EXPLANATORY STATEMENT

Veterans’ Entitlements (Asset-test Exempt Income Stream—Lifetime Income Stream Guidelines) Determination 2025

EMPOWERING PROVISION

The Repatriation Commission makes this instrument under subsection 5JA(6) of the *Veterans’ Entitlements Act 1986*(the ***Act***)*.*

PURPOSE

This instrument repeals the *Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 2015* andremakes it before it would otherwise sunset on 1 October 2025*.*

OVERVIEW

This instrument determines guidelines to be complied with when deciding, under subsection 5JA(5) of the Act, that an income stream is an ***asset-test exempt income stream***. Under paragraph 52(1)(d) of the Act, an asset-test exempt income stream is exempt from the asset-test in the Act.

EXPLANATION OF PROVISIONS

**Section 1** states the name of the Instrument.

**Section 2** provides that the Instrument commences on the day after it is registered.

**Section 3** sets out the authority for the Repatriation Commission making the Instrument, namely subsection 5JA(6) of the Act.

**Section 4** repeals the*Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 2015* (Instrument 2015 No. R9) (the ***repealed instrument***).

**Section 5** sets out definitions.

**Section 6** determines guidelines for deciding whether a lifetime income stream from a public sector fund or public sector superannuation scheme is asset-test exempt.

The Commission may determine that an income stream from a public sector fund or public superannuation scheme is an asset-test exempt income stream if the income stream:

(a) is a lifetime income stream; and

(b) is a defined benefit income stream; and

(c) is paid from a fund or a scheme that was established before 20 September 1998; and

(d) was a superannuation pension, regardless of its commencement day:

(i) under the 1998 Act; and

(ii) the value of which was disregarded in calculating the beneficiary’s assets under section 52 of the 1998 Act.

**Section 7** determines guidelines for deciding whether a lifetime income stream from a private sector fund is asset-test exempt.

The Commission may determine that an income stream arising from a private sector fund is an asset-test exempt income stream if the income stream:

(a) is a lifetime income stream; and

(b) is a defined benefit income stream; and

(c) is paid from a fund that was established before 20 September 1998; and

(d) was a superannuation pension, regardless of its commencement day:

(i) under the 1998 Act; and

(ii) the value of which was disregarded in calculating the beneficiary’s assets under section 52 of the 1998 Act; and

(e) became payable to the primary beneficiary or a reversionary beneficiary because of the primary beneficiary’s previous employment.

Consultation

The Department of Social Services (DSS) administers the equivalent instrument under the *Social Security Act 1991* – the *Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) (Social Security) Determination 2015*. The Department of Veterans’ Affairs has consulted with DSS to ensure consistency.

In remaking the instrument, no policy changes have been made to the asset-test exemption of certain income streams compared with the repealed instrument. Consequently, there has been no broader external consultation.

Human rights implications

This instrument is compatible with the human rights and freedoms recognised or declared under section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in **Attachment A.**

Making the instrument

The instrument is made by the Repatriation Commission.

**Approved by**

Repatriation Commission

Rule-maker

Attachment A

Statement of Compatibility with Human Rights

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

***Veterans’ Entitlements (Asset-test Exempt Income Stream—Lifetime Income Stream Guidelines) Determination 2025***

This Disallowable Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (the ***recognised rights***).

**Overview of the Disallowable Legislative Instrument**

This instrument repeals the *Asset-test Exempt Income Stream (Lifetime Income Stream Guidelines) Determination 2015* andremakes it before it would otherwise sunset on 1 October 2025*.*

This instrument determines guidelines to be complied with when deciding, under subsection 5JA(5) of the Act, that an income stream is an ***asset-test exempt income stream***. Under paragraph 52(1)(d) of the Act, an asset-test exempt income stream is exempt from the asset-test in the Act.

Human rights implications

This legislative instrument promotes the right to social security in article 9 of the International Covenant on Economic Social and Cultural Rights by enabling certain superannuation income streams to be exempt from the pension means-test under the Act.

**Conclusion**

This legislative instrument is compatible with the right to social security.

Repatriation Commission

Rule-Maker