



## **Social Security Legislation Amendment (2019 Measures No. 1) Determination 2019**

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I, Emma Kate McGuirk, Delegate of the Secretary of the Department of Social Services, make the following Determination.

Dated 6 December 2019

Emma Kate McGuirk  
Delegate of the Secretary of the Department of Social Services

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## 1 Name

This instrument is the *Social Security Legislation Amendment (2019 Measures No. 1) Determination 2019*.

## 2 Commencement

- (1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this instrument	The day after this instrument is registered.	

Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

- (2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under subsections 9A(6) and 9B(5), and subparagraphs 1118(1A)(a)(iii) and 1118(1A)(b)(ii) of the *Social Security Act 1991*.

## 4 Schedules

The instruments that are specified in a Schedule to this instrument are amended or repealed as set out in the applicable items of the Schedule, and any other item in a Schedule to this instrument has effect according to its terms.

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# Schedule 1—Amendments to the Social Security (Retention of exemption for asset-test exempt income streams) (FaHCSIA) Principles 2011

## 1 Title to the instrument

Omit “(FaHCSIA)”, substitute “(DSS)”

## 2 Section 1.1

Omit “(FaHCSIA)”, substitute “(DSS)”

## 3 Subsection 1.4

After the definition of ‘statutory fund’, insert:

*sub-fund* has the meaning given by section 69A of the *Superannuation Industry (Supervision) Act 1993*

## 4 After section 2.10

Insert:

### 2.11 Commutation of asset-test exempt income stream resulting from the closure of a regulated superannuation fund or sub fund

These Principles cover an asset-test exempt income stream if:

- (a) it is covered by section 9A or 9B of the Act; and
- (b) it is purchased or acquired on or after 20 September 2004; and
- (c) it results from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a regulated superannuation fund or sub-fund; and
- (d) it does not result from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a self managed superannuation fund; and
- (e) the original income stream was:
  - (i) covered by section 9A or 9B of the Act; and
  - (ii) sourced from a regulated superannuation fund; and
- (f) the original income stream:
  - (i) was covered by the 2005 Principles during the period starting on 20 September 2004 and ending at the end of 19 September 2007; or
  - (ii) until the commencement of these Principles, was covered by the 2007 Principles; or
  - (iii) was covered by these Principles.

## 5 After section 3.11

Insert:

### 3.12 Commutation of partially asset-test exempt income stream resulting from the closure of a regulated superannuation fund or sub fund

These Principles cover a partially asset-test exempt income stream if:

- (a) it is purchased or acquired on or after 20 September 2007; and

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- (b) it results from another partially asset-test exempt income stream (the ***original income stream***) being commuted as a result of the closure of a regulated superannuation fund or sub-fund; and
  - (c) it does not result from another asset-test exempt income stream (the ***original income stream***) being commuted as a result of the closure of a self managed superannuation fund; and
  - (d) the original income stream was:
    - (i) covered by section 9A, 9B, or 9BA of the Act or would have been covered by those sections if paragraph 9A(1)(aa), subparagraph 9B(1)(a)(i) or subparagraph 9BA(1)(a)(i) of the Act did not apply; and
    - (ii) sourced from a regulated superannuation fund; and
    - (iii) covered by the 2007 Principles or these Principles.

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## Schedule 2—Amendments to the Social Security (Guidelines for determining whether income stream is asset-test exempt) (FaHCSIA) Determination 2011

### 1 Title to the instrument

Omit “(FaHCSIA)”, substitute “(DSS)”

### 2 Section 1

Omit “(FaHCSIA)”, substitute “(DSS)”

### 3 Section 4

After the definition of ‘statutory fund’, insert:

*sub-fund* has the meaning given by section 69A of the *Superannuation Industry (Supervision) Act 1993*

### 4 After section 18

Insert:

## 19 Guidelines for asset-test exempt income stream resulting from the closure of a regulated superannuation fund or sub fund

The Secretary may determine that an income stream is an asset-test exempt income stream for the purposes of the Act if:

- (a) it is covered by section 9A or 9B of the Act or would have been covered by those sections if paragraph 9A(1)(aa) or subparagraph 9B(1)(a)(i) of the Act did not apply; and
- (b) it is purchased on or after 20 September 2007; and
- (c) it results from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a regulated superannuation fund or sub-fund; and
- (d) it does not result from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a self managed superannuation fund; and
- (e) the original income stream was covered by section 9A or 9B of the Act or would have been covered by those sections if paragraph 9A(1)(aa) or subparagraph 9B(1)(a)(i) of the Act did not apply; and
- (f) the original income stream:
  - (i) was purchased before 20 September 2004; or
  - (ii) was covered by the 2005 Principles during the period starting on 20 September 2004 and ending at the end of 19 September 2007; or
  - (iii) was, until the commencement of this Determination, covered by the 2007 Determination; or
  - (iv) is covered by this Determination.



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## Schedule 3—Amendments to the Social Security (Partially Asset-test Exempt Income Stream — Exemption) Principles 2017

### 1 Section 4

After the definition of ‘statutory fund’, insert:

*sub-fund* has the meaning given by section 69A of the *Superannuation Industry (Supervision) Act 1993*

### 2 After section 10

Insert:

### 11 Asset-test exempt income stream resulting from the closure of a regulated superannuation fund or sub fund

These Principles cover an asset-test exempt income stream if:

- (a) the income stream is covered by section 9A or 9B of the Act; and
- (b) the income stream is purchased during the period 20 September 2004 to 19 September 2007 (inclusive); and
- (c) the income stream results from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a regulated superannuation fund or sub-fund; and
- (d) it does not result from another asset-test exempt income stream (the *original income stream*) being commuted as a result of the closure of a self managed superannuation fund; and
- (e) the original income stream was covered by section 9A and 9B of the Act; and
- (f) the original income stream:
  - (i) was purchased before 20 September 2004; or
  - (ii) was covered by these Principles.