

## Tips on what to do if you get a participation failure

### What is a Participation Failure?

A “participation failure” occurs if you fail without a reasonable excuse to undertake activities required of you by Centrelink. The activities that you may have to comply with include undertaking certain activities such as looking for work or studying.

A participation failure may result from:

- not actively looking for work;
- not accepting suitable work offers;
- not attending all job interviews;
- not attending approved training courses;
- leaving a job/course without a good reason.

Before a participation failure is recorded or a penalty imposed, Centrelink must first inform you and investigate whether you had a ‘reasonable excuse’ for not fulfilling your requirement. Centrelink should make 2 separate attempts to contact you, on 2 separate days. No “participation failure” should be recorded if you had a reasonable excuse.

If you have no reasonable excuse, then you will incur a participation penalty.

#### ***‘Reasonableness’ Test:***

A Participation Failure should not be applied if a requirement is unreasonable in an individual’s circumstances or if the person has a “reasonable excuse” for not complying. All participation failures should be assessed against this test.

### What is a participation penalty?

Penalties may take the form of:

- suspensions of your payments until you meet your requirements;
- an 8 week no payment period in cases of repeated participation failures.

### How to re-engage

If you receive a participation failure, Centrelink will give you the opportunity to avoid a penalty by ‘**re-engaging**’ which means you will have another chance to fulfil your requirement. It may include attending a rescheduled interview or looking for work, and if you then comply with the requirement, then Centrelink should not suspend your payment.

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Although you may not have your payment suspended because you've 're-engaged', the participation failure will still be recorded on your Centrelink record. This is important, because if you have 3 participation failures recorded in 12 months, you may have your payment stopped for 8 weeks. You have the right to receive written reasons for a decision to impose a participation failure or penalty.

### Serious breaches

If you:

- have incurred three "participation failures" within a 12 month period; or
- leave a job voluntarily; or
- become unemployed due to misconduct; or
- fail to accept a suitable job offer; or
- do not commence participate in or complete "Work for the Dole" (if you are a person who is referred to "Full-time Work for the Dole");

you will have an immediate eight week no payment period imposed. If you have a reasonable excuse for not satisfying one of the above activities, the eight week no payment penalty should not be applied.

Should you incur a penalty you have the right to appeal the decision to impose the penalty.

### Why Appeal a Breach?

Participation failures add up — even if this is only a first breach the next one and the one after will lead to your income being stopped. Nip the problem in the bud. You can appeal earlier failures even if you now are on a 2nd or 3rd penalty. You might be able to afford less money for a short while, but over the six months that some penalties last you may experience hardship (eviction for not paying rent, debts to family and friends or banks etc.). Don't forget that an appeal is free, and you cannot get in trouble, or be penalised for appealing a decision about your Social Security entitlement

### How to Appeal

**Authorised Review Officer (ARO):** you should forward a formal letter to the ARO or if possible, lodge an appeal over the phone. The Authorised Review Officer has the ability to change the decision.

**Social Security Appeals Tribunal (SSAT):** If you are still unhappy with the outcome at this stage you can appeal to the SSAT by calling **1800 011 140**. It is a good idea at this point to contact a welfare rights service such as the Welfare Rights Unit by calling: **(03) 9416 1111**.

**Administrative Appeals Tribunal (AAT):** If you are still unhappy with the decision of the SSAT, you may then appeal to the AAT. In order to appeal to the AAT, you must lodge an appeal within 28 days of receiving the SSAT decision in writing.

### Can I get paid while I appeal?

If you are appealing a no payment period you can ask Centrelink to continue your payment until your appeal is finalised. This is called **payment pending review**.

If your payment is continued and your appeal is ultimately unsuccessful you will then have to serve the no payment period.