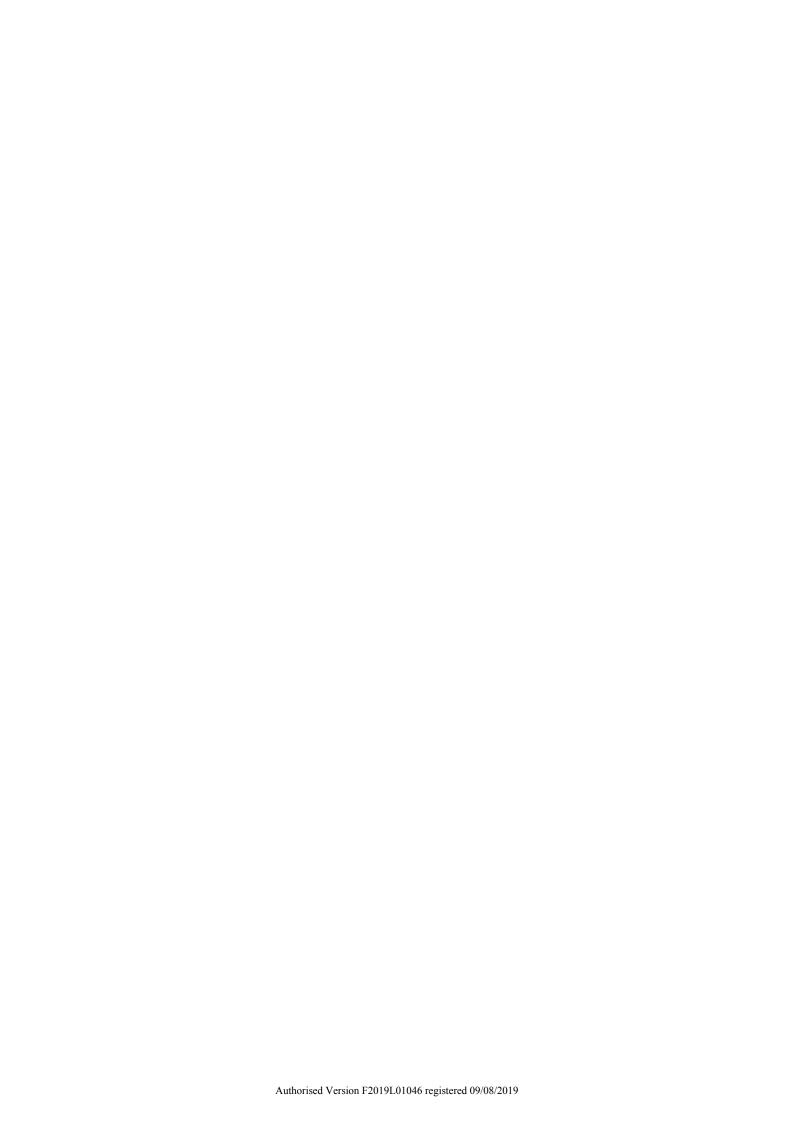


# Social Security (Administration) (Payment Pending Review) (DSS) Guidelines 2019

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

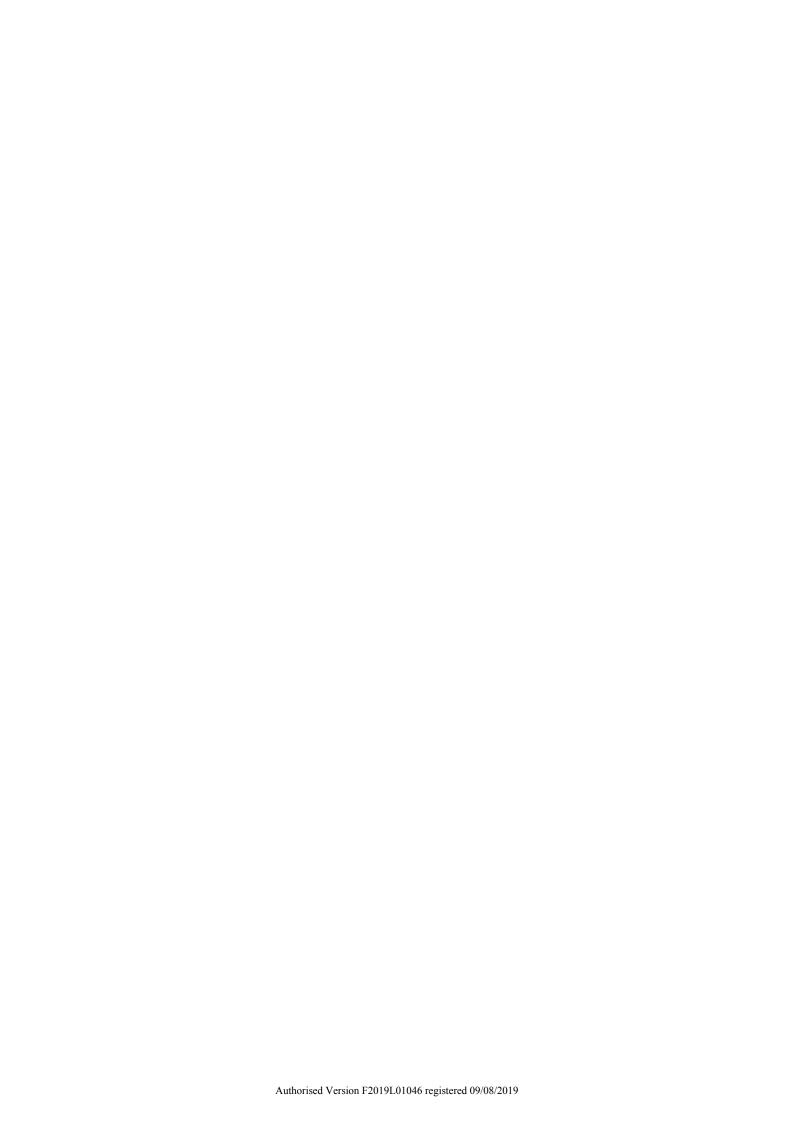


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### Schedule 1—Repeal

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Note: This table relates only to the provisions of this instrument as originally made.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The instrument specified in Schedule 1 to this instrument is repealed as set out in that schedule.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.

- (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.

- 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