Veterans’ Entitlements (Retention of Exemption for Asset-test Exempt Income Streams) Principles 2007

Veterans’ Entitlements Act 1986

The REPATRIATION COMMISSION determines these Principles under subparagraphs (a) (iii) and (b) (ii) of the definition of partially asset-test exempt income stream in subsection 52 (1AA) of the Veterans’ Entitlements Act 1986.

Dated 19 September 2007

MARK SULLIVAN
President

W ROLFE
Deputy President

Commissioner

Part 1

Introductory

1.1 Name of Principles

These Principles are the Veterans’ Entitlements (Retention of Exemption for Asset-test Exempt Income Streams) Principles 2007.


1.2 Commencement

These Principles commence on 20 September 2007.
1.3 **Purpose**

These Principles specify:

(a) under Part 2 — the criteria that exclude an income stream from the class of partially asset-test exempt income streams established by paragraph (a) of the definition set out in subsection 52 (1AA) of the *Veterans' Entitlements Act 1986*; and

(b) under Part 3 — the criteria to be satisfied by an income stream covered by paragraph (b) of that definition.

*Note 1* Section 52 of the Act provides for certain assets to be disregarded in calculating the value of a person’s assets for the purposes of the assets test.

*Note 2* Paragraph 52 (1) (d) of the Act provides that the value of an asset-test exempt income stream, other than a partially asset-test exempt income stream, is to be disregarded for the purposes of that calculation.

*Note 3* Paragraph 52 (1) (daa) of the Act provides that only half the value of a partially asset-test exempt income stream is to be disregarded for the purposes of the assets test.

1.4 **Definitions**

In these Principles:

*Act* means the *Veterans’ Entitlements Act 1986*.

*benefit fund* has the meaning given by subsection 16B (1) of the *Life Insurance Act 1995*.

*defined benefit pension* has the meaning given by regulation 9.04E of the *Superannuation Industry (Supervision) Regulations 1994*.

*dependant* has the meaning given by section 11 of the Act, except that a dependant who is a child must be:

(a) less than 18 years of age; or

(b) 18 years of age or more but less than 25 years of age and financially dependent on the primary beneficiary; or

(c) 18 years of age or more and have a disability of the kind described in subsection 8 (1) of the *Disability Services Act 1986*.

*hardship amount* has the meaning given by subsection 5JA (7) of the Act.

*Immediate annuity* means an annuity that is presently payable.

*life company* has the meaning given in the Dictionary to the *Life Insurance Act 1995*.

*regulated superannuation fund* has the meaning given by subsection 10 (1) of the *Superannuation Industry (Supervision) Act 1993*.

*self managed superannuation fund* has the meaning given by section 17A of the *Superannuation Industry (Supervision) Act 1993*.

*statutory fund* has the meaning given by section 29 of the *Life Insurance Act 1995*.

*successor fund* has the meaning given by subregulation 1.03 (1) of the *Superannuation Industry (Supervision) Regulations 1994*. 
third party has the meaning given by section 90AB of the Family Law Act 1975.
Part 2  
Asset-test exempt income streams

Section 2.1

2.1 Principles (Act s52)

For subparagraph (a) (iii) of the definition of *partially asset-test exempt income stream* in subsection 52 (1AA) of the Act, the Principles are the Principles set out in this Part.

*Note*  For the definition of *asset-test exempt income stream*, see subsection 5J (1) of the Act.

2.2 Asset-test exempt income stream resulting from original asset-test exempt income stream purchased before 20 September 2004

(1) These Principles cover an asset-test exempt income stream if:

(a) the income stream (the *present income stream*) is covered by section 5JA or 5JB of the Act; and

(b) it is purchased by the primary beneficiary on or after 20 September 2004 from the commutation of another asset-test exempt income stream (the *original income stream*); and

(c) the original income stream was purchased before 20 September 2004; and

(d) the original income stream is a kind of income stream to which one of the following subsections applies.

(2) This subsection applies to an original income stream if:

(a) it is covered by subsection 5JA (1) or (1A) or section 5JB of the Act; and

(b) it was purchased by the primary beneficiary for the benefit of the primary beneficiary and a reversionary beneficiary; and

(c) payments made under the income stream are calculated on the basis of the life expectancy of the reversionary beneficiary; and

(d) the reversionary beneficiary predeceases the primary beneficiary.

(3) This subsection applies to an original income stream if:

(a) it is covered by subsection 5JA (1) or (1A) or section 5JB of the Act; and

(b) it is not an income stream to which section 2.4 or 2.5 of these Principles applies; and

(c) it is purchased by the primary beneficiary for the benefit of the primary beneficiary and a reversionary beneficiary who, at the time of the purchase, are members of a couple together; and

(d) the primary beneficiary and reversionary beneficiary are no longer members of a couple together.
Example
On 1 March 2002, J purchased an income stream (the *original income stream*) covered by subsection 5JA (1) of the Act for the benefit of J, the primary beneficiary, and H, the reversionary beneficiary. At the time of the purchase, J and H were members of a couple together. On 1 December 2005, J and H ceased to be members of a couple together. On 15 December 2005, J commutes the original income stream and purchases another income stream (the *new income stream*) covered by subsection 5JA (1) of the Act. The new income stream is covered by these Principles and retains the 100% exemption from the assets test.

(4) This subsection applies to an original income stream if:
   (a) it is a defined benefit pension covered by section 5JA or 5JB of the Act that is provided by a regulated superannuation fund; and
   (b) it is an income stream in relation to which the Commission is not satisfied as required by paragraph 5JA (1) (b) or 5JB (1A) (b) of the Act, as applicable.

Example
On 1 March 2002, P purchased an income stream (the *original income stream*) that is a defined benefit pension covered by section 5JA of the Act that is provided by a regulated superannuation fund. Paragraph 5JA (1) (b) of the Act applies to the original income stream. On 1 September 2005, the Commission is not satisfied that the requirements of paragraph 5JA (1) (b) of the Act are met in relation to the original income stream. On 15 September 2005, P commutes the original income stream to purchase another income stream (the *new income stream*) that is covered by section 5JA of the Act. The new income stream is covered by these Principles and retains the 100% exemption from the assets test.

Note
Paragraphs 5JA (1) (b) and 5JB (1A) (b) of the Act require the Commission to be satisfied, in relation to an income stream, that there is in force a current actuarial certificate stating that in the actuary’s opinion there is a high probability that the provider of the income stream will be able to pay the income stream as required under the income stream’s contract or governing rules.

(5) This subsection applies to an original income stream if:
   (a) it is an immediate annuity under a statutory fund established by a life company, or under a benefit fund; and
   (b) it:
      (i) is an income stream in relation to which the Commission is not satisfied as required by paragraph 5JA (1) (b) or 5JB (1A) (b) of the Act, as applicable; or
      (ii) fails to satisfy relevant standards published by the Australian Prudential Regulation Authority about minimum surrender values and paid up values.

Note
Paragraphs 5JA (1) (b) and 5JB (1A) (b) of the Act require the Commission to be satisfied, in relation to an income stream, that there is in force a current actuarial certificate stating that in the actuary’s opinion there is a high probability that the provider of the income stream will be able to pay the income stream as required under the income stream’s contract or governing rules.
2.3 Asset-test exempt income stream resulting from transfer to successor fund

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and

(b) it results from the transfer, on or after 20 September 2004, of another income stream (the original income stream) to a successor fund; and

(c) it was covered by section 5JA or 5JB of the Act; and

(d) the original income stream was provided by a regulated superannuation fund; and

(e) the original income stream:

   (i) was purchased before 20 September 2004; or

   (ii) until the commencement of these Principles, was covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or

   (iii) was covered by these Principles.

2.4 Asset-test exempt income stream resulting from payment split

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and

(b) it is purchased or acquired by the primary beneficiary or the primary beneficiary’s spouse or former spouse on or after 20 September 2004; and

(c) it results from another asset-test exempt income stream (the original income stream) being commuted to give effect to an entitlement of the spouse or former spouse of the primary beneficiary in respect of the original income stream under a payment split under Part VIIIB of the Family Law Act 1975; and

(d) the original income stream was covered by section 5JA or 5JB of the Act; and

(e) the original income stream:

   (i) was purchased before 20 September 2004; or

   (ii) until the commencement of these Principles, was covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or

   (iii) was covered by these Principles.

Example

On 1 March 2002, P, who was married to J at that date, purchased an income stream (the original income stream) covered by section 5JA of the Act. On 1 December 2005, P and J divorce. P’s original income stream is commuted to give effect to an entitlement of J in respect of the original income stream under a payment split under Part VIIIB of the Family Law Act 1975. On 15 December 2005, J uses the entitlement resulting from the payment split to purchase an income stream (the new income stream) covered by section 5JA of the Act. The new income stream is covered by these Principles and retains the 100% exemption from the assets test.
2.5 Asset-test exempt income stream resulting from Family Court order or injunction

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and

(b) it is purchased or acquired by the primary beneficiary or the primary beneficiary’s spouse or former spouse on or after 20 September 2004; and

(c) it results from another asset-test exempt income stream (the original income stream) being commuted to give effect to:

(i) an order made under section 79 or 114 of the *Family Law Act 1975*; or

(ii) an injunction granted under section 114 of that Act, that is binding on a third party under Part VIIIAA of that Act; or

(iii) any other order or injunction under the *Family Law Act 1975* that relates specifically to the original income stream; and

(d) the original income stream was covered by section 5JA or 5JB of the Act; and

(e) the original income stream:

(i) was purchased before 20 September 2004; or

(ii) until the commencement of these Principles, was covered by the *Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005*; or

(iii) was covered by these Principles.

Example

On 1 March 2002, J purchased an income stream (the original income stream) covered by subsection 5JA (1) of the Act for the benefit of J, the primary beneficiary, and H, the reversionary beneficiary. As it was purchased before 20 September 2004, the income stream has a 100% exemption from the assets test. At the time of the purchase, J and H are married. On 1 December 2006, J and H divorce. On 15 December 2006, J commutes the original income stream in response to a Family Court order and purchases another income stream (the new income stream) covered by subsection 5JA (1) of the Act. The new income stream is covered by these Principles, and retains the 100% exemption from the assets test.

2.6 Asset-test exempt income stream resulting from payment of superannuation contributions surcharge debt

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and

(b) it is purchased by the primary beneficiary on or after 20 September 2004; and

(c) it results from another asset-test exempt income stream (the original income stream) being commuted to pay a superannuation contributions surcharge debt; and
Section 2.7

(d) the original income stream was covered by section 5JA or 5JB of the Act; and

(e) the original income stream:
   (i) was purchased before 20 September 2004; or
   (ii) until the commencement of these Principles, was covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or
   (iii) was covered by these Principles.

2.7 **Asset-test exempt income stream resulting from payment of hardship amount**

These Principles cover an asset-test exempt income stream if:

(a) the income stream is covered by section 5JA or 5JB of the Act; and

(b) the income stream is purchased by the primary beneficiary on or after 20 September 2004; and

(c) the income stream results from another asset-test exempt income stream (the *original income stream*) being commuted to pay a hardship amount; and

(d) the original income stream was covered by section 5JA or 5JB of the Act; and

(e) the original income stream:
   (i) was purchased before 20 September 2004; or
   (ii) until the commencement of these Principles, was covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or
   (iii) was covered by these Principles.

**Example**

On 1 March 2002, J purchased an income stream (the *original income stream*) covered by subsection 5JA (1) of the Act for the benefit of J, the primary beneficiary, and H, the reversionary beneficiary. As it was purchased before 20 September 2004, the income stream has a 100% exemption from the assets test. At the time of the purchase, J and H are married. On 1 December 2005, J and H divorce. On 15 December 2005, J commutes the original income stream in response to a Family Court order and purchases another income stream (the *new income stream*) covered by subsection 5JA (1) of the Act. The new income stream is covered by these Principles, and retains the 100% exemption from the assets test.

2.8 **Commutation of asset-test exempt income stream resulting from closure of a self managed superannuation fund**

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and

(b) it is purchased by the primary beneficiary; and

(c) it is not sourced from a self managed superannuation fund; and
Asset-test exempt income streams Part 2

Section 2.9

(d) it results from another asset-test exempt income stream (the original income stream) being commuted as a result of the closure of a self managed superannuation fund because:
   (i) a member of the fund supporting the original income stream has died; or
   (ii) the administrative responsibilities of the fund supporting the original income stream have become too onerous due to the age or incapacity of a trustee; and

(e) the original income stream was:
   (i) covered by section 5JA or 5JB of the Act; and
   (ii) sourced from a self managed superannuation fund; and

(f) the original income stream was:
   (i) until the commencement of these Principles, covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or
   (ii) was covered by these Principles.

Example
F and W are trustees of their self managed superannuation fund. They both have lifetime asset-test exempt income streams that were purchased on 1 July 2003 when F was 65 and W was 64. F dies on 26 January 2007. W subsequently decides that she does not have the expertise or inclination to continue as a fund trustee. W commutes her asset-test exempt income stream and uses the proceeds to purchase from a retail income stream provider, an income stream that meets the provisions of section 5JA of the Act. The new income stream is covered by these Principles and retains the 100% exemption from the assets test.

2.9 Asset-test income stream resulting from commutation or rollover because of regulation 6.21 of the Superannuation Industry (Supervision) Regulations 1994

These Principles cover an asset-test exempt income stream if:

(a) it is covered by section 5JA or 5JB of the Act; and
(b) it is purchased by the primary beneficiary on or after 1 July 2007; and
(c) it results from another asset-test exempt income stream (the original income stream) being commuted or rolled over to comply with subregulation 6.21 (2A) of the Superannuation Industry (Supervision) Regulations 1994; and
(d) the original income stream was covered by section 5JA or 5JB of the Act; and
(e) the original income stream:
   (i) was purchased before 20 September 2004; or
   (ii) until the commencement of these Principles, was covered by the Veterans’ Entitlements (Partially Asset-test Exempt Income Stream — Exemption) Principles 2005; or
   (iii) was covered by these Principles.
Part 3 Partially asset-test exempt income streams

Section 3.1 Principles (Act s52)

For subparagraph (b) (ii) of the definition of *partially asset-test exempt income stream* in subsection 52 (1AA) of the Act, the Principles are the Principles set out in this Part.

*Note* For the definition of *asset-test exempt income stream*, see subsection 5J (1) of the Act.

3.2 Partially asset-test exempt income stream resulting from original partially asset-test exempt income stream purchased on or after 20 September 2004 but before 20 September 2007

(1) These Principles cover a partially asset-test exempt income stream if:
   (a) the income stream (the *present income stream*) is purchased by the primary beneficiary on or after 20 September 2007 from the commutation of another partially asset-test exempt income stream (the *original income stream*); and
   (b) the original income stream was purchased on or after 20 September 2004 and before 20 September 2007; and
   (c) the original income stream is a kind of income stream in relation to which one of the following subsections applies.

(2) This subsection applies to an original income stream if:
   (a) it was purchased by the primary beneficiary for the benefit of the primary beneficiary and a reversionary beneficiary; and
   (b) payments made under the income stream are calculated on the basis of the life expectancy of the reversionary beneficiary; and
   (c) the reversionary beneficiary predeceases the primary beneficiary.

(3) This subsection applies to an original income stream if:
   (a) it is not an income stream to which section 3.4 or 3.5 of these Principles applies; and
   (b) it is purchased by the primary beneficiary for the benefit of the primary beneficiary and a reversionary beneficiary who, at the time of the purchase, are members of a couple together; and
   (c) the primary beneficiary and reversionary beneficiary are no longer members of a couple together.

*Example*
On 1 March 2005, J purchased an income stream (the *original income stream*) covered by subsection 5JA (1) of the Act for the benefit of J, the primary beneficiary, and H, the reversionary beneficiary. The income stream has a 50% exemption from the assets test. At
Part 3

Section 3.2

the time of the purchase, J and H were members of a couple together. On 1 December 2008, J and H ceased to be members of a couple together. On 15 December 2008, J commutes the original income stream and purchases another income stream (the new income stream) covered by subsection 5JA (1) of the Act. The new income stream is covered by these Principles and retains the 50% exemption from the assets test.

(4) This subsection applies to an original income stream if:

(a) it is a defined benefit pension covered by subsection 5JA (1) or 5JB (1A) of the Act that is provided by a regulated superannuation fund; and

(b) it is an income stream in relation to which the Commission is not satisfied as required by paragraph 5JA (1) (b) or 5JB (1A) (b) of the Act, as applicable.

Example
On 1 March 2005, P purchased an income stream (the original income stream) that is a defined benefit pension covered by section 5JA of the Act that is provided by a regulated superannuation fund. Paragraph 5JA (1) (b) of the Act applies to the original income stream. The income stream has a 50% exemption from the assets test. On 1 September 2008, the Commission is not satisfied that the requirements of paragraph 5JA (1) (b) of the Act are met in relation to the original income stream. On 15 September 2008, P commutes the original income stream to purchase another income stream (the new income stream) that is covered by section 5JA of the Act. The new income stream is covered by these Principles and retains the 50% exemption from the assets test.

Note
Paragraphs 5JA (1) (b) and 5JB (1A) (b) of the Act require the Commission to be satisfied, in relation to an income stream, that there is in force a current actuarial certificate stating that in the actuary’s opinion there is a high probability that the provider of the income stream will be able to pay the income stream as required under the income stream’s contract or governing rules.

(5) This subsection applies to an original income stream if:

(a) the income stream is an immediate annuity under a statutory fund established by a life company, or under a benefit fund; and

(b) the income stream:

(i) is an income stream to which paragraph 5JA (1) (b) or 5JB (1A) (b) of the Act applies or would have applied if paragraph 5JA (1) (aa) or subparagraph 5JB (1) (a) (i) of the Act did not apply, and in relation to which the Commission is not satisfied as required by that paragraph; or

(ii) fails to satisfy relevant standards published by the Australian Prudential Regulation Authority about minimum surrender values and paid up values.

Note
Paragraphs 5JA (1) (b) and 5JB (1A) (b) of the Act require the Commission to be satisfied, in relation to an income stream, that there is in force a current actuarial certificate stating that in the actuary’s opinion there is a high probability that the provider of the income stream will be able to pay the income stream as required under the income stream’s contract or governing rules.
Part 3  Partially asset-test exempt income streams

Section 3.3

3.3  Partially asset-test exempt income stream resulting from transfer to successor fund

These Principles cover a partially asset-test exempt income stream if:

(a) it results from the transfer, on or after 20 September 2007, of another income stream (the original income stream) to a successor fund; and

(b) at the time of transfer, the original income stream was:

(i) covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and

(ii) provided by a regulated superannuation fund; and

(c) the original income stream:

(i) was purchased on or after 20 September 2004 and before 20 September 2007; or

(ii) was covered by these Principles.

3.4  Partially asset-test exempt income stream resulting from payment split

These Principles cover a partially asset-test exempt income stream if:

(a) it is purchased or acquired by the primary beneficiary or the primary beneficiary’s spouse or former spouse on or after 20 September 2007; and

(b) it results from another partially asset-test exempt income stream (the original income stream) being commuted to give effect to an entitlement of the spouse or former spouse of the primary beneficiary in respect of the original income stream under a payment split under Part VIIIB of the Family Law Act 1975; and

(c) the original income stream was covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and

(d) the original income stream:

(i) was purchased on or after 20 September 2004 and before 20 September 2007; or

(ii) was covered by these Principles.

Example

On 1 March 2005, P, who was married to J at that date, purchased an income stream (the original income stream) covered by section 5JA of the Act. The income stream has a 50% exemption from the assets test. On 1 December 2007, P and J divorce. P’s original income stream is commuted to give effect to an entitlement of J in respect of the original income stream under a payment split under Part VIIIB of the Family Law Act 1975. On 15 December 2008, J uses the entitlement resulting from the payment split to purchase an income stream (the new income stream) covered by section 5JA of the Act. The new
income stream is covered by these Principles and retains the 50% exemption from the assets test.

### 3.5 Partially asset-test exempt income stream resulting from Family Court order or injunction

These Principles cover a partially asset-test exempt income stream if:

(a) it is purchased or acquired by the primary beneficiary or the primary beneficiary’s spouse or former spouse on or after 20 September 2007; and

(b) it results from another partially asset-test exempt income stream (the *original income stream*) being commuted to give effect to:

(i) an order made under section 79 or 114 of the *Family Law Act 1975*; or

(ii) an injunction granted under section 114 of that Act, that is binding on a third party under Part VIIIAA of that Act; or

(iii) any other order or injunction under the *Family Law Act 1975* that relates specifically to the original income stream; and

(c) the original income stream was covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and

(d) the original income stream:

(i) was purchased on or after 20 September 2004 and before 20 September 2007; or

(ii) was covered by these Principles.

### 3.6 Partially asset-test exempt income stream resulting from payment of superannuation contributions surcharge debt

These Principles cover a partially asset-test exempt income stream if:

(a) it is purchased by the primary beneficiary on or after 20 September 2007; and

(b) it results from another partially asset-test exempt income stream (the *original income stream*) being commuted to pay a superannuation contributions surcharge debt; and

(c) the original income stream was covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and

(d) the original income stream:

(i) was purchased on or after 20 September 2004 and before 20 September 2007; or

(ii) was covered by these Principles.
3.7 Partially asset-test exempt income stream resulting from payment of hardship amount

These Principles cover a partially asset-test exempt income stream if:
(a) it is purchased by the primary beneficiary on or after 20 September 2007; and
(b) it results from another partially asset-test exempt income stream (the original income stream) being commuted to pay a hardship amount; and
(c) the original income stream was covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and
(d) the original income stream:
   (i) was purchased on or after 20 September 2004 and before 20 September 2007; or
   (ii) was covered by these Principles.

3.8 Partially asset-test exempt market-linked income stream resulting from commutation of another partially asset-test exempt market-linked income stream

These Principles cover a partially asset-test exempt income stream if:
(a) it is covered by section 5JBA of the Act or would have been covered by that section if subparagraph 5JBA (1) (a) (i) of the Act did not apply; and
(b) it results from the commutation and rollover of all the assets supporting another partially asset-test exempt income stream (the original income stream); and
(c) the original income stream was covered by section 5JBA of the Act.

3.9 Commutation of partially asset-test exempt income stream resulting from closure of a self managed superannuation fund

These Principles cover a partially asset-test exempt income stream if:
(a) it is purchased by the primary beneficiary; and
(b) it is not sourced from a self managed superannuation fund; and
(c) it results from another partially asset-test exempt income stream (the original income stream) being commuted as a result of the closure of a self managed superannuation fund because:
   (i) a member of the fund supporting the original income stream has died; or
   (ii) the administrative responsibilities of the fund supporting the original income stream have become too onerous due to the age or incapacity of a trustee; and
Section 3.10

Partially asset-test income streams resulting from commutation or rollover because of regulation 6.21 of the *Superannuation Industry (Supervision) Regulations 1994*

These Principles cover a partially asset-test exempt income stream if:

(a) it is purchased by the primary beneficiary on or after 1 July 2007; and

(b) it results from another asset-test exempt income stream (the *original income stream*) being commuted or rolled over to comply with subregulation 6.21 (2A) of the *Superannuation Industry (Supervision) Regulations 1994*; and

(c) the original income stream was covered by section 5JA, 5JB or 5JBA of the Act or would have been covered by those sections if paragraph 5JA (1) (aa), subparagraph 5JB (1) (a) (i) or subparagraph 5JBA (1) (a) (i) of the Act did not apply; and

(d) the original income stream:

(i) was purchased on or after 20 September 2004 and before 20 September 2007; or

(ii) was covered by these Principles.

Example

G and A are trustees of their self managed superannuation fund. They both have market-linked asset-test exempt income streams that were purchased on 1 July 2005 when G was 65 and A was 64. G dies on 26 January 2015. A subsequently decides that she does not have the expertise or inclination to continue as a fund trustee. A commutes her market-linked asset-test exempt income stream and uses the proceeds to purchase from a retail income stream provider, an income stream that meets the provisions of section 5JBA of the Act. The new income stream is covered by these Principles and retains the 50% exemption from the assets test.