

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**

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If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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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:

***1991 Act*** means the *Social Security Act 1991*.

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

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

 (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.

Endnote 2—Abbreviation key

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| exp = expires/expired or ceases/ceased to have | rep = repealed |
|  effect | rs = repealed and substituted |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

Endnote 3—Legislation history

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

Endnote 4—Amendment history

| Provision affected | How affected |
| --- | --- |
| s 4  | am F2014L00887 (disallowed) |
| s 5  | am F2014L00887 (disallowed) |