



Social Security (Reasonable Excuse – Student Payments) Determination 2019

I, Kathryn Campbell, Secretary of the Department of Social Services, make the following Determination

Dated 17 September 2019

Kathryn Campbell AO CSC
Secretary of the Department of Social Services

Contents

1 Name.....	1
2 Commencement	1
3 Authority.....	1
4 Definitions	1
5 Schedules	1
6 Matters to be taken into account in deciding whether a person had a reasonable excuse.....	2
Schedule 1—Repeals	4
<i>Social Security (Reasonable Excuse—Participation Payment Obligations) (DEEWR) Determination 2009 (No. 1)</i>	4

1 Name

This instrument is the *Social Security (Reasonable Excuse – Student Payments) Determination 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	

Note: This table relates only to the provisions of this instrument as originally made.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 subsections 550(2A), 550B(2A), 576(2A) and 576A(2A) of the *Social Security Act 1991*.

4 Definitions

In this determination:

Act means the *Social Security Act 1991*

community service order means any community service order issued by a court under the laws of the Commonwealth, a State or Territory

refugee has the meaning given in subsection 7(6B) of the Act

5 Schedule

Each instrument that is specified in Schedule 1 to this instrument is repealed as set out in the applicable items in Schedule 1, and any other item in Schedule 1 to this instrument has effect according to its terms.

6 Matters to be taken into account in deciding whether a person had a reasonable excuse

- (1) For subsections 550(2A), 550B(2A), 576(2A) and 576A(2A) of the Act, the matters set out in subsection (2) are matters that the Secretary must take into account in deciding whether a person has a reasonable excuse for committing a youth allowance participation failure or austudy participation failure.
- (2) The matters are:
 - (a) the person did not have access to safe, secure and adequate housing, or was using emergency accommodation or a refuge; and
 - (b) the literacy and language skills of the person; and

Example:

If the person is unable to comprehend a requirement or an instruction, because the person's literacy and/or language skills are such that prevents them from understanding the requirement or instruction, the Secretary must take these circumstances into account.

 - (c) an illness, impairment or condition of the person that requires treatment, including an illness that is episodic or unpredictable in nature; and
 - (d) a cognitive or neurological impairment of the person; and
 - (e) a psychiatric or psychological impairment or mental illness of the person; and
 - (f) a drug or alcohol dependency of the person; and
 - (g) unforeseen family or caring responsibilities of the person; and
 - (h) the person is, or was, subjected to criminal violence (including domestic violence and sexual assault); and
 - (i) the person is, or was, adversely affected by the death of an immediate family member or close relative; and
 - (j) if the person is, or was, a member of a couple, the breakdown of that relationship; and
 - (k) jury service; and
 - (l) if:
 - (i) the person has been imprisoned for a continuous period of more than 14 days; and
 - (ii) the person has been released; and
 - (iii) the person was released not more than 28 days before the failure was committed;the person's imprisonment or release from imprisonment; and
 - (m) the person is, or was, a refugee; and
 - (n) the person is, or was, subject to a community service order requiring the person to perform more than 20 hours of community service for each week the order has effect.
- (3) However, the Secretary must not take into account a matter if the Secretary is not satisfied that the matter had a significant effect on the person's capacity to comply with the requirement, or the provision of the Act, to which the failure relates.

-
- (4) Without limiting paragraph 6(2)(a) of this instrument, a person is taken to not have access to safe, secure and adequate housing if:
- (a) the housing to which the person has, or had, access:
 - (i) damaged, damages, or is likely to damage, the person's health; or
 - (ii) threatened, threatens, or is likely to threaten, the person's safety;
 - or
 - (iii) does not, or did not, provide the person with access to a reasonable level of personal amenities or the economic and social support that housing normally affords; or
 - (b) in the circumstances, the adequacy, safety, security or affordability of the housing to which the person has, or had, access to is, or was, adversely affected; or
 - (c) the person does not, or did not, have a right to remain, or a reasonable expectation of being able to remain, in the housing to which the person had, or has, access.

Schedule 1—Repeals

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

1 The whole of the instrument

Repeal the instrument.