



Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 2015

Instrument 2015 No. R9

The REPATRIATION COMMISSION makes this determination under subsection 5JA(6) of the *Veterans' Entitlements Act 1986*.

Dated this 6th day of August 2015

The Seal of the
Repatriation Commission
was affixed hereto in the
presence of:

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)
) SEAL
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Simon Lewis

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SIMON LEWIS

PRESIDENT

Craig Orme

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CRAIG ORME
AM CSC.....
DEPUTY PRESIDENT

Part 1: Preliminary

1.1 Name of determination

This determination is the *Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 2015*.

1.2 Commencement

This determination commences on the day after it is registered.

1.3 Revocation

The *Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 1998* (Instrument 1998 No.10) is revoked.

1.4 Purpose

The purpose of this determination is to set out the guidelines for the exercise of the Repatriation Commission's discretion, under subsection 5JA(5) of the *VEA*, to determine that a defined benefit income stream that does not meet the requirements of subsection 5JA(2) of the *VEA* is an asset-test exempt income stream for the purposes of the *VEA*.

1.5 Definitions

In this determination:

lifetime income stream, in relation to a person, means an income stream in which payments are made, at least annually, throughout the life of the person and, if there is a reversionary beneficiary, throughout the life of the reversionary beneficiary.

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

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

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

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

superannuation pension means a pension payable from a *superannuation fund*.

VEA means the *Veterans' Entitlements Act 1986*.

Note The following expressions used in this determination are defined in the *VEA* (see s.5A, 5J(1), 5JA and 5J(1)(1E)):

- asset-test exempt income stream
- defined benefit income stream.
- commencement day
- Commission
- income stream

Part 2: Guidelines

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

- (1) In making a determination under subsection 5JA(5) of the *VEA* 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 mentioned in (1):
 - (a) must be a *lifetime income stream* that is a *defined benefit income stream*; and
 - (b) must be paid from a *public sector fund* or a *public sector superannuation scheme* that was established before 20 September 1998; and
 - (c) regardless of its *commencement day*, would have been treated as a *superannuation pension* and had its value disregarded in calculating the person's assets under section 52 of the *VEA* as in force immediately 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 *VEA* in relation to an income stream arising under a *private sector fund*, the *Commission* must have regard to this section.
- (2) The income stream mentioned in (1) :
 - (a) must be a *lifetime income stream* that is a *defined benefit income stream*; and
 - (b) must be paid from a *private sector fund* that was established before 20 September 1998; and
 - (c) regardless of its *commencement day*, would have been treated as a *superannuation pension* and had its value disregarded in calculating the person's assets under section 52 of the *VEA* as in force immediately before 20 September 1998.
- (3) The *private sector fund* mentioned in (2)(b) must have a direct connection with the previous employment of the recipient of the *lifetime income stream* or, in the case of a reversionary beneficiary, the person who would be the recipient had they not died.
- (4) For subsection (3), a *private sector fund* has a direct connection with a person's previous employment if the *lifetime income stream* from the *private sector fund* became payable to, or in respect of, the person because of that employment.