

災害救助法（S22年法118）の概要

※平成25年度厚生労働省から内閣府に移管。

「災害対策基本法」を中心に、災害類型に応じて各々の個別法によって対応する仕組みの中で、**「災害救助法」は、発災後の応急期における応急救助に対応するための法律**である。

災害が発生した場合の対応



災害が発生するおそれがある場合の対応



1. 制度概要

- (1) 災害救助法に基づく救助は、都道府県知事等の行う「**法定受託事務**」である。
- (2) 都道府県知事等が適用基準に該当する市町村において現に救助を必要とする者に行う。
(法第2条第1項)
 - ① 災害により一定数以上の住家の滅失（全壊）が生じた場合（令第1条第1項第1号～第3号）
 - ② 多数の者に生命又は身体への危害が生じ継続的な救助が必要な場合等（令第1条第1項第4号）
- (3) 災害が発生するおそれがある場合において、国に災害対策本部が設置され、その所管区域が告示されたときは、都道府県知事等が、当該災害により被害を受けるおそれがあり、現に救助を必要とする者に救助を行うことができる。（法第2条第2項）

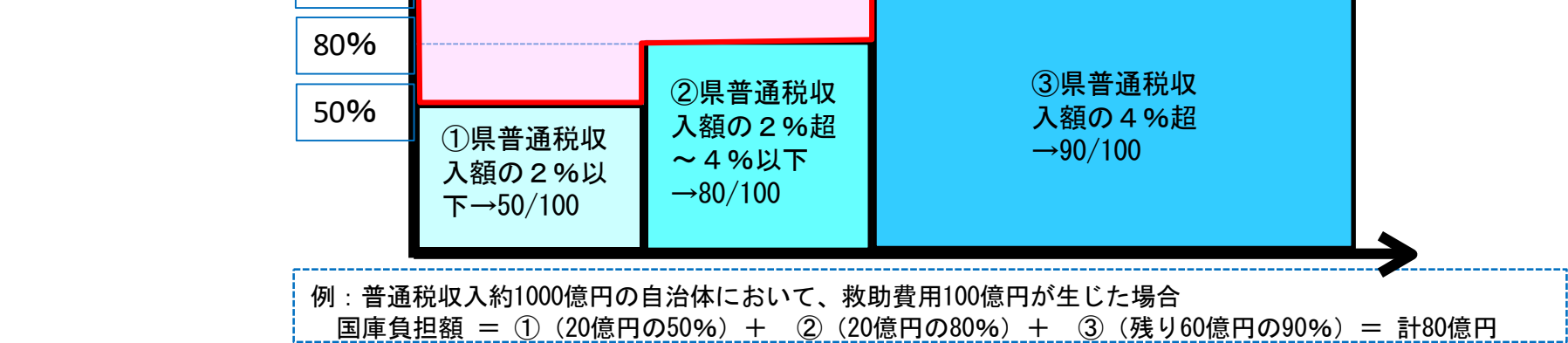
| | | 市町村（基礎自治体） | 都道府県 |
|-------------|-------|------------------------------------|---|
| 救助法を適用しない場合 | | 救助の実施主体 （基本法5条） | 救助の後方支援、総合調整（基本法4条） |
| 救助法を適用した場合 | 救助の実施 | 都道府県の補助（法13条2項） | 救助の実施主体 （法2条） （救助実施の区域を除く（法2条の2）） |
| | 事務委任 | 事務委任を受けた救助の実施主体 （法13条1項） | 救助事務の一部を市町村に委任可 （法13条1項） |
| | 費用負担 | 費用負担なし（法21条） | 掛かった費用の最大100分の50 （残りは国が負担）（法21条） |

2. 救助の種類、程度、方法及び期間

| | | |
|-------------------------------|--------------------|---------------------|
| (1) 避難所の設置（S22～） | (6) 医療及び助産（S22～） | (11) 埋葬（S22～） |
| (2) 応急仮設住宅の供与（S28～） | (7) 被災者の救出（S28～） | (12) 死体の搜索・処理（S34～） |
| (3) 炊き出しその他による食品の給与（S22～） | (8) 福祉サービスの提供（R7～） | (13) 障害物の除去（S34～） |
| (4) 飲料水の供給（S28～） | (9) 住宅の応急修理（S28～） | |
| (5) 被服、寝具その他生活必需品の給与・貸与（S22～） | (10) 学用品の給与（S22～） | |

- **一般基準**：救助の程度、方法及び期間は、応急救助に必要な範囲内において、**内閣総理大臣が定める基準**（※）に従い、あらかじめ、都道府県知事等が、これを定める。（※平成25年内閣府告示第228号）
- **特別基準**：一般基準では救助の適切な実施が困難な場合には、都道府県知事等は、**内閣総理大臣に協議し、その同意を得た上で、特別基準**（※）を定めることができる。（※令第3条第2項）

3. 国庫負担



Centered on the "Basic Act on Disaster Management", within the framework in which disaster response is conducted under individual laws based on the type of disaster, the "Disaster Relief Act" is an Act that governs the emergency relief in the emergency period after a disaster occurs.

The response after the occurrence of a disaster



Response when there is a risk of occurrence of a disaster



1. System Outline

- (1) The relief based on the Disaster Relief Act is the "statutory entrusted function" conducted by a prefectural governor, etc.
- (2) In the municipalities that conform to the applicability standards, relief is provided by a prefectural governor, etc. to the people who currently need relief.
(Article 2, paragraph (1) of the Act)

(i)When more than a certain number of the houses have been destroyed (completely destroyed) (Article 1, paragraph (1), item (i) through item (iii) of the Order)

(ii)When the lives or bodies of numerous people are subject to harm and they need continuous relief, etc. (Article 1, paragraph (1), item (iv) of the Order)
- (3) When there is a risk of occurrence of a disaster, the national government establishes disaster management headquarters, and after the area of jurisdiction is announced, the prefectural governor, etc. may provide relief to people who are likely to be affected by the disaster and who currently need relief.
(Article 2, paragraph (2) of the Act)

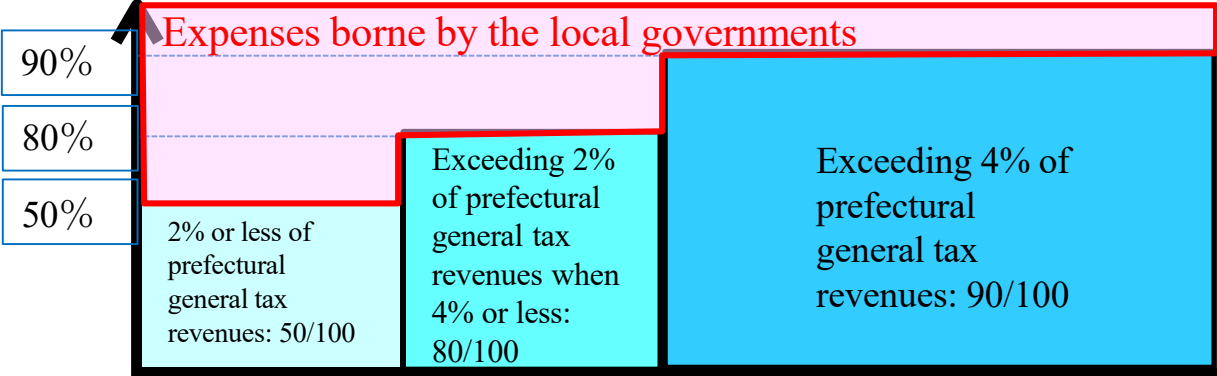
| | | Municipality (basic local government) | Prefecture |
|--|--------------------------|---|--|
| If the Disaster Relief Act doesn't apply | | Responsible body implementing relief (Article 5 of the Basic Act) | Logistical support and overall coordination of relief (Article 4of the Basic Act) |
| If the Disaster Relief Act applies | Implementation of relief | Assisting prefectures (Article 13, paragraph (2) of the Act) | Administrative body implementing relief (Article 2 of the Act) (excluding the areas where relief is implemented (Article 2-2 of the Act)) |
| | Entrustment of affairs | An administrative body implementing relief that has been entrusted to conduct affairs (Article 13, paragraph (1)) | It is possible to entrust part of the relief affairs to municipalities (Article 13, paragraph (1) of the Act) |
| | Bearing of costs | No obligation to bear expenses (Article 21) | The maximum expenses that are to be borne are one half of total expenses (the remaining expenses are borne by the national government) (Article 21 of the Act) |

2. Types, Levels, Methods, and Periods of Relief

| | | |
|--|---|---|
| (1) provision of shelters (from 1947) | (6) medical care and midwifery (from 1947) | (11) burial (from 1947) |
| (2) provision of emergency temporary houses (from 1958) | (7) rescue of disaster victims (from 1953) | (12) search for and handling of corpses (from 1947) |
| (3) distribution of meals and other provision of foodstuffs (from 1947) | (8) provision of welfare services (from 2025) | (13) removal of obstructions (from 1947) |
| (4) provision of safe drinking water (from 1953) | (9) emergency repair of affected houses (from 1953) | |
| (5) provision or lending of clothing, bedding, and other basic necessities (from 1947) | (10) provision of school supplies (from 1947) | |

- General Standards: Within the necessary scope of emergency relief, in advance, the prefectural governor, etc. follows the standards specified by the Prime Minister*, and specifies the level, method, and period of relief.(*Cabinet Office Public Notice No. 228 of 2013)
- Special Standards: When it is difficult to appropriately implement relief under the general standards, after consulting with and obtaining the consent of the Prime Minister, the prefectural governor, etc. may specify special standards*. (*Article 3, paragraph (2) of the Order)

3. Expenses Borne by the National Treasury



e.g., If a local government with general tax revenues of one hundred billion yen incurs relief expenses of 10 billion yen:
Expenses borne by the national treasury = (i) (50% of 2 billion yen) + (ii) (80% of 2 billion yen) + (iii) (90% of the remaining 6 billion yen) = 8 billion yen in total