



Social Security (Administration) (Payment Pending Review) (DSS) Guidelines 2019

I, Senator Anne Ruston, Minister for Families and Social Services, make the following Guidelines.

Dated 6 August 2019

Senator Anne Ruston
Minister for Families and Social Services

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

1 Name

This instrument is the *Social Security (Administration) (Payment Pending Review) (DSS) Guidelines 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 the instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made.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 sections 132 and 146 of the *Social Security (Administration) Act 1999*.

4 Schedule

The instrument specified in Schedule 1 to this instrument is repealed as set out in that schedule.

5 Definitions

In this instrument:

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

6 Application

- (1) For section 131 of the Act, the guidelines in subsection 7(1) apply to adverse decisions in relation to:
- (a) youth allowance payable to a person who is undertaking full-time study or is a new apprentice; and
 - (b) austudy payment.

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- (2) For section 145 of the Act, the guidelines in subsection 7(2) apply to adverse decisions in relation to:
- (a) youth allowance payable to a person who is undertaking full-time study or is a new apprentice; and
 - (b) austudy payment.

Note Youth allowance payable to a person who is neither a full-time student nor a new apprentice is a participation payment: see definition of *participation payment* in the Dictionary to the Act

7 Declaration continuing payment during a compliance penalty period

- (1) If, and only if, a person in receipt of youth allowance or austudy payment:
- (a) is subject to an adverse decision that results in the application of a compliance penalty period under section 550B, 551, 576A or 577 of the *Social Security Act 1991*; 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;

then the Secretary may declare under section 131 of the Act that:

- (d) the allowance or payment is payable to the person from the date that the compliance penalty period commenced or is to commence; and
- (e) the allowance or 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 takes effect on the day it is made or an earlier day specified in the declaration: see paragraph 131(5)(a) of the Act.

Note 2 A declaration under section 131 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 paragraph 131(5)(b) of the Act.

- (2) If, and only if, a person in receipt of youth allowance or austudy payment:
- (a) is subject to an adverse decision that results in the application of a compliance penalty period under section 550B, 551, 576A or 577 of the *Social Security Act 1991*; 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;

then the Secretary may declare under section 145 of the Act that:

- (d) the allowance or payment is payable to the person from the date that the compliance penalty period commenced or is to commence; and
- (e) the allowance or 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.

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- Note 1 A declaration under section 145 takes effect on the day it is made or an earlier day specified in the declaration: see paragraph 145(4)(a) of the Act.
- Note 2 A declaration under section 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 paragraph 145(4)(b) of the Act.

Schedule 1—Repeal

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

1 Division 2, Part 2 of the Instrument

Repeal the Division