

*VETERANS' ENTITLEMENTS ACT 1986*

**Veterans' Entitlements Income Exempt Lump Sum  
Determination No. 1 of 2000**

I, ROBERT J HAY, Branch Head, Income Support and a delegate of the Repatriation Commission, Department of Veterans' Affairs, make this determination, under paragraph **5H(12)(c)** of the *Veterans' Entitlements Act 1986*.

Dated this 11<sup>th</sup> day of February 2000.

R J HAY  
Branch Head  
Income Support

## Part 1 Preliminary

### 1.1 NAME OF DETERMINATION

This determination is the Veterans' Entitlements Income Exempt Lump Sum Determination No.1 of 2000.

### 1.2 COMMENCEMENT

This determination commences on the day on which it is signed.

### 1.3 DEFINITIONS

In this determination:

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

**Aged Care** is defined in Schedule 1 Dictionary of the *Aged Care Act 1997*.

**Pensioner couple** means a member of a couple where at least one of the members is receiving a veterans' entitlements service pension or income support supplement.

**ATSIC** means the Aboriginal and Torres Strait Islander Commission.

**Charge exempt resident** has the meaning set out in section 44-8B of the *Aged Care Act 1997*.

**CJD** means Creutzfeldt-Jakob disease.

**Crisis payment** has the meaning contained in Part 1, Regulation 3, Definitions of the *Veterans' Entitlements (Special Assistance) Regulations 1999*.

**Exempt bond** amount has the meaning contained in clause 16, Part 2 of Schedule 5 of the *Veterans' Entitlements Act 1986*.

**HEC agreement** means a home equity conversion agreement as defined under subsection 5H(1) of the *Veterans' Entitlements Act 1986*.

**Holocaust survivor** means a person who:

- (a) has lived under the Nazi regime, Nazi occupation, or Nazi collaborative regime; and

### 1.3 Definitions continued

(b) is an Australian citizen or an Australian resident; and

(c) is in receipt of an income support payment or pension from the Australian Government.

**Income support payment** has the same meaning as under the *Social Security Act 1991*.

**Life office** means a life insurance business within the meaning of the *Life Insurance Act 1995*.

**Member of a couple** has the same meaning as in subsections 5E(2), (3) and (4) of the *Veterans' Entitlements Act 1986*.

**Pension** has the same meaning as under the *Veterans' Entitlements Act 1986*.

**Pensioner couple** means a member of a couple where at least one of the members is receiving a service pension or income support supplement payable under the *Veterans' Entitlements Act 1986*.

**Refunded amount** refers to refund of accommodation charge to a charge exempt residents of aged care. Clause 17B of Part 2, Schedule 5 of the *Veterans' Entitlements Act 1986* refers.

**Superannuation fund** has the same meaning as under the *Superannuation Industry (Supervision) Act 1993*.

## **Part 2 Exempt Lump Sums**

### **2.1 AMOUNT OR CLASS OF AMOUNTS**

Paragraph 5H(12)(c) of the Act provides that an amount or class of amounts, received by a person is an **exempt lump sum** if the amount, or class of amounts that the Commission determines to be an exempt lump sum. Set out below are payments to be regarded as exempt lump sums under paragraph 5H(12)(c):

- (1) Section 52A of the *Farm Household Support Act 1992* provides for the **Restart re-establishment grant scheme** and for payment of a grant known as a **re-establishment grant**. This grant is an exempt lump sum.
- (2) The World Jewish Restitution Organisation through the Executive Council of Australian Jewry will disburse one-off payments to needy Holocaust survivors from a Humanitarian Fund established by Swiss banks. This grant is an exempt lump sum.

- (3) If:
  - (a) a person has an annuity contract or contracts with a life office or a superannuation fund that was current at 20 September 1998; and
  - (b) that person was in receipt of an income support payment at 19 September 1998; and
  - (c) the annuity contract or contracts were converted to an asset test exempt product or products between 20 September 1998 and 31 July 1999 (inclusive);

then any amount paid by the life office or a superannuation fund to the person is the minimum amount payable consistent with the need to convert the person's existing annuity contract or contracts to an asset test exempt product or products, to the person by a life office or a superannuation fund is an exempt lump sum provided:

- (d) that the amount paid by the life office or a superannuation fund to the person is the minimum amount payable consistent with the need to convert the person's existing annuity contract or contracts to an asset test exempt product or products.
- (4a) **Home Equity Conversion (HEC) agreement *Not a member of a couple***

If a person is not a member of a couple, an amount in excess of \$40,000 that is paid to or on behalf of the person under a HEC agreement is an excluded amount or a class of excluded amounts.

**Amount or class of amount** continued

(4b) *Home Equity Conversion (HEC) agreement* **Member of a couple**

If a person is a member of a couple, an amount in excess of \$40,000 that is paid to or on behalf of the person or the person's partner under a HEC agreement is an excluded amount or a class of excluded amounts.

(5a) *Treatment under the Australian Human Pituitary Hormone Program*

If:

- (a) a person received treatment under the Australian Human Pituitary Hormone Program during the period 1967 to 1985; and
- (b) that person has received an ex-gratia payment from the Commonwealth Department of Health and Aged Care because they have demonstrated that they have suffered a recognised psychiatric illness as a result of being informed that they are at an increased risk of contracting CJD;

then any amount paid as a lump sum by the Commonwealth Department of Health and Aged Care to that person is an exempt lump sum.

(5b) *Children of four female recipients of treatment under the Australian Human Pituitary Hormone Program*

If:

- (a) a person is a child of a woman mentioned in paragraph (4); and
- (b) the woman received treatment under the Australian Human Pituitary Hormone Program during the period 1967 to 1985; and
- (c) the woman has died as a result of contracting CJD; and
- (d) that person has received an ex-gratia payment from the Commonwealth Department of Health and Aged Care because they have demonstrated that they have suffered a recognised psychiatric illness as a result of that person's mother dying from CJD;

then any amount paid as a lump sum by the Commonwealth Department of Health and Aged Care to that person, is an exempt lump sum.

**Amount or class of amount** continued

A reference to a woman in paragraph (5b) is either:

- Jane Allender; or
- Jan Blight; or
- Vonda Cummings; or
- Jenny Halford

(6a) If a person is or was an **aged care** resident and the person receives a refund of accommodation bond defined as an **exempt bond amount**, that amount is an exempt lump sum.

(6b) If a person is or was an **aged care** resident and the person is a **charge exempt resident** a refund of accommodation charges (the **refunded amount**) is an exempt lump sum.

(7) *ATSIC Indigenous Business Incentive Programme Grants*

7a *Grants paid before 1 July 1998*

**If:**

- (a) a person has received an Indigenous Business Incentive Programme Grant paid by ATSIC; and
- (b) the grant was paid before 1 July 1998;

then, subject to subclause 2.2(g) and clause 3, any amount paid, as a lump sum by ATSIC to that person, is an exempt lump sum.

7b *Grants paid on or after 1 July 1998 but before 1 July 1999*

**If:**

- (a) a person has received an Indigenous Business Incentive Programme Grant paid by ATSIC;
- (b) the grant was paid on or after 1 July 1998 and before 1 July 1999;

then, subject to subclause 2.2(g) and clause 3, any amount paid, as a lump sum by ATSIC to that person, is an exempt lump sum.

**Amount or class of amount** continued

**7c**     *Grants paid on or after 1 July 1999*

**If:**

- (a) a person has received an indigenous Business Incentive Programme Grant paid by ATSIC; and
- (b) the grant was paid on or after 1 July 1999;

then, subject to subclause 2.2(g) and clause 3, any amount paid as a lump sum by ATSIC to that person, is an exempt lump sum.

**(8)**     *Second compensatory payment to a pensioner couple made under the Awards Wages Process for Indigenous Queenslanders*

**If:**

- (a) a person who is a member of a pensioner couple receive, or has received, a compensatory payment (known in this section as the **second payment**) made by the Queensland Department of Aboriginal and Torres Strait Islander Policy and Development through the Foundation for Aboriginal and Islander Research Action; and
- (b) the payment is made, or has been made, under the *Awards Wages Process for Indigenous Queenslanders* to the person; and
- (c) a payment (known in this section as the **first payment**) has previously been made to another person who is the other member of the pensioner couple mentioned in paragraph (a);

then, subject to subclause 2.2(h):

- (d) the second payment is an exempt lump sum; and
- (e) the first payment is not an exempt lump sum.

**(9)**     *“One-off”, crisis payments granted under the Veterans' Entitlements (Special Assistance) Regulations 1999.*

**Amount or class of amount** continued

- (10) *A payment for certain medical related expenses.*

A payment (other than a periodical payment or a payment representing an accumulation of instalments) made for or in respect of expenses incurred by a person for hospital, medical, dental or similar treatment is an exempt lump sum. This lump sum exemption provides an equivalent exemption to those defined in paragraph 8(8)(v) of the *Social Security Act 1991*.



## **2.2            APPLICATION-EXEMPT LUMP SUMS**

It is appropriate to determine that an amount or class of amounts, is an exempt lump sum for the purposes of paragraph 5H(12)(c) of the Act, paid to:

- (a) a person, and known as a Farm Family Restart Scheme **re-establishment grant** from 1 July 1998;
- (b) A Holocaust survivor, at any time after the commencement of this determination, from the Humanitarian Fund and disbursed to the Holocaust survivor by the Executive Council of Australian Jewry from the date that the amount is paid.
- (c) A person paid an amount by a life office or a superannuation fund in accordance with the requirements of paragraph 2.1(3) above.
- (d) An excluded amount, or class of excluded amounts, as specified in paragraphs 2.1(4a) and (4b), paid to a person or the person's partner, as the case may be, under a HEC agreement.
- (e) An amount paid to person by the Commonwealth Department of Health and Aged Care in accordance with the requirements of paragraphs 2.1(5a) and (5b).
- (f) A refunded amount paid to a person by the Commonwealth Department of Health and Aged Care in accordance with paragraphs 2.1(6a) and (6B).
- (g) Unless Part 3 below is applicable, a grant paid under the ATSIC Indigenous Business Programme Grant as outlined in 2.1(7) above, it is appropriate to determine that an amount or class of amounts, paid to a person, prior to, on or after, 1 July 1998, and known as an Indigenous Business Incentive Programme Grant paid by ATSIC is an exempt lump sum for the purposes of paragraph 5H(12)(c) of the Act.
- (h) It is appropriate to determine that an amount, or class of amounts paid, to a person who is a member of a pensioner couple, under the *Awards Wages Process for Indigenous Queenslanders* is an exempt lump sum for the purposes of paragraph 5H(12)(c) of the act.
- (i) A crisis payment granted under the *Veterans' Entitlements (Special Assistance) Regulations 1999*. (2.1(9) refers.)

**Application-Exempt Lump Sums** continued

- (j) A lump sum payment for medical related payments referred to in 2.1(10) above that provides a similar exemption to that defined in paragraph 8(8)(v) of the *Social Security Act 1991*.

### **Part 3      Circumstances where 5H(12)(c) is not applicable**

It is not appropriate to determine that an amount or class of amounts, is an exempt lump sum for the purposes of paragraph 5H(12)(c) of the Act in the following circumstances.

- (1)            *Wages or other monies withdrawn from an Indigenous Business Incentive Programme Grant from ATSIC.*

**If:**

- (a)    a person (in this section known as the ***grant recipient***) has received an indigenous Business Incentive Programme Grant from ATSIC; and
- (b)    the grant recipient is paid wages, or any other monies that are withdrawn from the Indigenous Business Incentive Programme Grant; and
- (c)    the wages, or any other monies that are withdrawn from the Indigenous Business Incentive Programme Grant are for the personal use or benefit of the grant recipient;

then, the wages, or any other monies that are withdrawn, are not exempt from the income test.