Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Amendment Determination 1999

Veterans’ Entitlements Act 1986
Instrument 1999 No. 5

The Repatriation Commission makes this determination under subsection 5JA(6) of the Veterans’ Entitlements Act 1986.

Dated 20 September 1999

NEIL JOHNSTON
PRESIDENT

BRIAN FLYNN
ACTING DEPUTY PRESIDENT

PAUL STEVENS
COMMISSIONER

1 Name of Determination
This Determination is the Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Amendment Determination 1999 (No. 5).

2 Commencement

This Determination commences or is taken to have commenced on 18 September 1999.


Schedule 1

Amendments

[1] **Section 1.3, definition of lifetime income stream**

*omit*

are made

*insert*

are made, at least annually,

[2] **Section 1.3, definition of private sector superannuation scheme**

*omit*

*private sector superannuation scheme* means a regulated superannuation fund other than a public sector superannuation scheme.

*insert*

*private sector fund* has the same meaning as in subsection 10 (1) of the *Superannuation Industry (Supervision) Act 1993*.

[3] **Section 1.3, definition of regulated superannuation fund**

*omit*

*regulated superannuation fund* has the meaning given by section 19 of the *Superannuation Industry (Supervision) Act 1993*.

[4] **Part 2**

*omit Part 2 in its entirety and insert*

Part 2  
Guidelines
2.1 Lifetime income stream under a public sector fund or superannuation scheme

(1) In making a determination under subsection 5JA(5) of the Act in relation to an income stream arising under a public sector fund or a public sector superannuation scheme, the Commission must have regard to this section.

(2) The income stream must be a lifetime income stream that is a defined benefit income stream, the amount of payments under which is determined by the governing rules of the fund or scheme, and that:

(a) is a defined benefit superannuation pension; or

(b) is a superannuation pension under an exempt public sector superannuation scheme, within the meaning of section 10 of the Superannuation Industry (Supervision) Act 1993, being a scheme to which subregulation 1.04 (4A) of the Superannuation Industry (Supervision) Regulations 1994 applies in accordance with subregulation 1.04 (4E) of those Regulations.

(3) The fund or scheme must have been established before 20 September 1998 and:

(a) for an income stream commencing before 20 September 1998 — the value of the income stream is disregarded in calculating the value of the assets of the person concerned, because of section 52 of the Act as in force immediately before 20 September 1998 (the previous section 52); or

(b) for an income stream commencing on or after 20 September 1998, that is a defined benefit superannuation pension existing before 20 September 1998 — the value of the income stream would have been disregarded in
calculating the value of the person's assets under the previous section 52 as it would have applied if:

(i) the commencement day of the income stream was before 20 September 1998; and
(ii) defined benefit superannuation pension payments were made before 20 September 1998.

2.2 Lifetime income stream under a private sector fund

(1) In making a determination under subsection 5JA(5) of the Act in relation to an income stream arising under a private sector fund, the Commission must have regard to this section.

(2) The income stream must be a lifetime income stream that:

(a) is a defined benefit income stream, the amount of payments under which is determined by the governing rules of the fund; and

(b) is a defined benefit superannuation pension.

(3) The fund must have been established before 20 September 1998 and:

(a) for an income stream commencing before 20 September 1998 — the value of the income stream is disregarded in calculating the value of the assets of the person concerned, because of section 52 of the Act as in force immediately before 20 September 1998 (the previous section 52); or

(b) for an income stream commencing on or after 20 September 1998, that is a defined benefit superannuation pension existing before 20 September
1998 — the value of the income stream would have been disregarded in calculating the value of the person's assets under the previous section 52 as it would have applied if:

(i) the commencement day of the income stream was before 20 September 1998; and
(ii) defined benefit superannuation pension payments were made before 20 September 1998.

(4) The fund must have a direct connection with the previous employment of the recipient of the income stream or, in the case of a reversionary beneficiary, the person who would be the recipient if he or she had not died.

(5) For subsection (4), a fund has a direct connection with a person's previous employment if the income stream from the fund became payable to, or in respect of, the person because of that employment.