



## **Social Security Amendment (Family Law— Western Australia De Facto Superannuation Splitting) Determination 2022**

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I, Andrea Wallace-Green, Acting Branch Manager of the Payment Structures and Seniors Branch in the Department of Social Services, make the following Determination.

Dated 6 October 2022

Andrea Wallace-Green  
Acting Branch Manager, Payment Structures and Seniors Branch  
Delegate of the Secretary of the Department of Social Services

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## 1 Name

This instrument is the *Social Security Amendment (Family Law—Western Australia De Facto Superannuation Splitting) Determination 2022*.

## 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Note: This table relates only to the provisions of this instrument as originally made.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), section 1099DD, paragraphs (a) and (b) of the definition of *partially asset-test exempt income stream* in subsection 1118(1A), and subsection 1120A(5) of the *Social Security Act 1991*.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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## Schedule 1—Amendments

### *Social Security (Family Law Affected Income Streams) Principles 2022*

#### 1 Subsection 4(1)

Omit “(1)”, insert:

***flag lifting agreement*** means a flag lifting agreement under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***member spouse*** means a member spouse under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***non-member spouse*** means a non-member spouse under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***operative time*** means an operative time under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***payment split*** means a payment split under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***reversionary beneficiary*** means a reversionary beneficiary under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***RSA*** means an RSA under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***splittable payment*** means a splittable payment under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***splitting order*** means a splitting order under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***superannuation agreement*** means a superannuation agreement under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***superannuation interest*** means a superannuation interest under Part VIII B or Part VIII C of the *Family Law Act 1975*.

***trustee*** means a trustee under Part VIII B or Part VIII C of the *Family Law Act 1975*.

#### 2 Subsection 4(2)

Repeal the subsection (including the note).

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## **Schedule 2—Amendments**

### ***Social Security (Guidelines for Determining Whether Income Stream is Asset-test Exempt) Determination 2022***

#### **1 Section 4 (definition of *payment split*)**

Repeal the definition.

#### **2 Amendments to listed provisions—inserting reference to Part VIIC**

After “under Part VIIB”, insert “or Part VIIC” in the following provisions:

- (a) paragraph 11(c);
- (b) section 11 (example);
- (c) subparagraphs 17(1)(a)(i) and (ii);
- (d) paragraphs 17(1)(b) and (d);
- (e) paragraph 18(b).

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## Schedule 3—Amendments

### *Social Security (Retention of Exemption for Asset-test Exempt Income Streams) Principles 2022*

#### 1 Section 4 (definition of *payment split*)

Repeal the definition.

#### 2 Amendments to listed provisions—inserting reference to Part VIIC

After “under Part VIIB” (wherever occurring), insert “or Part VIIC” in the following provisions:

- (a) paragraph 10(c);
- (b) section 10 (example);
- (c) subparagraphs 17(1)(a)(i) and (ii);
- (d) subparagraph 17(1)(b)(i);
- (e) paragraphs 17(1)(c) and (e);
- (f) paragraph 22(b);
- (g) section 22 (example);
- (h) subparagraphs 30(1)(a)(i) and (ii);
- (i) paragraphs 30(1)(b) and (d).



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## **Schedule 4—Repeals**

### ***Social Security (Partially Asset-test Exempt Income Stream – Exemption) Principles 2017***

#### **1 The whole of the instrument**

Repeal the instrument.