Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)

made under subsections 550(2A), 550B(2A), 576(2A) and 576A(2A) of the

Social Security Act 1991

made under subsection 42U(1) of the

Social Security (Administration) Act 1999

Compilation No. 2

Compilation date: 28 August 2014
Includes amendments up to: F2014L00887
Registered: 19 December 2014

This compilation takes account of the disallowance of amendments by the Senate on 28 August 2014 at 12.20

Prepared by the Office of Parliamentary Counsel, Canberra
About this compilation

This compilation

This is a compilation of the Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1) that shows the text of the law as amended and in force on 28 August 2014 (the compilation date).

This compilation was prepared on 18 December 2014.

The notes at the end of this compilation (the endnotes) include information about amending laws and the amendment history of provisions of the compiled law.

Uncommenced amendments

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on ComLaw (www.comlaw.gov.au). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on ComLaw for the compiled law.

Application, saving and transitional provisions for provisions and amendments

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

Modifications

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on ComLaw for the compiled law.

Self-repealing provisions

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.
Contents

1 Name of determination ........................................................................................................... 1
2 Commencement .................................................................................................................... 1
3 Revocation ............................................................................................................................. 1
4 Definitions ............................................................................................................................... 1
5 Matters to be taken into account in determining if a person had a reasonable excuse ................................................................................................................................. 1

Endnotes 3

Endnote 1—About the endnotes 3
Endnote 2—Abbreviation key 4
Endnote 3—Legislation history 5
Endnote 4—Amendment history 6
1 Name of determination

This determination is the Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1).

2 Commencement

This determination commences on 1 July 2009.

3 Revocation

The following instruments are revoked:
(a) the Social Security (Reasonable Excuse) (DEST) Determination 2006;
(b) the Social Security (Reasonable Excuse) (DEWR) Determination 2006.

4 Definitions

In this determination:


5 Matters to be taken into account in determining if a person had a reasonable excuse

(1) For:
(a) subsections 550 (2A), 550B (2A), 576 (2A) and 576A (2A) of the 1991 Act; and
(b) subsection 42U (1) of the Administration Act;
the matters set out in subsection (2) are matters that the Secretary must take into account in determining whether a person has a reasonable excuse.

(2) The matters are:
(a) that the person did not have access to safe, secure and adequate housing, or was using emergency accommodation or a refuge, at the time of the failure; and
(b) the literacy and language skills of the person; and
Example for paragraph (b):
If the person is unable to comprehend a requirement or an instruction, despite the requirement or instruction being delivered in a form that the person is most likely to comprehend.
(c) an illness, impairment or condition of the person that requires treatment, including an illness that is episodic or unpredictable in nature; and
(d) a cognitive or neurological impairment of the person; and
(e) a psychiatric or psychological impairment or mental illness of the person; and
Section 5

(f) a drug or alcohol dependency of the person; and
(g) unforeseen family or caring responsibilities of the person; and
(h) that the person was subjected to criminal violence (including domestic violence and sexual assault); and
(i) that the person was adversely affected by the death of an immediate family member or close relative; and
(j) if:
   (i) the person has been imprisoned for a continuous period of more than 14 days; and
   (ii) the person has been released; and
   (iii) the person was released not more than 28 days before the failure was committed;
       the person’s imprisonment or release from imprisonment.

(3) However, the Secretary must not take into account a matter if the Secretary is not satisfied that the matter had a significant effect on the person’s capacity to comply with the requirement, or the provision of the 1991 Act or the Administration Act, to which the failure relates.

(4) Without limiting paragraph (2)(a), a person is taken not to have access to safe, secure and adequate housing if:
   (a) the housing to which the person has access:
       (i) damages, or is likely to damage, the person’s health; or
       (ii) threatens or is likely to threaten the person’s safety; or
       (iii) does not provide the person with access to a reasonable level of personal amenities or the economic and social support that housing normally affords; or
   (b) in the circumstances, the adequacy, safety, security or affordability of the housing to which the person has access is adversely affected or may be adversely affected; or
   (c) the person does not have a right to remain, or a reasonable expectation of being able to remain, in the housing to which the person has access.
Endnotes

Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes
Endnote 2—Abbreviation key
Endnote 3—Legislation history
Endnote 4—Amendment history

Endnotes about misdescribed amendments and other matters are included in a compilation only as necessary.

Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the amendment is set out in the endnotes.
Endnotes

Endnote 2—Abbreviation key

A = Act
ad = added or inserted
am = amended
amdt = amendment
c = clause(s)
C[x] = Compilation No. x
Ch = Chapter(s)
def = definition(s)
Dict = Dictionary
disallowed = disallowed by Parliament
Div = Division(s)
exp = expires/expired or ceases/ceased to have effect
F = Federal Register of Legislative Instruments
gaz = gazette
LI = Legislative Instrument
LIA = Legislative Instruments Act 2003
(md) = misdescribed amendment
mod = modified/modification
No. = Number(s)
o = order(s)
Ord = Ordinance
orig = original
par = paragraph(s)/subparagraph(s)
/pre-subparagraph(s)
pres = present
prev = previous
(prev…) = previously
Pt = Part(s)
r = regulation(s)/rule(s)
Reg = Regulation/Regulations
reloc = relocated
renum = renumbered
rep = repealed
rs = repealed and substituted
Sdiv = Subdivision(s)
Sch = Schedule(s)
SLI = Select Legislative Instrument
SR = Statutory Rules
Sub-Ch = Sub-Chapter(s)
SubPt = Subpart(s)
undelineing = whole or part not commenced or to be commenced

Federal Register of Legislative Instruments F2014C01372
Endnote 3—Legislation history

<table>
<thead>
<tr>
<th>Name</th>
<th>FRLI registration</th>
<th>Commencement</th>
<th>Application, saving and transitional provisions</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)</td>
<td>12 May 2009 (F2009L01803)</td>
<td>1 July 2009 (s 2)</td>
<td>—</td>
</tr>
<tr>
<td>Social Security (Reasonable Excuse—Participation Payment Obligations) (Employment) Determination 2014 (No. 1)</td>
<td>30 June 2014 (F2014L00887)</td>
<td>1 July 2014 (s 2)</td>
<td>Note: disallowed by the Senate on 28 August 2014 at 12.20</td>
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Endnotes

Endnote 4—Amendment history

<table>
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<th>Provision affected</th>
<th>How affected</th>
</tr>
</thead>
<tbody>
<tr>
<td>s 4</td>
<td>am F2014L00887 (disallowed)</td>
</tr>
<tr>
<td>s 5</td>
<td>am F2014L00887 (disallowed)</td>
</tr>
</tbody>
</table>