2013-2014

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Social Security Legislation Amendment
(Stronger Penalties for Serious Failures)
Bill 2014

No.      , 2014

(Employment)

A Bill for an Act to amend the Social Security
(Administration) Act 1999, and for related purposes
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A Bill for an Act to amend the Social Security (Administration) Act 1999, and for related purposes

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Social Security Legislation Amendment (Stronger Penalties for Serious Failures) Act 2014.

2 Commencement

This Act commences on 15 September 2014.
3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Amendments

Social Security (Administration) Act 1999

1 Section 42NC

After “Secretary determines”, insert “, other than under subsection 42N(1),”.

2 Subsection 42P(1)

Repeal the subsection, substitute:

Participation payment not payable during serious failure period

(1) If the Secretary determines that a person commits a serious failure:
   (a) if the determination is under subsection 42M(1) and the Secretary has determined that section 42NC applies—a participation payment is not payable to the person during the person’s serious failure period; or
   (b) if the determination is under subsection 42N(1)—a participation payment is not payable to the person during the person’s serious failure period.

Note 1: For a determination under subsection 42M(1), the Secretary may end a serious failure period under section 42Q or determine that a participation payment is payable, despite this section, under section 42R.

Note 2: The Secretary may continue the participation payment pending the outcome of an application for review (see sections 131 and 145).

3 At the end of section 42Q

Add:

(4) Subsection (1) does not apply if the serious failure period arose because of a determination under subsection 42N(1).

(5) If:
   (a) under subsection 42M(1) the Secretary makes a determination in relation to a person; and
Schedule 1 Amendments

(b) under subsection (1) of this section the Secretary ends the
person’s serious failure period that arose as a result of that
determination; and
(c) under subsection 42M(1) the Secretary makes another
determination in relation to the person; and
(d) the period:
   (i) beginning on the day after the day the serious failure
       period mentioned in paragraph (b) ends; and
   (ii) ending on the day the Secretary makes the other
determination mentioned in paragraph (c);
       is a continuous period in respect of which the person has
       received participation payments;
then subsection (1) of this section does not apply in relation to the
person’s serious failure period that arose as a result of the other
determination mentioned in paragraph (c).

(6) Section 38B of the 1991 Act applies to paragraph (5)(d) of this
section as if a reference in that section to an income support
payment were a reference to a participation payment.

4 At the end of section 42R

Add:

(4) Subsection (1) does not apply if the serious failure period arose
because of a determination under subsection 42N(1).

5 Application provisions

(1) Despite the amendments made by items 1 and 2, section 42NC and
subsection 42P(1) of the Social Security (Administration) Act 1999, as
in force immediately before the commencement of those items, continue
to apply on and after that commencement in relation to a determination
made under subsection 42N(1) of that Act before, on or after that
commencement, where the refusal or failure mentioned in
paragraph 42N(1)(b) of that Act occurred before that commencement.

(2) Paragraph 42P(1)(a) of the Social Security (Administration) Act 1999,
as amended by this Act, applies in relation to a determination made
under subsection 42M(1) of that Act before, on or after the
commencement of this item.
(3) Paragraph 42P(1)(b) and subsections 42Q(4) and 42R(4) of the *Social Security (Administration) Act 1999*, as amended by this Act, apply in relation to a determination made under subsection 42N(1) of that Act on or after the commencement of this item, where the refusal or failure mentioned in paragraph 42N(1)(b) of that Act occurred on or after that commencement.

(4) Paragraph 42Q(5)(a) of the *Social Security (Administration) Act 1999*, as amended by this Act, applies in relation to a determination made under subsection 42M(1) of that Act on or after the commencement of this item, where the comprehensive compliance assessment began to be conducted on or after that commencement.