



Social Security (Special Circumstances Exemption to Youth Allowance Activity Test Guidelines) Instrument 2019

I, KELLY O'DWYER, Minister for Jobs and Industrial Relations, make the following Instrument.

Dated 7 March 2019

KELLY O'DWYER
Minister for Jobs and Industrial Relations

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Part 1 Preliminary

1 Name

This instrument is the *Social Security (Special Circumstances Exemption to Youth Allowance Activity Test Guidelines) Instrument 2019*.

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	The day after this instrument is registered.	14 March 2019

Note: This table relates only to the provisions of this instrument as originally made.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 542H(1B) of the Act.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

- (a) family member;
- (b) member of a couple.

In this instrument:

Act means the *Social Security Act 1991*.

5 Schedules

Each instrument that is specified in Schedule 1 to this instrument is amended or repealed as set out in the applicable items in the Schedule.

Part 2 Guidelines

6 Guidelines for Secretary relating to special circumstances

This Part sets out guidelines for the exercise of the Secretary's power in subsection 542H(1) of the Act. Under subsection 542H(1) a person has a special circumstances exemption in respect of a period if the Secretary is satisfied that:

- (a) special circumstances, beyond the person's control, exist; and
- (b) in those circumstances, it would be unreasonable to expect the person to satisfy the activity test for that period.

7 Major disruption to a person's home

Special circumstances

- (1) Special circumstances, beyond a person's control, exist if:
 - (a) a major disruptive event affects the person's home; and
 - (b) the event has a major disruptive consequence for the person.

Examples of a major disruptive event

- (2) A major disruptive event includes, but is not limited to, each of the following:
 - (a) a flood;
 - (b) a fire;
 - (c) an earthquake;
 - (d) vandalism;
 - (e) burglary.

Examples of a major disruptive consequence for a person

- (3) A major disruptive consequence for a person includes, but is not limited to, each of the following:
 - (a) the person needs to arrange alternative accommodation;
 - (b) the person needs to arrange to replace significant household items;
 - (c) the person needs to organise major home repairs;
 - (d) the person needs to make insurance claims for damage to household items or the home.

Maximum exemption period

- (4) In the special circumstances mentioned in subsection (1), it may be unreasonable to expect the person to satisfy the activity test for a period of up to 2 weeks, starting when the major disruptive event occurs.

8 Major personal crisis

Special circumstances

- (1) Special circumstances, beyond a person's control, exist if:

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- (a) the person is experiencing a major personal crisis; and
 - (b) the experience has a major disruptive consequence for the person.

Examples of a major personal crisis

- (2) A major personal crisis includes, but is not limited to, each of the following:
 - (a) the death of a family member;
 - (b) for a person who is a member of a couple, the breakdown of that relationship;
 - (c) the person is homeless and unable to obtain stable accommodation;
 - (d) domestic violence.

Examples of a major disruptive consequence for a person

- (3) A major disruptive consequence includes, but is not limited to, each of the following:
 - (a) the person needs to arrange a funeral for a deceased family member or make arrangements for the property of the deceased family member;
 - (b) the person needs to arrange alternative accommodation;
 - (c) the person needs to move belongings away from his or her present accommodation;
 - (d) the person needs to arrange care for his or her child;
 - (e) the person needs to attend counselling.

Maximum exemption period

- (4) In the special circumstances mentioned in subsection (1), except where the person is homeless and unable to obtain stable accommodation, it may be unreasonable to expect the person to satisfy the activity test:
 - (a) for a period of up to 2 weeks, starting when the person begins to experience the major personal crisis; or
 - (b) for a period of up to 4 weeks, if the special circumstances are extremely traumatic for the person, starting when the person begins to experience the major crisis.
- (5) In the circumstance where the person is homeless and unable to obtain stable accommodation, it may be unreasonable to expect the person to satisfy the activity test for a period of up to 13 weeks, starting at the beginning of that circumstance.

9 Carer duties

Special circumstances

- (1) Special circumstances, beyond a person's control, exist where:
 - (a) a family member of the person is temporarily incapacitated due to illness or accident; and
 - (b) the family member needs full-time care during the incapacity; and

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- (c) the person provides the care; and
 - (d) other ways of providing the care are not reasonably available; and
 - (e) the person does not qualify for a carer payment under section 198 of the Act; and
 - (f) the person is unable to satisfy the activity test because the person is providing the care.

Definition of care

- (2) In this section, *care* includes the following:
 - (a) attention;
 - (b) supervision.

Maximum exemption period

- (3) In the special circumstances mentioned in subsection (1), it may be unreasonable to expect the person to satisfy the activity test:
 - (a) for a period of up to 13 weeks, starting when the person begins to provide the care; and
 - (b) for a further period of up to 13 weeks, if, at the end of the initial 13 week period the special circumstances remain unchanged.

10 Serving on a jury

Special circumstances

- (1) Special circumstances, beyond a person's control, exist if the person is serving on a jury and, under the laws of the Commonwealth, State or Territory, as the case may be, the person:
 - (a) is eligible to serve on the jury; and
 - (b) is not exempt from liability to serve on the jury; and
 - (c) is not disqualified from serving on the jury.

Maximum exemption period

- (2) In the special circumstances mentioned in subsection (1), it may be unreasonable to expect the person to satisfy the activity test:
 - (a) for the period for which the person is empanelled on the jury or for a period of up to 13 weeks, whichever is the shorter; and
 - (b) for a further period of up to 13 weeks if, at the end of the initial period, the special circumstances remain unchanged.

11 Refugees

Special circumstances

- (1) Special circumstances, beyond a person's control, exist if the person is a refugee.

Definition of refugee

- (2) In this section, *refugee* has the meaning in subsection 7(6B) of the Act.

Maximum exemption period

- (3) In the special circumstances mentioned in subsection (1), it may be unreasonable to expect the person to satisfy the activity test for a period of up to 13 weeks, starting when the person enters Australia.

12 Community Service orders

Special circumstances

- (1) Special circumstances, beyond a person's control, exist if the person is subject to a community service order requiring the person to perform more than 20 hours of community service for each week that the order has effect.
- (2) In the special circumstances mentioned in subsection (1), it may be unreasonable to expect the person to satisfy the activity test:
- (a) for the duration of the community service order or for a period of up to 13 weeks, whichever is the shorter; and
 - (b) for a further period of up to 13 weeks, if, at the end of the initial 13 week period the special circumstances remain unchanged.

Schedule 1—Repeals

Youth Allowance (Activity Test Exemption Guidelines) Determination 1998

1 The whole of the instrument

Repeal the instrument