



Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Act 2014

No. 131, 2014

**An Act to amend the law relating to social security,
and for related purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)



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No. 131, 2014

**An Act to amend the law relating to social security,
and for related purposes**

[Assented to 12 December 2014]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Social Security Legislation Amendment (Strengthening the Job Seeker Compliance Framework) Act 2014*.

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Compliance Framework) Act 2014 1*

2 Commencement

- (1) Each provision of this Act 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. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	12 December 2014
2. Schedule 1, Part 1	1 January 2015.	1 January 2015
3. Schedule 1, Part 2	1 July 2015.	1 July 2015

Note: This table relates only to the provisions of this Act as originally enacted.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

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

3 Schedules

Legislation that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Main amendments

Part 1—Amendments commencing 1 January 2015

Social Security (Administration) Act 1999

1 After paragraph 42G(c)

Insert:

- (ca) a person fails to attend an appointment that the person is required to attend by a notice under subsection 63(2); or

2 Paragraph 42G(d)

Omit “a requirement”, substitute “any other requirement”.

3 Paragraph 42G(e)

Omit “paragraph (b) or (c)”, substitute “paragraph (b), (c) or (ca)”.

4 After paragraph 42SA(1)(b)

Insert:

- (ba) the person fails to attend an appointment that the person is required to attend by a notice under subsection 63(2); or

5 Subsection 42SA(1) (notes 1 and 2)

Repeal the notes, substitute:

- Note: If paragraph (1)(a), (b) or (ba) applies, a reconnection requirement must be imposed for that failure (see section 42G).

6 Paragraph 42SA(2)(a)

Repeal the paragraph, substitute:

- (a) for a failure referred to in paragraph (1)(a), (b) or (ba):
 - (i) if the person complies with the reconnection requirement imposed on the person under paragraph 42G(e) because of that failure—the day before the day on which the person so complies; or
 - (ii) if the person fails to comply with the reconnection requirement imposed on the person under paragraph 42G(e) because of that failure—the day

Schedule 1 Main amendments

Part 1 Amendments commencing 1 January 2015

- before the day on which the person first commits the failure to comply with that reconnection requirement; or
- (aa) for a failure referred to in paragraph (1)(c)—the day before the day on which the person complies with a reconnection requirement or further reconnection requirement; or

7 Paragraph 42SA(2)(b)

After “paragraph (a)”, insert “or (aa)”.

8 After subsection 42SA(2)

Insert:

(2AA) If:

- (a) a participation payment is not payable to a person for a period (the *non-payability period*) under subsection (2) because of the person’s failure to attend an appointment with the person’s employment provider; and
- (b) on a day (the *relevant day*), the Secretary requires the person to attend a rescheduled appointment with the person’s employment provider; and
- (c) the rescheduled appointment is on a day that is more than 2 business days after the relevant day;

then, despite subsection (2), the non-payability period is taken to end under that subsection at the end of the relevant day.

Note 1: The requirement to attend the rescheduled appointment will be a reconnection requirement or further reconnection requirement.

Note 2: For *business day*, see section 2B of the *Acts Interpretation Act 1901*.

(2A) If:

- (a) a participation payment is not payable to a person for a period under subsection (2); and
- (b) the participation payment is payable to the person for any days occurring before that period begins;

then, despite any other provision of the social security law, the Secretary may withhold payment of the participation payment to the person for those days until that period ends.

8A At the end of section 42SA

Add:

- (4) The Secretary must notify the person of a determination under subsection (1). The Secretary may do so in any way that the Secretary considers appropriate.

9 After subsection 64(1)

Insert:

- (1A) Subsection (1) does not apply if:
- (a) the person is receiving a participation payment; and
 - (b) the person fails to attend an appointment that the person is required to attend by a notice under subsection 63(2); and
 - (c) the Secretary makes a determination under subsection 42SA(1) in relation to the person and the failure.

12 Application and transitional provisions

- (1) The amendments made by items 1, 3, 4, 6, 8 and 9 apply in relation to failures that are first committed on or after the commencement of those items (where the requirements arose before, on or after that commencement).
- (2) For the purposes of paragraph 42SA(2A)(b) of the *Social Security (Administration) Act 1999*, as inserted by this Part, disregard days occurring before the commencement of this item.

Part 2—Amendments commencing 1 July 2015

Social Security (Administration) Act 1999

20 Section 42A

Omit:

- The Secretary may also determine that a participation payment is not payable to a person for a period because of certain failures. However, once that period ends, the person may be able to receive back pay.

substitute:

- The Secretary may also determine that a participation payment is not payable to a person for a period because of certain failures. Once that period ends, the person may be able to receive back pay. For a failure to attend an appointment, a penalty amount may be deducted from the person's participation payment.

21 At the end of subsection 42SA(3)

Add:

- Note: For a failure referred to in paragraph (1)(b) or (ba), a penalty amount may be deducted from the person's participation payment: see Subdivision EC.

22 After Subdivision EB of Division 3A of Part 3

Insert:

Subdivision EC—Non-attendance failures

42SC Non-attendance failures

- (1) The Secretary may determine that a person commits a *non-attendance failure* if the Secretary makes a determination

under subsection 42SA(1) because of the person's failure referred to in paragraph 42SA(1)(b) or (ba).

- (2) Despite subsection (1), the Secretary must not determine that a person commits a non-attendance failure if the person satisfies the Secretary that the person has a reasonable excuse for the person's failure referred to in paragraph 42SA(1)(b) or (ba).

Note: The Secretary must take certain matters into account for the purposes of subsection (2) (see section 42U). See also section 42UA (about prior notification of excuses).

Determining an instalment period

- (3) The Secretary must include in a determination under this section the instalment period in which a penalty amount (see section 42T) for the non-attendance failure is to be deducted from the person's instalment of a participation payment.

42SD Deduction of penalty amount

If the Secretary determines that a person commits a non-attendance failure, the person's penalty amount (see section 42T) for the non-attendance failure is to be deducted from the person's instalment of a participation payment for the instalment period determined under subsection 42SC(3).

Note: The balance of the penalty amount is to be deducted from instalments of the participation payment for any later instalment periods, or from any instalments of any other participation payment paid to the person (see section 42V).

23 Subsection 42T(1)

Omit "or a reconnection failure", substitute "a reconnection failure or a non-attendance failure".

24 After subsection 42T(3)

Insert:

- (3A) The method determined for a non-attendance failure that a person commits must not provide for a penalty amount, in respect of a day in the non-attendance failure penalty period, that is more than the following:

Schedule 1 Main amendments

Part 2 Amendments commencing 1 July 2015

$$1.4 \times \frac{\text{Amount of the person's instalment of participation payment that would, apart from subsection 42SA(2), be payable to the person for the instalment period in which the day occurs}}{\text{Number of days in the person's instalment period}}$$

Note: Any amount withheld under subsection 42SA(2A) for days in the instalment period remains an amount payable to the person for the instalment period.

(3B) For the purposes of subsection (3A), the *non-attendance failure penalty period* is the period:

- (a) beginning on the day the person is notified by the Secretary of the determination under subsection 42SA(1); and
- (b) ending on the day the period under subsection 42SA(2) ends.

25 At the end of subsection 42U(1)

Add:

; or (e) a non-attendance failure (see subsection 42SC(2)).

26 Subsection 42UA(2)

After “or 42H(3)(a)”, insert “or subsection 42SC(2)”.

27 Section 42V

Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

28 Section 42V

Omit “or 42L”, substitute “, 42L or 42SD”.

29 Section 42X

Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

30 Subclause 1(1) of Schedule 1

Insert:

non-attendance failure has the meaning given by subsection 42SC(1).

31 Subclause 1(1) of Schedule 1 (definition of *penalty amount*)

Omit “or a reconnection failure”, substitute “, a reconnection failure or a non-attendance failure”.

32 Application provision

Subsection 42SC(1) of the *Social Security (Administration) Act 1999*, as inserted by this Part, applies in relation to failures referred to in paragraph 42SA(1)(b) or (ba) of that Act that are first committed on or after the commencement of this item (where the requirements arose before, on or after that commencement).

*[Minister’s second reading speech made in—
House of Representatives on 25 September 2014
Senate on 30 October 2014]*

(206/14)

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