



Veterans' Entitlements (Modification of Income Deprivation Rules) Principles 2025

The Repatriation Commission makes the following instrument.

Dated 19 February 2025

The Seal of the
Repatriation Commission
was affixed to this instrument
in the presence of:

Alison Frame

President

Gwen Cherne

Commissioner

Mark Brewer
AM CSC and Bar
Deputy President

Kahlil Fegan
DSC AM
Commissioner

Part 1 Preliminary

1 Name

This instrument is the *Veterans' Entitlements (Modification of Income Deprivation Rules) Principles 2025*.

2 Commencement

This instrument commences on the day after the day it is registered.

3 Authority

This instrument is made under paragraphs 52ZZZQ(h) and (i) of the *Veterans' Entitlements Act 1986*.

3A Repeal

Schedule 6 to the *Veterans' Affairs (Legislative Instrument Re-making Exercise) Instrument 2014* is repealed.

4 Definitions

Note: A number of expressions used in this instrument are defined in the Act, including the following:

Commission

member of a couple

In this instrument:

Act means the *Veterans' Entitlements Act 1986*.

Part 2 Disposal of ordinary income (on or after 1 January 2002) by individual

5 Purpose of Part 2

This Part sets out decision-making principles with which the Commission must comply in making a determination for subsection 52ZZZB(1) of the Act.

6 Definitions

In this Part:

individual means an individual who transfers property to a company or trust in accordance with subsection 52ZZZB(1) of the Act.

7 Transferor as sole attributable stakeholder

- (1) This section applies to an individual who is not a member of a couple.
- (2) The Commission must take into account whether the individual was the only attributable stakeholder of the company or trust, either before or after the transfer.

8 Transferor as member of couple

- (1) This section applies to an individual who is a member of a couple.
- (2) The Commission must take into account whether:
 - (a) the individual was the only attributable stakeholder of the company or trust, either before or after the transfer; or
 - (b) both members of the couple were the only attributable stakeholders of the company or trust, either before or after the transfer.

9 Transfer to company or trust with 2 or more attributable stakeholders

- (1) This section applies if, in relation to a transfer of property to a company or trust:
 - (a) the transfer is made by an attributable stakeholder of the company or trust; and
 - (b) before the transfer, there were 2 or more attributable stakeholders of the company or trust.
- (2) This section also applies if, in relation to a transfer of property to a company or trust:
 - (a) the transfer is made by an attributable stakeholder of the company or trust; and
 - (b) after the transfer, there were 2 or more attributable stakeholders of the company or trust.
- (3) The Commission must take into account the income attribution percentage of each attributable stakeholder of the recipient company or recipient trust, before and after the transfer of the property.

10 Transfer to company or trust by individual who becomes attributable stakeholder

- (1) This section applies if, in relation to a transfer of property to a company or a trust:
 - (a) the transfer is made by an individual who is not an attributable stakeholder of the company or trust; and
 - (b) as a result of the transfer, the individual is an attributable stakeholder.

- (2) The Commission must take into account the income attribution percentage of each attributable stakeholder of the company or trust, before and after the transfer of the property.

Part 3 Disposal of ordinary income (on or after 1 January 2002) by company or trust

11 Purpose of Part 3

This Part sets out decision-making principles with which the Commission must comply in making a determination for subsection 52ZZZC(3) of the Act.

12 Disposal to attributable stakeholder

The Commission must take into account whether, in relation to a transfer of ordinary income of a company or trust in accordance with subsection 52ZZZC(1) of the Act, the transfer is to an individual who is an attributable stakeholder of the company or trust.

Part 4 Disposal of ordinary income (before 1 January 2002) by attributable stakeholder

13 Purpose of Part 4

This Part sets out decision-making principles with which the Commission must comply in making a determination for subsection 52ZZZD(1) of the Act.

14 Definitions

In this Part:

individual means an individual who transfers property to a company or trust in accordance with subsection 52ZZZD(1) of the Act.

15 Application of Division 7 of Part IIIB of Act where value of property same or greater

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) on 1 January 2002, the property is owned or controlled by the company or trust; and
 - (c) on 1 January 2002, the value of the property is the same as, or greater than, it was at the time of its transfer.
- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

16 Application of Division 7 of Part IIIB of Act where value of property decreased after transfer

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) on 1 January 2002, the property is owned or controlled by the company or trust; and
 - (c) on 1 January 2002, the value of the property is less than it was at the time of its transfer; and
 - (d) the decrease in the value of the property is not attributable to any conduct that the Commission reasonably believes was intended to avoid the operation, or minimise the effect, of Division 11A of Part IIIB of the Act.
- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

17 Application of Division 7 of Part IIIB of Act where company or trust retains value of transferred property

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) before 1 January 2002, the company or trust transferred the property to another individual or other entity in consideration of an arm's length amount; and
 - (c) the company or trust retained the amount or value of the consideration.

- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

18 Transfer by member of couple

- (a) This section applies if:
 - (a) an individual, who is a member of a couple, transfers property to a company or trust before 1 January 2002; and
 - (b) as a result of the transfer:
 - (i) the individual is the only attributable stakeholder, on 1 January 2002, of the company or trust; or
 - (ii) both members of the couple are the only attributable stakeholders, on 1 January 2002, of the company or trust.
- (b) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

Part 5 Disposal of ordinary income (before 1 January 2002) by individual whose spouse is attributable stakeholder

19 Purpose of Part 5

This Part sets out decision-making principles with which the Commission must comply in making a determination for subsection 52ZZZE(1) of the Act.

20 Definitions

In this Part:

individual means an individual who transfers property to a company or trust in accordance with subsection 52ZZZE(1) of the Act.

21 Application of Division 7 of Part IIIB of Act where value of property same or greater

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) on 1 January 2002, the property is owned or controlled by the company or trust; and
 - (c) on 1 January 2002, the value of the property is the same as, or greater than, it was at the time of its transfer.
- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

22 Application of Division 7 of Part IIIB of Act where value of property decreased after disposal

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) on 1 January 2002, the property is owned or controlled by the company or trust; and
 - (c) on 1 January 2002, the value of the property is less than it was at the time of its transfer; and
 - (d) the decrease in the value of the property is not attributable to any conduct that the Commission reasonably believes was intended to avoid the operation, or minimise the effect, of Division 11A of Part IIIB of the Act.
- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.

23 Application of Division 7 of Part IIIB of Act where company or trust retains value of transferred property

- (1) This section applies if:
 - (a) property is transferred by an individual to a company or trust; and
 - (b) before 1 January 2002, the company or trust transferred the property to another individual or other entity in consideration of an arm's length amount; and
 - (c) the company or trust retained the amount or value of the consideration.

- (2) The Commission must consider whether, in all the circumstances, the application of Division 7 of Part IIIB of the Act would be unfair or unreasonable in relation to the individual.