

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

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Note: This table relates only to the provisions of this instrument as originally made.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 Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

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 VIIIB or Part VIIIC of the *Family Law Act 1975*.

***member spouse*** means a member spouse under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***non-member spouse*** means a non-member spouse under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***operative time*** means an operative time under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***payment split*** means a payment split under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***reversionary beneficiary*** means a reversionary beneficiary under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***RSA*** means an RSA under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***splittable payment*** means a splittable payment under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***splitting order*** means a splitting order under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***superannuation agreement*** means a superannuation agreement under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***superannuation interest*** means a superannuation interest under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

***trustee*** means a trustee under Part VIIIB or Part VIIIC of the *Family Law Act 1975*.

2 Subsection 4(2)

Repeal the subsection (including the note).

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 VIIIC**

After “under Part VIIIB”, insert “or Part VIIIC” in the following provisions:

1. paragraph 11(c);
2. section 11 (example);
3. subparagraphs 17(1)(a)(i) and (ii);
4. paragraphs 17(1)(b) and (d);
5. paragraph 18(b).

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 VIIIC**

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

1. paragraph 10(c);
2. section 10 (example);
3. subparagraphs 17(1)(a)(i) and (ii);
4. subparagraph 17(1)(b)(i);
5. paragraphs 17(1)(c) and (e);
6. paragraph 22(b);
7. section 22 (example);
8. subparagraphs 30(1)(a)(i) and (ii);
9. paragraphs 30(1)(b) and (d).

Schedule 4—Repeals

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

1 The whole of the instrument

Repeal the instrument.