals* (subject to means testing).

### **Clause 3.4 – *Category C Measure* (Community recovery package)**

**Community recovery fund** –Amount to be determined at time of triggering assistance.

**Recovery grants for small businesses** –A maximum grant of \$10,000, up to \$25,000 under exceptional circumstances.

**Recovery grants for primary producers** – A maximum grant of \$10,000, up to \$25,000 under exceptional circumstances.

### **Clause 5.5 — Small disaster criterion**

The *small disaster criterion* for the *financial year* 2006–07 is \$240,000.

### **Subclause 5.12.1 — Concessional interest rate loan**

Calculation of the applicable interest rate is based on 50 per cent of the ten-year Treasury bond rate averaged over April – May – June for the applicable financial year.

The amount of financial assistance on *eligible measures* under the Natural Disaster Relief and Recovery Arrangements may be subject to ceilings determined by the *Minister*.



**NATURAL DISASTER RELIEF AND RECOVERY  
ARRANGEMENTS  
GUIDELINE 1 / 2007**

**FORM FOR THE PREPARATION OF FINANCIAL CLAIMS AND  
AUDITED FINANCIAL STATEMENTS**

Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the form for the preparation of financial claims and audited financial statements.

**Guidelines**

(i) In accordance with clause 6.1 of the Determination, the *state* is to submit to the *Department* details of expenditure on *eligible measures* under the Natural Disaster Relief and Recovery Arrangements. This information is to be in the formats provided as part of this guideline. Four specific forms are available.

- General Claim Form (Attachment B)
- Expenditure Breakdown Form (Attachment C)
- Independent Audit Report (Attachment D)
- Audited Financial Statement Claim Form (Attachment E)

The information to be supplied includes a financial summary and detail on categories of expenditure by each *eligible disaster*.

(ii) Any claim is to be accompanied by additional information required by the following:

- Guideline 3/2007 Criteria for the Provision of Evidence of Appropriate *Natural Disaster Mitigation* Strategies; and
- Clause 4.3 – *State* must publicly acknowledge Commonwealth assistance.

(iii) In accordance with clause 7.1 of the Determination, where a claim has been made, each *state* is to furnish to the *Department* as soon as practicable but in any case within **six months** following the end of the financial year, an audited financial statement in the format outlined at Attachment C, D and E covering the full financial year.



**NATURAL DISASTER RELIEF AND RECOVERY  
ARRANGEMENTS  
GUIDELINE 2 / 2007**

**CRITERIA FOR THE PROVISION OF INTEREST RATE SUBSIDIES**

Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the criteria for the provision of interest subsidies.

**Guidelines**

Under subclauses 3.3.2(d) and 3.7.4 of the Determination *states* are able to seek reimbursement for subsidies made to *small businesses* or *primary producers* to cover the interest costs of commercially raised loans used for recovery from an *eligible disaster*, subject to the following:

- (i) reimbursement is only available for interest on loans that have been provided by private sector authorised deposit taking institutions (ADTIs <sup>2</sup>);
- (ii) the subsidy shall be capped as per Schedule 1 of the Determination;
- (iii) claimants first apply to *states* who assess eligibility. Successful claimants are issued with a letter from *states*, which they provide to a participating ADTI. The ADTI assesses the claimant against lending guidelines developed under this scheme; and
- (iv) loans provided by ADTIs are to be over a maximum 10-year period. The subsidy will continue each year, diminishing to zero after 10 years.

Where the interest rate subsidy measure is adopted, only the subsidy component will be considered *state expenditure*, not the loan principal element.

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<sup>2</sup> For the purposes of this Guideline, Authorised Deposit Taking Institutions include banks, building societies, credit unions and pastoral houses.



**NATURAL DISASTER RELIEF AND RECOVERY  
ARRANGEMENTS  
GUIDELINE 3 / 2007**

**CRITERIA FOR THE PROVISION OF EVIDENCE OF NATURAL DISASTER  
MITIGATION STRATEGIES**

Pursuant to clause 9.1, Natural Disaster Relief and Recovery Arrangements Determination, the following guideline applies to the criteria for the provision of evidence of *natural disaster mitigation* strategies.

**Guidelines**

The Commonwealth considers that *disaster mitigation*, in partnership with *state* governments, is an important principle to be advanced under the Natural Disaster Relief and Recovery Arrangements. This requirement is consistent with good accountability, and provides assurance to communities and the general public of governments' ongoing commitment to safeguarding the well-being of their communities through providing effective levels of disaster prevention and protection.

Subclause 4.4.1 of the Determination states:

“A condition of assistance for restoration or replacement of an *essential public asset* is that:

a) the *state* has developed and implemented *natural disaster mitigation* strategies in respect of likely or recurring disasters, and has also encouraged local government bodies to develop and implement such strategies. (These strategies may have been developed by Commonwealth, *state* or local government bodies) ...”

To give effect to clause 4.4, the following is to be followed:

- (i) Provided that the *Secretary* can be satisfied that reasonable progress has been made towards the development and implementation of *natural disaster mitigation* strategies, funding of claims under the Natural Disaster Relief and Recovery Arrangements from individual local governments through their respective *states* will not be withheld.
- (ii) *Disaster mitigation* means measures taken in advance of, or after, a disaster aimed at decreasing or eliminating its impact on society and the environment.



- (iii) Responsibility for determining the optimal combination of measures and what constitutes an acceptable mitigation strategy for any given area are risk assessment matters for *state* and local governments, taking into account relative benefits and costs.
- (iv) In submitting a claim for reimbursement under the Natural Disaster Relief and Recovery Arrangements *states* are to provide evidence of appropriate *natural disaster mitigation* strategies.
- (v) If the *Secretary* does not consider that reasonable progress has been made towards the development and implementation of *natural disaster mitigation* strategies in respect of likely or recurring disasters, the *Secretary* will raise its concerns with the *state*. The Commonwealth may seek a commitment by the *state* to rectify any agreed inadequacies. Where no agreement can be reached, between officials of the *state* and the *Secretary*, the matter shall be referred for resolution to the *Minister* in consultation with the relevant *state* minister.

**NATURAL DISASTER RELIEF AND RECOVERY  
ARRANGEMENTS  
GUIDELINE 4 / 2007**

**COMMUNITY RECOVERY PACKAGE GUIDELINES**

See separate document titled Community Recovery Package Guidelines 2007.