



COMMONWEALTH OF AUSTRALIA

PARLIAMENTARY DEBATES



THE SENATE

REGULATIONS AND DETERMINATIONS

**Social Security (Reasonable Excuse –
Participation Payment Obligations)
(Employment) Determination 2014 (No. 1)**

Disallowance

SPEECH

Thursday, 28 August 2014

BY AUTHORITY OF THE SENATE

SPEECH

Date Thursday, 28 August 2014
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Questioner
Speaker Abetz, Sen Eric

Source Senate
Proof No
Responder
Question No.

Senator ABETZ (Tasmania—Leader of the Government in the Senate, Minister Assisting the Prime Minister for the Public Service and Minister for Employment) (12:17): I am in continuation from yesterday evening. I finished yesterday evening by making the point that the contributions made by other senators were, in fact, extraneous to the particular regulation that we were considering. Indeed, I think I used the analogy of the Empire State Building for Senator Cameron's contribution, indicating that for every story or scenario there was a major flaw. That, regrettably, was the case yesterday and, of course, it remains the case today. For every story and for every cameo, his argument was majorly flawed—be it death; be it the caring responsibilities; be it injury as a result of a crime. All those issues are more than appropriately canvassed in this regulation, and it will be the professionals of the Department of Human Services that will be making the determinations, not the job service providers, as incorrectly asserted by the honourable senator.

I finished off last night by saying that I would then make the rest of my contribution on the positive side as to what the regulation actually does—not what had been asserted previously. I indicate to the Senate that what the instrument does do is give decision makers in Centrelink—and I stress Centrelink—and on appeals tribunals much clearer guidance on what the government thinks is reasonable for them to take into account when deciding whether or not a job seeker had a reasonable excuse for failing to meet their mutual-obligation requirements. For example, the sudden serious illness or hospitalisation of the job seeker's child or partner, the recent death of an immediate family member or the job seeker being recently subjected to criminal or domestic violence would all clearly be exceptional circumstances beyond the job seeker's control. To assert otherwise is to assert that the people in the Department of Human Services would take an absolutely unprofessional and unreasonable approach to these potentially real-life situations.

The instrument also makes it clear that paid work, attending a job interview, medical incapacity or unforeseeable and unavoidable caring responsibilities are all grounds for finding that a job seeker had a reasonable excuse. These are not necessarily exceptional circumstances, but so long as the job seeker gives prior notice, where it is possible for them to do so, they provide a reasonable excuse for the job seeker for not meeting their requirements. It is similar to the circumstance of being in actual employment: if you are sick one morning and you cannot go to work, the reasonable thing to do is to communicate with the relevant person at the workplace and indicate that to them, if at all possible, in advance. Similarly, we say to welfare recipients that in the event you cannot attend an appointment you are required to attend, because of sickness—like someone in the workforce—you simply make contact in advance and say: 'Regrettably, I am ill today' or 'On the way the car broke down and so I can't make it'. You make immediate contact, rather than giving that advice well after the event. The requirement to give prior notice, when possible, is also reasonable, I would suggest.

It is important to note—and this is the one point that rounds all this off—that the legislative instrument is not exhaustive. It is clear in the primary legislation that this regulation is only a guide and cannot limit the matters that the decision maker is able to take into account in determining whether or not a job seeker had a reasonable excuse. In those circumstances, having cleared that up—and I will be kind this afternoon and say that they were inadvertent misrepresentations of the regulation yesterday—and having now explained what the regulation actually will do, as opposed to all the false assertions made about it, I commend the regulation to the Senate and encourage honourable senators to vote against the disallowance.