

EXPLANATORY STATEMENT

YOUTH ALLOWANCE (ACTIVITY TEST EXEMPTION GUIDELINES) DETERMINATION 1998

Issued by the authority of the Minister for Social Security

Summary

This Determination is made under subsection 542H(1B) of the *Social Security Act 1991* (the Social Security Act), which was inserted by Schedule 1 to the *Social Security Legislation Amendment (Youth Allowance) Act 1998*.

The purpose of this Determination is to exempt youth allowance recipients from satisfying the activity test, in cases where they are special circumstances.

Background

Subsection 542H(1) of the Social Security Act provides the Secretary with a discretionary power to decide whether a person is exempt from satisfying the youth allowance activity test, due to special circumstances that are beyond the person's control. Subsection 542H(1B) of the Social Security Act provides that the Minister is to set guidelines for the exercise of the Secretary's discretion in subsection 542H(1).

Explanation of the provisions

Part 1 – Preliminary

Section 1.1 cites the name of the Determination and section 1.2 states that the Determination commences on 1 July 1998. Section 1.5 states the purpose of the Determination.

Part 2 – Guidelines

Part 2 contains guidelines for the exercise of the Secretary's discretion.

Division 1 - Major disruption to person's home

Section 2.1 states that special circumstances beyond a person's control exist if a major disruptive event affects the person's home, and the event has a major disruptive consequence for the person. An example of a major disruptive event and consequence is where a person's home is vandalised and consequently they have to organise major home repairs.

Section 2.2 states that, in cases of a major disruption to a person's home, the person will be exempt from the activity test for period of up to two weeks.

Division 2 - Major personal crisis

Section 2.3 states that special circumstances beyond a person's control exist if the person is experiencing a major personal crisis and the crisis has a major disruptive consequence for the person. An example of a major personal crisis and the major disruptive consequence that results, is where a person's family member dies and the person must arrange a funeral for the deceased.

Subsection 2.4(1) states that, in cases of major personal crises, the person will be exempt from the activity test for a period of two weeks except in cases where the major personal crisis is extremely traumatic for the person, where the exemption will be for a maximum of four weeks. Further, subsection 2.4(2) states that in cases where the major personal crisis is a person's homelessness, the period of the exemption may be up to 13 weeks.

Division 3 – Carer's duties

Section 2.5 states that special circumstances beyond a person's control exist if the person must undertake carer's duties. Section 2.5 outlines the circumstances that must be present for a determination that a person is undertaking carer's duties.

Section 2.6 states that, in cases where a person undertakes carer's duties, the person may be exempt from satisfying the activity test for a period of up to 13 weeks. If the person's carer's duties extend beyond this period, they may be exempt from satisfying the activity test for an additional period of up to 13 weeks.

Division 4 - Serving on a jury

Section 2.7 states that special circumstances beyond a person's control exist if the person is serving on a jury.

Section 2.8 states that, in cases where a person is serving on a jury, the person will be exempt from satisfying the activity test for the duration of the service or a maximum period of 26 weeks, whichever is the shorter.

Division 5 – Refugees

Section 2.9 states that special circumstances beyond a person's control exist if the person is a refugee within the meaning of subsection 7(6B) of the Social Security Act.

Paragraph 2.10(a) states that, in cases where a person is a refugee, the person may be exempt from the activity test for a period of up to 13 weeks. Paragraph 2.10(b) states that this period may be extended for an additional period of 13 weeks, in the person is a refugee *and* undertakes an Adult Migrant English Program administered by the Department of Immigration and Multicultural Affairs.

Division 6 - Community service orders

Section 2.11 states that special circumstances beyond a person's control exist if the person is subject to a community service order that requires them to perform more than 20 hours of community service for each week that the order has effect.

Section 2.12 states that, in cases where a person must serve the community service order, they may be exempt from satisfying the activity test for the duration of the community service order, or a period of up to 13 weeks, whichever is the shorter.