



Social Security (Declared Program Participant) Determination 2018

I, KERRI HARTLAND, Secretary of the Department of Jobs and Small Business, make the following determination.

Dated 7 June 2018

K Hartland

KERRI HARTLAND
Secretary of the Department of Jobs and Small Business

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1 Name

This instrument is the *Social Security (Declared Program Participant) Determination 2018*.

2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	1 July 2018.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

3 Authority

This instrument is made under subsection 28C(1) of the Act.

4 Definitions

Note: Some expressions used in this instrument are defined in the Act or Administration Act, including the following:

- (a) Employment Department;
- (b) further reconnection requirement;
- (c) participation payment;
- (d) post-cancellation non-payment period;
- (e) reconnection requirement;
- (f) serious failure period;
- (g) serious failure requirement;
- (h) unemployment non-payment period; and
- (i) unemployment preclusion period.

(1) In this instrument:

Act means the *Social Security Act 1991*.

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

Community Development Programme provider means an organisation that performs functions or provides services from time to time for the purposes of the social security law under the Funding Agreement 2013-2018 Remote Jobs and Communities Programme (now referred to as the Remote Jobs and Communities Programme Funding Agreement 2013-2018), whether or not the organisation also acts in other capacities.

relevant payment means:

- (a) a participation payment; or
 - (b) disability support pension.
- (2) For the purposes of this instrument, a person is **serviced by a Community Development Programme provider** if a Community Development Programme provider (in its capacity as a Community Development Programme provider) is recorded in the Employment Department's Information Technology system as the person's employment services provider.

5 Declared program participants

- (1) Subject to sections 6 and 7, for the purposes of subsection 28C(1) of the Act, a person is a declared program participant if the person:
- (a) has claimed or is receiving a relevant payment; and
 - (b) is serviced by a Community Development Programme provider.
- (2) For the purposes of this section, a person is taken to be **receiving a relevant payment** during a period in which the person's relevant payment is:
- (a) payable;
 - (b) not payable; or
 - (c) reduced to nil.

6 When a person becomes a declared program participant

- (1) If a person:
- (a) has claimed or is receiving a relevant payment; and
 - (b) is serviced by a Community Development Programme provider on the day on which this instrument commences;
- the person becomes a declared program participant on that day.
- (2) If a person:
- (a) has claimed or is receiving a relevant payment; and
 - (b) begins to be serviced by a Community Development Programme provider after the commencement of this instrument;
- the person becomes a declared program participant on the day after the day on which the Community Development Programme provider (in its capacity as a Community Development Programme provider) becomes recorded as the person's employment services provider in the Employment Department's Information Technology System.

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- (3) For the purposes of this section, a person is taken to be receiving a relevant payment during a period in which the person's relevant payment is:
- (a) payable;
 - (b) not payable; or
 - (c) reduced to nil.

7 When a person ceases to be a declared program participant

A person ceases to be a declared program participant at the end of the day on which a Community Development Programme provider (in its capacity as a Community Development Programme provider) ceases to be recorded as the person's employment services provider in the Employment Department's Information Technology System.

8 Effect of becoming or ceasing to be a declared program participant during a period in which a participation payment is not payable

- (1) If:
- (a) a person is not a declared program participant;
 - (b) the Secretary makes a determination under Division 3AA of Part 3 of the Administration Act in relation to the person (other than a determination under paragraph 42AF(2)(d) or subsections 42AG(2), 42AH(1) or 42AH(2) of the Administration Act);
 - (c) the determination results in a participation payment not being payable to the person for a period;
 - (d) the person subsequently becomes a declared program participant; and
 - (e) the period has not ended on the day the person becomes a declared program participant;

then the period is taken to have ended on the day before the day the person becomes a declared program participant.

- (2) If the period in paragraph 1(c) is taken to have ended under subsection (1), then, for the purposes of (but subject to) the social security law, the participation payment is taken to be payable to the person from the start of the period.

Note 1: Determinations under paragraph 42AF(2)(d) and subsections 42AG(2) and 42AH(1) of the Administration Act result in the cancellation of a person's payment, and participation payments not being payable to the person for a 'post-cancellation non-payment period': see section 42AP of the Administration Act. The effect of becoming a declared program participant during this period is dealt with in section 13 of this instrument.

Note 2: A determination under subsection 42AH(2) of the Administration Act results in participation payments not being payable to the person for an 'unemployment preclusion period'. The effect of becoming a declared program participant during this period is dealt with in subsection 11(1) of this instrument.

- (3) If:
- (a) a person is a declared program participant;
 - (b) either before or after the person becomes a declared program participant, the Secretary makes a determination under Division 3A of Part 3 of the

Administration Act in relation to the person (other than a determination under sections 42M, 42N and 42NC or subsection 42S(1) of the Administration Act);

- (c) the determination results in a participation payment not being payable to the person for a period;
- (d) the person subsequently ceases to be a declared program participant; and
- (e) the period has not ended on the day the person ceases to be a declared program participant;

then the period is taken to have ended on the day before the day the person ceases to be a declared program participant.

- (4) If the period in paragraph 3(c) is taken to have ended under subsection (3), then, for the purposes of (but subject to) the social security law, the participation payment becomes payable to the person for that period.

Note 1: Determinations under sections 42M, 42N and 42NC of the Administration Act result in a participation payment not being payable to the person for a 'serious failure period': see section 42P of the Administration Act. The effect of ceasing to be a declared program participant during this period is dealt with in subsections 11(2) and 11(3) of this instrument.

Note 2: A determination under subsection 42S(1) of the Administration Act results in a participation payment not being payable to the person for an 'unemployment non-payment period'. The effect of ceasing to be a declared program participant during this period is dealt with in subsection 11(4) of this instrument.

9 Reconnection requirements taken to be complied with when a person becomes a declared program participant

If:

- (a) a person is not a declared program participant;
- (b) the Secretary imposes a reconnection requirement on the person under section 42AM of the Administration Act (the *reconnection requirement*);
- (c) the person subsequently becomes a declared program participant; and
- (d) on the day the person becomes a declared program participant:
 - (i) the person has not complied with the reconnection requirement;
 - (ii) the person's suspension period has not been ended early under paragraph 42AL(3)(b) of the Administration Act; and
 - (iii) a period of 4 weeks has not elapsed since the person was notified of the reconnection requirement under subsection 42AM(2) of the Administration Act;

then the person is taken, on the day before the day the person becomes a declared program participant, to have complied with the reconnection requirement.

10 Reconnection requirements and further reconnection requirements taken to be complied with when a person ceases to be a declared program participant

If:

- (a) a person is a declared program participant;

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- (b) either before or after the person becomes a declared program participant, the Secretary imposes:
 - (i) a reconnection requirement on the person under section 42G of the Administration Act (the **reconnection requirement**); or
 - (ii) a further reconnection requirement on the person under section 42J of the Administration Act (the **further reconnection requirement**); and
 - (c) the person subsequently ceases to be a declared program participant; and
 - (d) on the day the person ceases to be a declared program participant:
 - (i) the person has not complied with the reconnection requirement or further reconnection requirement; and
 - (ii) the period for complying with the reconnection requirement or further reconnection requirement has not elapsed;
- then the person is taken, on the day before the day the person ceases to be a declared program participant, to have complied with the reconnection requirement or further reconnection requirement

11 Effect of becoming or ceasing to be a declared program participant during a period in which a participation payment is not payable for certain failures

Unemployment preclusion period

- (1) If:
 - (a) a person is not a declared program participant;
 - (b) the person makes a claim for a participation payment;
 - (c) the Secretary makes a determination under subsection 42AH(2) of the Administration Act in relation to the person;
 - (d) the determination results in a participation payment not being payable to the person for a period (the **unemployment preclusion period**);
 - (e) the person subsequently becomes a declared program participant; and
 - (f) the unemployment preclusion period has not ended on the day the person becomes a declared program participant;
- then:
- (g) a participation payment (whether or not the same as the participation payment that was claimed) is not payable to the person; and
 - (h) section 42AQ of the Administration Act (with the exception of paragraph 42AQ(a)) applies to the person as though the person was not a declared program participant;
- for the unemployment preclusion period.

Serious failure period

- (2) If:
 - (a) a person is a declared program participant;
 - (b) either before or after the person becomes a declared program participant, the Secretary makes a determination under sections 42M or 42N and a

determination under section 42NC of the Administration Act in relation to a person;

- (c) the determination or determinations result in the person's participation payment not being payable for a period under subsection 42P(1) (the *serious failure period*);
- (d) the person subsequently ceases to be a declared program participant; and
- (e) the person's serious failure period has not ended on the day the person ceases to be a declared program participant;

then:

- (f) a participation payment (whether or not the same as the participation payment that was claimed) is not payable to the person; and
- (g) sections 42Q, 42R, 131 and 145 of the Administration Act apply to the person as though the person remained a declared program participant;

for the person's serious failure period.

(3) If, in relation to a person to whom subsection (2) applies:

- (a) the Secretary imposes a serious failure requirement on the person under subsection 42P(3) of the Administration Act (the *serious failure requirement*); and
- (b) on the day the person's serious failure period ends, the person has not satisfied the serious failure requirement;

then the person is taken, on the day the person's serious failure period ends, to have satisfied the serious failure requirement.

Unemployment non-payment period

(4) If:

- (a) a person is a declared program participant;
- (b) either before or after the person becomes a declared program participant, the Secretary makes a determination under subsection 42S(1) of the Administration Act in relation to the person;
- (c) the determination results in the person's participation payment not being payable for a period (the *unemployment non-payment period*);
- (d) the person subsequently ceases to be a declared program participant; and
- (e) the unemployment non-payment period has not ended on the day the person ceases to be a declared program participant;

then:

- (f) a participation payment (whether or not the same as the participation payment that was claimed) is not payable to the person; and
- (g) subsection 42S(4) and sections 131 and 145 of the Administration Act apply to the person as though the person remains a declared program participant;

for the person's unemployment non-payment period.

12 Effect of becoming or ceasing to be a declared program participant during an instalment period in which an instalment is to be reduced or a penalty is to be deducted

(1) If:

- (a) a person is not a declared program participant;
- (b) the Secretary makes a determination under Division 3AA of Part 3 of the Administration Act in relation to the person;
- (c) the determination results in the reduction of an instalment of the person's participation payment for one or more instalment periods;
- (d) the person subsequently becomes a declared program participant; and
- (e) one or more of the instalment periods has not ended on the day the person becomes a declared program participant;

then:

- (f) the instalment of the person's participation payment for one or more instalment periods is to be reduced in accordance with the provisions in Division 3AA; and
- (g) subsection 42AN(6) of the Administration Act applies to the person as though the person was not a declared program participant until the end of the instalment period or periods.

(2) If:

- (a) a person is a declared program participant;
- (b) either before or after the person becomes a declared program participant, the Secretary makes a determination under Division 3A of Part 3 of the Administration Act in relation to the person;
- (c) the determination results in the deduction of a penalty amount from an instalment of the person's participation payment for one or more instalment periods;
- (d) the person subsequently ceases to be a declared program participant; and
- (e) one or more of the instalment periods has not ended on the day the person ceases to be a declared program participant;

then:

- (f) the penalty amount is to be deducted in accordance with the provisions in Division 3A; and
- (g) sections 42W and 42X of the Administration Act apply to the person as though the person remains a declared program participant until the end of the instalment period or periods.

13 Effect of becoming a declared program participant during a period in which a participation payment is cancelled

If:

- (a) a person is not a declared program participant;
- (b) the Secretary makes a determination under Division 3AA of Part 3 of the Administration Act in relation to a person;

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- (c) the determination results in the cancellation of the person's payment and participation payments not being payable to the person for a period (the *post-cancellation non-payment period*);
 - (d) the person subsequently becomes a declared program participant; and
 - (e) the person's post-cancellation non-payment period has not ended on the day the person becomes a declared program participant;

then:

- (f) the participation payment remains cancelled;
- (g) a participation payment (whether or not the same as the participation payment that was cancelled) is not payable to the person; and
- (h) subsection 42AP(6) and section 42AQ of the Administration Act apply to the person as though the person was not a declared program participant; for the person's post-cancellation non-payment period.