



Australian Government

Attorney-General's Department

NATURAL DISASTER RELIEF and RECOVERY ARRANGEMENTS

Determination
2012
Version 1

Table of Contents

1	INTRODUCTORY	1
1.1	AIM AND OVERVIEW OF THE NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS 1	
1.2	BASIC PRINCIPLES FOR ASSISTANCE TO STATES	1
1.3	DICTIONARY OF TERMS USED IN THIS DETERMINATION	1
2	WHAT TYPES OF NATURAL DISASTER ARE COVERED?.....	1
2.1	MEANING OF NATURAL DISASTER	1
3	WHAT IS AN ELIGIBLE MEASURE?	2
3.1	MEANING OF ELIGIBLE MEASURE	2
3.2	MEANING OF CATEGORY A MEASURE.....	2
3.3	MEANING OF CATEGORY B MEASURE.....	2
3.4	MEANING OF CATEGORY C MEASURE.....	3
3.5	MEANING OF CATEGORY D MEASURE	3
3.6	ADDITIONAL REQUIREMENTS FOR CATEGORY B MEASURES—RESTORATION OR REPLACEMENT OF ESSENTIAL PUBLIC ASSETS.....	3
3.7	ADDITIONAL REQUIREMENTS FOR CATEGORY B MEASURES—LOANS, SUBSIDIES OR GRANTS	5
3.8	ADDITIONAL REQUIREMENTS FOR CATEGORY B MEASURES—COUNTER DISASTER OPERATIONS FOR THE PROTECTION OF THE GENERAL PUBLIC.....	6
4	GENERAL CONDITIONS FOR COMMONWEALTH ASSISTANCE.....	6
4.1	GENERAL PRINCIPLE TO BE OBSERVED BY STATE WITH REGARD TO ELIGIBLE MEASURES...	6
4.2	NOTIFICATION	6
4.3	STATE MUST PUBLICLY ACKNOWLEDGE COMMONWEALTH ASSISTANCE.....	6
4.4	STATE MUST IMPLEMENT DISASTER MITIGATION STRATEGIES	7
4.5	STATE MUST HAVE REASONABLY ADEQUATE CAPITAL OR ACCESS TO CAPITAL.....	7
4.6	STATE MUST SUBMIT INDEPENDENT ASSESSMENT OF STATE INSURANCE ARRANGEMENTS..	7
4.7	STATE MUST SUBMIT POST DISASTER ASSESSMENT REPORT	8
4.8	STATE MUST PROVIDE EXPENDITURE ESTIMATES	8
5	HOW IS THE LEVEL OF ASSISTANCE CALCULATED?	8
5.1	OVERVIEW	8
5.2	MEANING OF STATE EXPENDITURE	8
5.3	MEANING OF ALLOWABLE TIME LIMIT	9
5.4	MEANING OF ELIGIBLE DISASTER	9
5.5	MEANING OF SMALL DISASTER CRITERION	9
5.6	IS ASSISTANCE PAYABLE FOR STATE EXPENDITURE ON A PARTICULAR DISASTER?	9
5.7	BASIS FOR CALCULATION OF ASSISTANCE—FIRST AND SECOND THRESHOLD	10
5.8	FORMULA FOR CALCULATION OF AMOUNT OF COMMONWEALTH ASSISTANCE	10
5.9	CALCULATION OF ASSISTANCE IF STATE HAS PAID TWO-THIRDS OR MORE OF BETTERMENT COSTS OF LOCAL GOVERNMENT ASSET.....	10
5.10	HOW ADVANCE PAYMENT AFFECTS PAYMENT OF ENTITLEMENT	11
5.11	COMMONWEALTH LOAN TO A STATE.....	11
5.12	CONCESSIONAL INTEREST RATE CHARGED BY THE COMMONWEALTH	11
5.13	STATE INTEREST RATE	12
6	WHAT ARE THE CLAIMS, ACQUITTALS AND AUDITING REQUIREMENTS?.....	12
6.1	SUBMITTING A CLAIM FOR FINANCIAL ASSISTANCE	12
6.2	SUBMITTING AN AUDITED FINANCIAL STATEMENT FOR A GENERAL CLAIM	12
6.3	SUBMITTING AN AUDITED CLAIM FOR FINANCIAL ASSISTANCE	12
6.4	SUBMITTING AN ACQUITTAL FOR AN ADVANCE PAYMENT	13
6.5	DIFFERENCE BETWEEN ADVANCE PAYMENT/GENERAL CLAIM AND AMOUNT INDICATED BY AUDITED FINANCIAL STATEMENT	13
6.6	COMMONWEALTH MAY REQUEST ADDITIONAL INFORMATION	13
6.7	PROCESS FOR RESOLVING DISAGREEMENT ABOUT CLAIMED AMOUNT.....	13
6.8	COMMONWEALTH MAY UNDERTAKE ASSURANCE ACTIVITIES	13
7	DICTIONARY OF TERMS.....	13
7.1	DICTIONARY	13

7.2	INTERPRETATION	15
8	MISCELLANEOUS	15
8.1	GUIDELINES	15
	SCHEDULE 1	16

GUIDELINES

- GUIDELINE 1 – FORM FOR THE PREPARATION OF FINANCIAL CLAIMS AND AUDITED FINANCIAL STATEMENTS**
- GUIDELINE 2 – CRITERIA FOR THE PROVISION OF INTEREST RATE SUBSIDIES**
- GUIDELINE 3 – CRITERIA FOR THE PROVISION OF EVIDENCE OF NATURAL DISASTER MITIGATION STRATEGIES**
- GUIDELINE 4– COMMUNITY RECOVERY PACKAGE GUIDELINES**
- GUIDELINE 5 – INSURANCE REQUIREMENTS**
- GUIDELINE 6 – DEFINITION OF ESSENTIAL PUBLIC ASSETS**
- GUIDELINE 7 – CRITERIA FOR THE PROVISION OF BETTERMENT FUNDING**
- GUIDELINE 8 – CRITERIA FOR THE ACKNOWLEDGEMENT OF COMMONWEALTH ASSISTANCE**
- GUIDELINE 9 –CATEGORY C ASSISTANCE: INTERIM ASSESSMENT FRAMEWORK AND FORMS**

ATTACHMENTS

- ATTACHMENT A – NOTIFICATION FORM**
- ATTACHMENT B – CLAIM/ACQUITTAL FORM**
- ATTACHMENT C – EXPENDITURE BREAKDOWN FORM**
- ATTACHMENT D – INDEPENDENT AUDIT REPORT**
- ATTACHMENT F – POST DISASTER ASSESSMENT REPORT**
- ATTACHMENT G – EXPENDITURE AND FORECAST REPORT**

NATURAL DISASTER RELIEF AND RECOVERY ARRANGEMENTS

DETERMINATION OF TERMS AND CONDITIONS

by the

Attorney-General and Minister for Emergency Management

PRELIMINARY

I, NICOLA ROXON, Attorney-General and Minister for Emergency Management, determine the terms and conditions applicable to payments of financial assistance by the Commonwealth to any State, the Australian Capital Territory or the Northern Territory, for the purposes of natural disaster relief and recovery, to be the terms and conditions recorded in this document.

The determination applies from the date of signature, in respect of natural disasters that occur on or after that date. It amends, by replacement, the *Natural Disaster Relief and Recovery Arrangements Determination 2011: Version 1*. However, the *Natural Disaster Relief and Recovery Arrangements Determination 2011: Version 1* continues to apply, according to its terms, in respect of natural disasters that occurred before the date of signature of the current determination.

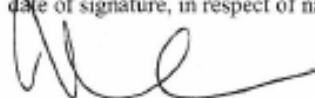
The determination has effect:

- in relation to national partnership payments made for the above purposes - as part of the Inter-Governmental Agreement on Federal Financial Relations, entered into between the Commonwealth, the States, the Australian Capital Territory and the Northern Territory (as amended); and
- in relation to payments made out of the amount appropriated by the *Appropriation Act (No. 2) 2011-2012* to the Commonwealth Attorney-General's Department for the outcome, 'A just and secure society through maintenance and improvement of Australia's law and justice framework and its national security and emergency management system'.

Note: The determination has effect as part of the Inter-Governmental Agreement on Federal Financial Relations by virtue of clauses D42 and D43 of Schedule D to that agreement. The determination has effect under the *Appropriation Act (No. 2) 2011-2012* by virtue of section 22 of that Act.

The determination is also intended to have effect in relation to any later Appropriation Act that appropriates an amount for the same outcome, or for a different outcome that includes the purposes of natural disaster relief and recovery, and authorises the Attorney-General or the Minister for Emergency Management to determine the terms and conditions applicable to payments made out of the amount.

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, in respect of natural disasters that occur after that date.



Nicola Roxon
Attorney-General and Minister for Emergency Management

18 / 12 2012

1 INTRODUCTORY

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*.

1.2 Basic principles 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 7.1 and italicised throughout the Determination.

2 WHAT TYPES OF NATURAL DISASTER ARE COVERED?

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*?

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 and Guideline 9.

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 the *state* considers and the Commonwealth agrees:

- a) is an integral and necessary part of the *state's* infrastructure which is associated with health, education, transport, justice or welfare; 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.

3.6.2 Before commencing a restoration or replacement project where the total cost of the project is estimated to be \$1,000,000 or more, the *state* must seek the Commonwealth's agreement and demonstrate that the *essential public asset* being restored or replaced:

- a) is an integral and necessary part of the *state's* infrastructure which is associated with health, education, transport, justice or welfare; 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.

3.6.3 States do not need to seek the Commonwealth's agreement for those projects costing less than \$1,000,000 however the Commonwealth may refuse reimbursement if it does not agree that the asset being restored or replaced is an *essential public asset*.

Note: for further detail see Guideline 6.

Meaning of *eligible undertaking*

3.6.4 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.

3.6.5 A body that does not meet the requirements of subclause 3.6.4 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

3.6.6 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

3.6.7 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.

3.6.8 *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*.

Note: for further detail see Guideline 7.

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.

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

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 access to capital 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 At the point at which the *state* announces assistance measures under the NDRRA, the *state* must acknowledge the Commonwealth in a joint media release with the Minister or representative, unless otherwise agreed by the Commonwealth.
- 4.3.2 The *state* must notify the Federal Member of the House of Representatives in writing where there is an intention to undertake essential public asset restoration or replacement project (including for assets owned by local governments) in their electorate.
- 4.3.3 *States* must reach prior agreement with the Commonwealth on the nature and content of any subsequent events, announcements, promotional material or publicity relating to any assistance measure under the NDRRA. This includes but is not limited to:
- a) media releases regarding NDRRA assistance measures;
 - b) asset restoration or replacement ceremonies; and
 - c) signage at asset restoration or replacement project sites.
- Note: For further detail see Guideline 8.

- 4.3.4 Evidence of Commonwealth acknowledgement is to be provided to the Commonwealth at the time the *state* submits a claim.

4.4 State must implement *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 *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 is for the restoration or replacement of an asset of a local government body, and the local government body has not developed and implemented appropriate *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.

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

- 4.4.2 Evidence of appropriate *disaster mitigation* strategies is to be provided at the time a *state* submits a claim or acquittal under this Determination.

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 5.

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 5.

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 quarterly expenditure and forecast reports

4.8.1 Each *state* must provide to the *Secretary*, for budgetary purposes, reports of the *state's*:

- a) total *state expenditure* on *eligible disasters* in the current *financial year* to date; and
- b) latest estimates of forecast total *state expenditure* on *eligible disasters* for the remainder of the current *financial year* and for the next three *financial years*

4.8.2 The estimates must be provided quarterly or if the *Secretary* requests, at any other time.

4.8.3 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?

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).

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:

- a) amounts that the *state* has recovered or may recover from any source;
- b) 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*¹; 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*.

¹ 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 *state* in respect of that *financial year*;

CA = total Commonwealth assistance to the *state*, as calculated under clause 5.8;

CCATAC = Commonwealth assistance in respect of *state expenditure* on *Category A and Category C measures* during that *financial year*, (being equal to 50 per cent of SCATAC);

SL = total loans made by the *state* during that *financial year* under subclauses 3.3.2(a) and (b);

SE = total *state expenditure* on all *eligible measures* during that *financial year*;

SCATAC = total *state expenditure* on *Category A and C measures* during that *financial year*.

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 ARE THE CLAIMS, ACQUITTALS AND AUDITING REQUIREMENTS?

6.1 Submitting a claim for financial assistance

- 6.1.1 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.

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

- 6.1.2 The claim must be submitted within 9 months after the end of the *financial year* in which the expenditure to which it relates took place. If the *state* is unable to comply, it must write to the *Secretary* seeking an extension of time.
- 6.1.3 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) and Attachment C (Expenditure Breakdown Form).

6.2 Submitting an audited financial statement for a general claim

- 6.2.1 If a *state* has made a claim under clause 6.1, the *state* must provide an audited financial statement in support of that claim. The statement must be in the form of 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).
- 6.2.2 An audited financial statement in support of a claim must be made within 6 months after the claim to which it relates was made.

6.3 Submitting an audited claim for financial assistance

- 6.3.1 If a *state* has not made a claim under clause 6.1, it may make a claim 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).

- 6.3.2 The audited financial statement must be submitted within 9 months after the end of the *financial year* in which the expenditure to which it relates took place. If the state is unable to comply, it must write to the Secretary seeking an extension of time.

6.4 Submitting an acquittal for an advance payment

- 6.4.1 If a *state* has received an advance payment from the Commonwealth under subclause 1.2.3, the *state* must submit an acquittal to the *Secretary* as evidence of *state expenditure* of the advance payment.
- 6.4.2 The acquittal must be submitted within 9 months after the end of the *financial year* in which the expenditure to which it relates took place. If the state is unable to comply, it must write to the Secretary seeking an extension of time.
- 6.4.3 The acquittal must be accompanied by a financial statement in the form of Attachment C (Expenditure Breakdown Form), an audit report in the form of Attachment D (Independent Audit Report), which is certified by the state Auditor-General (or his or her delegate), and Attachment E (Audited Financial Statement Claim Form).

6.5 Difference between advance payment/general claim 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.

6.6 Commonwealth may request additional information

After receipt of a claim or acquittal, 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.

6.7 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 a 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*.

6.8 Commonwealth may undertake assurance activities

The *Secretary* may undertake assurance activities prior to or after a *state* submits a claim or acquittal to the Commonwealth. These activities may include, but are not limited to, site inspections and/or obtaining relevant documentary evidence to support value for money assessments or verification reviews on measures or projects included in a claim or acquittal. The Secretary may appoint an independent adviser to conduct these activities.

7 DICTIONARY OF TERMS

7.1 Dictionary

In this Determination:

allowable time limit has the meaning given in subclause 5.3.

betterment has the meaning given in subclause 3.6.7.

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 Commonwealth Attorney-General's Department.

disaster mitigation means measures taken in advance of, or after, a *natural 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 3.6.4 and 3.6.5.

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 Attorney-General and Minister for Emergency Management or another Minister acting on their behalf.

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.

7.2 Interpretation

In this Determination:

- 7.2.1 The singular includes the plural and vice versa, and a gender includes other genders.
- 7.2.2 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.
- 7.2.3 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.
- 7.2.4 Another grammatical form of a defined word or expression has a corresponding meaning.
- 7.2.5 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.
- 7.2.6 Clause 7.1 and this clause also apply to the interpretation of any schedule, guideline or other instrument issued under this Determination.

8 MISCELLANEOUS

8.1 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* 2012-13 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*.