



Social Security (Reasonable Excuse — Participation Payment Obligations) (Employment) Determination 2014 (No. 1)

Social Security (Administration) Act 1999

I, RENÉE LEON, Secretary of the Department of Employment, make this determination under subsection 42U (1) of the *Social Security (Administration) Act 1999*.

Dated 27th June 2014

RENÉE LEON PSM
Secretary
Department of Employment

1 Name of determination

This determination is the *Social Security (Reasonable Excuse — Participation Payment Obligations) (Employment) Determination 2014 (No. 1)*.

2 Commencement

This determination commences on 1 July 2014.

3 Definitions

In this determination:

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

2009 FaHCSIA Determination means the *Social Security (Reasonable Excuse — Participation Payment Obligations) (FaHCSIA) Determination 2009 (No. 1)*

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

failure means a failure referred to in paragraphs 42U(1)(a) to (d) of the *Social Security (Administration) Act 1999*.

4 Variation to the 2009 DEEWR Determination

Schedule 1 varies the 2009 DEEWR Determination.

5 Revocation of the 2009 FaHCSIA Determination

The 2009 FaHCSIA Determination is revoked.

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

- (1) For subsection 42U(1) of the Administration Act, the Secretary must take into account the matters set out in subsection (3) and (4) in determining whether a person has a reasonable excuse for failing to meet a participation requirement.
- (2) The matters set out in subsections (3) and (4) are not to be taken into account unless the Secretary is satisfied that the matter directly prevented the person from meeting the requirement that was the subject of the failure.
- (3) The matters are:
 - (a) whether the person was unable for reasons beyond the person's control to comply with the requirement that resulted in the failure;

- (b) whether there were exceptional and unforeseeable circumstances beyond the person's control such that no reasonable person would expect the person to comply with the requirement that resulted in the failure; and
 - (c) if the failure is a failure to which section 42UA applies and the person failed to give the notification referred to in that section, whether:
 - (i) the person was unable for reasons beyond the person's control to give such notification; or
 - (ii) there were extreme and unforeseeable circumstances beyond the person's control such that no reasonable person would expect the person to give such notification.
- (4) If the person's failure was a result of the person:
- (i) being incapacitated due to illness, injury or disability;
 - (ii) undertaking paid work;
 - (iii) attending a job interview; or
 - (iv) having unforeseeable and unavoidable caring responsibilities,

then the person can be taken to have had a reasonable excuse, subject to subsection 6(2) and paragraph 6(3)(c).

Schedule 1—Variation to the 2009 DEEWR Determination

1 Section 4 (definition of *Administration Act*)

Omit the definition.

2 Subsection 5(1)

Omit the subsection, substitute:

- (1) For subsections 550 (2A), 550B (2A), 576 (2A) and 576A (2A) of the 1991 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.

3 Subsection 5(3)

Omit "or the Administration Act".