



## Social Security (Actuarial Certificate—Lifetime Income Stream Guidelines) Determination 2012

*Social Security Act 1991*

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I, Alanna Foster, Branch Manager, Seniors and Means Test Branch, Department of Families, Housing, Community Services and Indigenous Affairs and a delegate of the Secretary of the Department of Families, Housing, Community Services and Indigenous Affairs, make the following determination under subsection 9A(1B), paragraph 9A(1)(b) and subsection 9A(6) of the *Social Security Act 1991*.

Dated

14 December

2012

Alanna Foster, Branch Manager, Seniors and Means Test Branch, Department of Families, Housing, Community Services and Indigenous Affairs

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# Part 1 Preliminary

## 1.1 Name of Determination

This determination is the *Social Security (Actuarial Certificate—Lifetime Income Stream Guidelines) Determination 2012*.

## 1.2 Commencement and application

- (1) This determination commences on the day after it is registered.
- (2) This determination applies to actuarial certificates given on or after the day the determination is registered.

## 1.3 Revocation of previous instrument

The *Social Security (Actuarial Certificate—Lifetime Income Stream Guidelines) Determination 2003* is revoked.

## 1.4 Interpretation

In this determination:

**Act** means the *Social Security Act 1991*.

**annuity backed self managed superannuation fund** means a self managed superannuation fund with a lifetime income stream where that income stream is fully backed by an annuity that is sourced from a life insurance company.

**annuity backed small APRA fund** means a small APRA fund with a lifetime income stream where that income stream is fully backed by an annuity that is sourced from a life insurance company.

**Department of Human Services** means the Commonwealth Department of Human Services.

**high degree of probability** means:

- (a) a certification by an actuary that the fund has a probability of at least 70 per cent of being able to pay the pension as required under the fund's governing rules; or
- (b) a certification by an actuary that the fund has a probability of at least 50 per cent but less than 70 per cent of being able to pay the pension as required under the fund's governing rules but special circumstances arise that, in the actuary's opinion, if those circumstances had not arisen the fund would, as at the valuation date, have been able to be certified as having a high degree of probability.

**life insurance company** has the same meaning as in subsection 10(1) of the *Superannuation Industry (Supervision) Act 1993*.

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

## **1.5 Purpose**

The purpose of this determination is to specify a class of provider of income streams who must provide an actuarial certificate and to set out the guidelines to be complied with when determining, under paragraph 9A(1)(b) of the Act, whether an actuarial certificate is in force in relation to an income stream. This determination also sets out what constitutes a high probability or positive opinion that the provider of the income stream will be able to pay the income stream as required under the contract or governing rules in order for that income stream to be an asset-test exempt income stream. This determination also sets out guidelines, under subsection 9A(6) of the Act, to be complied with by the Secretary in making a determination that an income stream is an asset-test exempt income stream for the purposes of the Act under subsection 9A(5).

## **1.6 Class of provider—self managed superannuation fund**

For paragraph 9A(1)(b) of the Act, a provider of an income stream from a self managed superannuation fund, other than an annuity backed self managed superannuation fund, is a specified class of provider.

## **1.7 Class of provider—small APRA fund**

For paragraph 9A(1)(b) of the Act, a provider of an income stream from a small APRA fund, other than an annuity backed small APRA fund, is a specified class of provider.

# **Part 2 Guidelines**

## **2.1 Asset-test exempt lifetime income stream—self managed superannuation fund**

### *Provision of an actuarial certificate*

- (1) Subject to subsection (2), if the provider of an income stream is included in the class of provider specified in section 1.6 then a member or the trustee of the fund must provide an actuarial certificate to the Department of Human Services.

### *General requirements of the actuarial certificate*

- (2) The actuarial certificate required to be provided to the Department of Human Services by the person or the trustee of the fund under subsection (1) must:

- (a) be prepared in accordance with the Institute of Actuaries of Australia Guidance Note 465;
- (b) be certified no later than 26 weeks after the start of the financial year to which it applies and be provided to the Department of Human Services no later than 3 weeks after the end of that 26 week period;
- (c) specify whether there is a high degree of probability, at the valuation date, of the fund meeting the income stream payments specified under the fund's trust deed or governing rules; and
- (d) specify an in force period from 1 July to 30 June of the financial year in which certification occurs.

## **2.2 Asset-test exempt lifetime income stream—small APRA fund**

### *Provision of an actuarial certificate*

- (1) Subject to subsection (2), if the provider of an income stream is included in the class of provider specified in section 1.7 then a member or the trustee of the fund must provide an actuarial certificate to the Department of Human Services.

### *General requirements of the actuarial certificate*

- (2) The actuarial certificate required to be provided to the Department of Human Services by the person or the trustee of the fund under subsection (1) must:
  - (a) be prepared in accordance with the Institute of Actuaries of Australia Guidance Note 465;
  - (b) be certified no later than 26 weeks after the start of the financial year to which it applies and be provided to the Department of Human Services no later than 3 weeks after the end of that 26 week period;
  - (c) specify whether there is a high degree of probability, at the valuation date, of the fund meeting the income stream payments specified under the fund's trust deed or governing rules; and
  - (d) specify an in force period from 1 July to 30 June of the financial year in which certification occurs.

## **2.3 Application of paragraph 9A(1)(b) of the Social Security Act 1991 following certification of a high degree of probability**

- (1) If the actuarial certificate provided to the Department of Human Services by the person or the trustee of the fund under subsection 2.1(1) or subsection 2.2(1) does certify that for the financial year in which the certificate is given, there is a high degree of probability that the fund will be able to pay the pension as required under the fund's governing rules then paragraph 9A(1)(b) of the Act is satisfied.

*Actuarial certificate certified or provided late*

- (2) Despite subsection 2.3(1), if an actuarial certificate in relation to a financial year is not:
- (a) certified under subsection 2.1(1) or subsection 2.2(1) within 26 weeks beginning on 1 July of that financial year, or
  - (b) provided to the Department of Human Services by the person or the trustee of the fund under subsection 2.1(1) or subsection 2.2(1) within 29 weeks beginning on 1 July of that financial year,

then paragraph 9A(1)(b) of the Act is considered to be not satisfied and the income stream is to be determined to be an asset-tested income stream (long term).

**2.4 Application of paragraph 9A(1)(b) of the *Social Security Act 1991* following non-certification of a high degree of probability**

*Actuarial certificate provided does not certify high probability*

If the actuarial certificate provided to the Department of Human Services by the person or the trustee of the fund under subsection 2.1(1) or subsection 2.2(1) does not certify that for the financial year in which the certificate is given, there is a high degree of probability that the fund will be able to pay the pension as required under the fund's governing rules then paragraph 9A(1)(b) of the Act is considered to be not satisfied and the income stream is to be determined to be an asset-tested income stream (long term).