The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014

No. , 2014

(Employment)

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

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Act 2014.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.
## Commencement information

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<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day this Act receives the Royal Assent.</td>
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<td>1 January 2015.</td>
<td>1 January 2015</td>
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<td>The day after this Act receives the Royal Assent.</td>
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Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

(2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

### 3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.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

Part 1—Amendments commencing 1 January 2015

Social Security (Administration) Act 1999

1 After paragraph 42G(c)

   Insert:
   (ca) a person fails to attend an appointment that the person is
       required to attend by a notice under subsection 63(2); or

2 Paragraph 42G(d)

   Omit “a requirement”, substitute “any other requirement”.

3 Paragraph 42G(e)

   Omit “paragraph (b) or (c)”, substitute “paragraph (b), (c) or (ca)”.

4 After paragraph 42SA(1)(b)

   Insert:
   (ba) the person fails to attend an appointment that the person is
       required to attend by a notice under subsection 63(2); or

5 Subsection 42SA(1) (notes 1 and 2)

   Repeal the notes, substitute:

   Note: If paragraph (1)(a), (b) or (ba) applies, a reconnection requirement
       must be imposed for that failure (see section 42G).

6 Paragraph 42SA(2)(a)

   Repeal the paragraph, substitute:

   (a) for a failure referred to in paragraph (1)(a), (b) or (ba):
       (i) if the person complies with the reconnection
           requirement imposed on the person under
           paragraph 42G(e) because of that failure—the day
           before the day on which the person so complies; or
       (ii) if the person fails to comply with the reconnection
            requirement imposed on the person under
            paragraph 42G(e) because of that failure—the day
Schedule 1  Main amendments

Part 1  Amendments commencing 1 January 2015

before the day on which the person first commits the
failure to comply with that reconnection requirement; or

(aa) for a failure referred to in paragraph (1)(c)—the day before
the day on which the person complies with a reconnection
requirement or further reconnection requirement; or

7 Paragraph 42SA(2)(b)
After “paragraph (a)”, insert “or (aa)”.

8 After subsection 42SA(2)
Insert:

(2A) If:

(a) a participation payment is not payable to a person for a
period under subsection (2); and
(b) the participation payment is payable to the person for any
days occurring before that period begins;
then, despite any other provision of the social security law, the
Secretary may withhold payment of the participation payment to
the person for those days until that period ends.

9 After subsection 64(1)
Insert:

(1A) Subsection (1) does not apply if:

(a) the person is receiving a participation payment; and
(b) the person fails to attend an appointment that the person is
required to attend by a notice under subsection 63(2); and
(c) the Secretary makes a determination under
subsection 42SA(1) in relation to the person and the failure.

10 After paragraph 129(4)(a)
Insert:

(b) a decision under subsection 42SA(1) or (2A); or

11 Paragraph 144(fa)
After “42P(3)”, insert “or 42SA(1) or (2A)”.

Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014
12 Application and transitional provisions

(1) The amendments made by items 1, 3, 4, 6, 8 and 9 apply in relation to failures that are first committed on or after the commencement of those items (where the requirements arose before, on or after that commencement).

(2) For the purposes of paragraph 42SA(2A)(b) of the Social Security (Administration) Act 1999, as inserted by this Part, disregard days occurring before the commencement of this item.

(3) The amendments made by items 10 and 11 apply in relation to decisions made on or after the commencement of those items.
Part 2—Amendments commencing 1 July 2015

Social Security Act 1991

13 Subsection 502A(1)
Omit “subsection (2)”, substitute “subsections (2) and (2A)”.

14 After subsection 502A(2)
Insert:

(2A) This section does not apply to a person included in a class of persons specified in an instrument under subsection (2B).

(2B) The Secretary may, by legislative instrument, specify a class of persons for the purposes of subsection (2A).

(2C) Subsection (2) does not limit subsections (2A) and (2B).

15 Subsection 603AA(1)
Omit “subsection (3)”, substitute “subsections (3) and (3A)”.

16 After subsection 603AA(3)
Insert:

(3A) This section does not apply to a person included in a class of persons specified in an instrument under subsection (3B).

(3B) The Secretary may, by legislative instrument, specify a class of persons for the purposes of subsection (3A).

(3C) Subsection (3) does not limit subsections (3A) and (3B).

17 Subsection 731G(1)
Omit “subsection (3)”, substitute “subsections (3) and (3A)”.

18 After subsection 731G(3)
Insert:
(3A) This section does not apply to a person included in a class of persons specified in an instrument under subsection (3B).

(3B) The Secretary may, by legislative instrument, specify a class of persons for the purposes of subsection (3A).

(3C) Subsection (3) does not limit subsections (3A) and (3B).

19 Application provision
The amendments made by items 13 to 18 apply in relation to relevant periods beginning on or after the commencement of those items.

Social Security (Administration) Act 1999

20 Section 42A
Omit:

- The Secretary may also determine that a participation payment is not payable to a person for a period because of certain failures. However, once that period ends, the person may be able to receive back pay.

substitute:

- The Secretary may also determine that a participation payment is not payable to a person for a period because of certain failures. Once that period ends, the person may be able to receive back pay. For a failure to attend an appointment, a penalty amount may be deducted from the person’s participation payment.

21 At the end of subsection 42SA(3)
Add:

Note: For a failure referred to in paragraph (1)(b) or (ba), a penalty amount may be deducted from the person’s participation payment: see Subdivision EC.

22 After Subdivision EB of Division 3A of Part 3
Insert:

No. 2014 Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Bill 2014
Subdivision EC—Non-attendance failures

**42SC Non-attendance failures**

1. The Secretary may determine that a person commits a *non-attendance failure* if the Secretary makes a determination under subsection 42SA(1) because of the person’s failure referred to in paragraph 42SA(1)(b) or (ba).

2. Despite subsection (1), the Secretary must not determine that a person commits a non-attendance failure if the person satisfies the Secretary that the person has a reasonable excuse for the person’s failure referred to in paragraph 42SA(1)(b) or (ba).

   Note: The Secretary must take certain matters into account for the purposes of subsection (2) (see section 42U). See also section 42UA (about prior notification of excuses).

**Determining an instalment period**

3. The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the non-attendance failure is to be deducted from the person’s instalment of a participation payment.

**42SD Deduction of penalty amount**

4. If the Secretary determines that a person commits a non-attendance failure, the person’s penalty amount (see section 42T) for the non-attendance failure is to be deducted from the person’s instalment of a participation payment for the instalment period determined under subsection 42SC(3).

   Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

23 Subsection 42T(1)

5. Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

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8 Social Security Legislation Amendment (Strengthening the Job Seeker No. 2014 Compliance Framework) Bill 2014
24 **After subsection 42T(3)**

Insert:

(3A) The method determined for a non-attendance failure that a person commits must not provide for a penalty amount, in respect of a day in the period for which the participation payment is not payable under subsection 42SA(2) because of the person’s failure referred to in paragraph 42SA(1)(b) or (ba), that is more than the following:

\[
\text{Amount of the person’s instalment of participation payment that would, apart from subsection 42SA(2), be payable to the person for the instalment period in which the day occurs} \\
\times 1.4 \times \frac{\text{Number of days in the person’s instalment period}}{\text{Amount of the person’s instalment of participation payment that would, apart from subsection 42SA(2), be payable to the person for the instalment period in which the day occurs}}
\]

Note: Any amount withheld under subsection 42SA(2A) for days in the instalment period remains an amount payable to the person for the instalment period.

25 **At the end of subsection 42U(1)**

Add:

; or (e) a non-attendance failure (see subsection 42SC(2)).

26 **Subsection 42UA(2)**

After “or 42H(3)(a)”, insert “or subsection 42SC(2)”.

27 **Section 42V**

Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

28 **Section 42V**

Omit “or 42L”, substitute “, 42L or 42SD”.

29 **Section 42X**

Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

30 **Subclause 1(1) of Schedule 1**

Insert:
non-attendance failure has the meaning given by subsection 42SC(1).

31 Subclause 1(1) of Schedule 1 (definition of penalty amount)
Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

32 Application provision
Subsection 42SC(1) of the Social Security (Administration) Act 1999, as inserted by this Part, applies in relation to failures referred to in paragraph 42SA(1)(b) or (ba) of that Act that are first committed on or after the commencement of this item (where the requirements arose before, on or after that commencement).
Schedule 2—Other amendments

Social Security (Administration) Act 1999

1 At the end of subsections 234(1) and (2)
   Add “or under an instrument (including regulations) made under the
   social security law”.

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Compliance Framework) Bill 2014