



# **Social Security Legislation Amendment (Job Seeker Compliance) Act 2011**

**No. 48, 2011**

**An Act to amend the *Social Security  
(Administration) Act 1999*, 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. 48, 2011**

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**An Act to amend the *Social Security  
(Administration) Act 1999*, and for related purposes**

[Assented to 27 June 2011]

The Parliament of Australia enacts:

## **1 Short title**

This Act may be cited as the *Social Security Legislation  
Amendment (Job Seeker Compliance) Act 2011*.

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*Social Security Legislation Amendment (Job Seeker Compliance) Act 2011*    No. 48, 2011    1

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## 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.

<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provision(s)</b>	<b>Commencement</b>	<b>Date/Details</b>
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	27 June 2011
2. Schedule 1	The later of: (a) the day after this Act receives the Royal Assent; and (b) 1 July 2011.	1 July 2011 (paragraph (b) applies)

Note: This table relates only to the provisions of this Act as originally enacted.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 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

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## Schedule 1—Amendments

### *Social Security (Administration) Act 1999*

#### **1 At the end of section 42A**

Add:

- |  |
|--|
| <ul style="list-style-type: none"><li>• 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.</li></ul> |
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#### **2 At the end of subsection 42C(4) (before the note)**

Add:

; or (c) the day is in a reconnection failure period for the person.

#### **3 Subsection 42C(4) (at the end of the note)**

Add “For the purposes of paragraph (4)(a), see also section 42UA (about prior notification of excuses).”.

#### **4 Paragraph 42E(2)(a)**

Omit “, and the notice did not inform the person of the effect of section 64”.

#### **5 Subsection 42E(4) (at the end of the note)**

Add “For the purposes of paragraph (4)(a), see also section 42UA (about prior notification of excuses).”.

#### **6 Section 42G**

Repeal the section, substitute:

#### **42G Reconnection requirements**

If:

- (a) the Secretary determines that a person commits a connection failure; or

- (b) a person fails to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person; or
- (c) a person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person; or
- (d) a person fails to comply with a requirement that was notified to the person under subsection 63(2) or (4);

then:

- (e) if, in relation to a failure referred to in paragraph (b) or (c), the Secretary determines, under subsection 42SA(1), that a participation payment is not payable to the person—the Secretary must require the person to comply with a requirement (the *reconnection requirement*); or
- (f) in any other case—the Secretary may require the person to comply with a requirement (the *reconnection requirement*).

Note: The Secretary must notify the person of the effect of not complying with the reconnection requirement (see section 42K).

### **7 Subsection 42H(3) (at the end of the note)**

Add “For the purposes of subsection (3), see also section 42UA (about prior notification of excuses).”.

### **8 Subsection 42H(5)**

Omit “, provided that the penalty amount may not be deducted until at least the instalment after the first instalment made following notification to the person of the reconnection failure”.

### **9 Paragraph 42J(1)(a)**

Omit “commits a reconnection failure”, substitute “fails to comply with a reconnection requirement imposed on the person”.

### **10 Subsection 42J(2)**

Omit “paragraph (1)(b)”, substitute “subsection (1)”.

### **11 Subsection 42J(2)**

After “comply with the”, insert “reconnection requirement or”.

### **12 Subsection 42K(1)**

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Repeal the subsection, substitute:

- (1) The Secretary must notify the person that a failure to comply with a reconnection requirement or a further reconnection requirement imposed on the person might result in either or both of the following:
  - (a) a penalty amount being deducted from the person's participation payment;
  - (b) the person's participation payment not being payable to the person for a period.

### **13 Subsection 42K(2)**

Omit "the day".

### **14 After Subdivision E of Division 3A of Part 3**

Insert:

#### **Subdivision EA—Immediate non-payment of participation payments for certain failures**

#### **42SA Immediate non-payment of participation payments for certain failures**

- (1) The Secretary may determine that a participation payment is not payable to a person if:
  - (a) the person fails to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person; or
  - (b) the person fails to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person; or
  - (c) the person fails to comply with a reconnection requirement or a further reconnection requirement.

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

Note 2: The participation payment may not be payable to the person if the person fails to comply with a notice under section 63: see section 64.

- (2) The participation payment is not payable to the person for the period beginning on the day the person first commits the failure and ending at the end of:
- (a) the day before the day on which the person notifies the Secretary that the person intends to comply with:
    - (i) for a failure referred to in paragraph (1)(a) or (b)—the reconnection requirement imposed on the person under paragraph 42G(e) because of that failure; or
    - (ii) for a failure referred to in paragraph (1)(c)—the reconnection requirement or the further reconnection requirement referred to in that paragraph; or
  - (b) if the Secretary determines that an earlier day is more appropriate than the day that would otherwise apply under paragraph (a)—that earlier day.
- (3) If a period ends under subsection (2) in relation to a person, then, subject to the social security law, the participation payment becomes payable to the person for that period.

## 15 After section 42U

Insert:

### 42UA Prior notification of excuse

- (1) This section applies in relation to the following failures of a person:
- (a) a failure to participate, on a day, in an activity that the person is required to undertake by an employment pathway plan that is in force in relation to the person;
  - (b) a failure to comply with a serious failure requirement imposed on the person, where the requirement was to undertake an activity on a day or to attend an appointment, or contact a person, at a particular time;
  - (c) a failure to comply with a requirement notified to the person under subsection 63(2), where the requirement was to attend an office of the Department, to contact the Department or to attend a particular place for a particular purpose;
  - (d) a failure to attend an appointment that the person is required to attend by an employment pathway plan that is in force in relation to the person;

(e) a failure to comply with a reconnection requirement or a further reconnection requirement, where the requirement was to undertake an activity on a day or to attend an appointment, or contact a person, at a particular time.

(2) For the purposes of subparagraph 42C(4)(a)(ii), paragraph 42E(4)(a) or subsection 42H(3), in deciding whether the person has a reasonable excuse for the failure, the following table has effect:

<b>Prior notification of excuse</b>	
<b>For this failure:</b>	<b>An excuse cannot be a reasonable excuse unless:</b>
1 A failure referred to in paragraph (1)(a) or (d)	<p>(a) before the start of the activity on the day concerned or before the time of the appointment, the person notified the excuse to the person or body specified in the employment pathway plan as the person or body to whom prior notice should be given if the person is unable to undertake the activity or attend the appointment; or</p> <p>(b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification</p>
2 A failure referred to in paragraph (1)(b) or (e)	<p>(a) before the start of the activity on the day concerned or before the time of the appointment or contact, the person notified the excuse to the person or body notified by the Secretary as the person or body to whom prior notice should be given if the person is unable to undertake the activity, attend the appointment or make the contact; or</p> <p>(b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification</p>

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**Prior notification of excuse**

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<b>For this failure:</b>	<b>An excuse cannot be a reasonable excuse unless:</b>
3 A failure referred to in paragraph (1)(c)	(a) before the end of the time specified under subsection 63(2), the person notified the excuse to the person or body notified by the Secretary as the person or body to whom prior notice should be given if the person is unable to attend the office, contact the Department or attend the place; or  (b) the Secretary is satisfied that there were circumstances in which it was not reasonable to expect the person to give the notification

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Note: Despite subsection (2), the Secretary may decide for other reasons that the excuse is not a reasonable excuse.

**16 After section 42Y**

Insert:

**42YA Relationship between Subdivisions of this Division**

No Subdivision of this Division limits any other Subdivision of this Division.

**17 Subdivision G of Division 3A of Part 3**

Repeal the Subdivision.

**18 Subsection 63(7) (note)**

Repeal the note.

**19 Paragraph 64(1)(e)**

Before “the Secretary”, insert “except if the person is receiving, or has made a claim for, a participation payment—”.

**20 Application**

- (1) The amendments made by items 2 and 8 apply in relation to determinations made on or after the commencement of those items.
  - (2) The amendment made by item 4 applies in relation to notifications made on or after the commencement of that item.
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- (3) A requirement imposed under section 42G of the *Social Security (Administration) Act 1999* before the commencement of this item has effect, on and after that commencement, as if it had been imposed under section 42G of that Act as amended by this Act.
  - (4) Paragraphs 42G(b), (c) and (d) of the *Social Security (Administration) Act 1999*, as amended by this Act, apply in relation to failures that are first committed on or after the commencement of this item (whether the requirements arose before, on or after that commencement).
  - (5) The amendments made by items 9, 14, 15 and 19 apply in relation to failures that are first committed on or after the commencement of those items (whether the requirements arose before, on or after that commencement).
  - (6) The amendments made by items 12 and 13 apply in relation to requirements imposed under section 42G or 42J of the *Social Security (Administration) Act 1999* on or after the commencement of those items.
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[*Minister's second reading speech made in—  
House of Representatives on 23 March 2011  
Senate on 14 June 2011*]

(44/11)

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