



Social Security (Administration) (Payment Pending Review) (DEEWR) Guidelines 2009

made under sections 132 and 146 of the *Social Security (Administration) Act 1999*

Compilation No. 1

Compilation date: **10 August 2019**

Includes amendments up to: *Social Security (Administration) (Payment Pending Review) (DSS) Guidelines 2019*

Prepared by the Department of Social Services

About this compilation

This compilation

This is a compilation of the *Social Security (Administration) (Payment Pending Review) (DEEWR) Guidelines 2009* that shows the text of the law as amended and in force on 10 August 2019 (the *compilation date*).

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 the Legislation Register (www.legislation.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 the Legislation Register 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 the Legislation Register 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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

Part 1 Preliminary

1 Name of guidelines

These guidelines are the *Social Security (Administration) (Payment Pending Review) (DEEWR) Guidelines 2009*.

2 Commencement

These guidelines commence on 1 July 2009.

3 Revocation and transitional

- (1) The following instruments are revoked:
 - (a) the *Social Security (Payment Pending—ARO Application for Review) (DEST) Guidelines 2007*;
 - (b) the *Social Security (Payment Pending—ARO Application for Review) (DEWR) Guidelines 2007*;
 - (c) the *Social Security (Payment Pending—SSAT Application for Review) (DEST) Guidelines 2007*;
 - (d) the *Social Security (Payment Pending—SSAT Application for Review) (DEWR) Guidelines 2007*.
- (2) However, an instrument revoked by subsection (1) continues to apply in relation to a compliance penalty period that is in effect on or after 1 July 2009 because of the operation of subitem 56 (2) or (3) of Schedule 1 to the *Social Security Legislation Amendment (Employment Services Reform) Act 2009*.

4 Definition

In these guidelines:

Act means the *Social Security (Administration) Act 1999*.

Part 2 Guidelines

Division 1 Payment pending review of decisions in relation to participation payments

5 Application

For sections 131 and 145 of the Act, the guidelines in this Division apply to adverse decisions in relation to participation payments other than special benefit.

Note Guidelines for sections 131 and 145 of the Act applicable to adverse decisions in relation to special benefit are the *Social Security (Administration) (Payment Pending Review) (FaHCSIA) Guidelines 2009*.

6 Declaration continuing payment during a compliance penalty period

If a person in receipt of a participation payment:

- (a) is subject to an adverse decision that results in the application of a compliance penalty period under subsection 42P (1) or 42S (1) of the Act; and
- (b) applies for review of the adverse decision under section 129 or 142 of the Act; and
- (c) the compliance penalty period has not ended before the person applies for review;

the Secretary may declare under section 131 or 145 of the Act, as the case may be, that:

- (c) the participation payment is payable to the person from the date that the compliance penalty period commenced or is to commence; and
- (d) the participation payment is to continue to be payable to the person pending the determination of the review, as if the adverse decision had not been made.

Note 1 A declaration under section 131 or 145 takes effect on the day it is made or an earlier day specified in the declaration: see paragraphs 131 (5) (a) and 145 (4) (a) of the Act.

Note 2 A declaration under section 131 or 145 ceases to have effect on the day the application for review is withdrawn, when the declaration is revoked by the Secretary, or 13 weeks after a decision reviewing the adverse decision is made: see paragraphs 131 (5) (b) and 145 (4) (b) of the Act.

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

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 abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

Endnote 2—Abbreviation key

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

Endnote 3—Legislation history

Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Social Security (Administration) (Payment Pending Review) (DSS) Guidelines 2019</i>	9 August 2019 F2019L01046	10 August 2019	

Endnote 4—Amendment history

Provision affected	How affected
Division 2 of Part 2	rep F2019L01046