



Treasury Laws Amendment (Allowing Commutation of Certain Income Streams) Regulations 2022

I, General the Honourable David Hurley AC DSC (Retd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulations.

Dated 31 March 2022

David Hurley
Governor-General

By His Excellency's Command

Jane Hume
Minister for Superannuation, Financial Services and the Digital Economy

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1 Name

This instrument is the *Treasury Laws Amendment (Allowing Commutation of Certain Income Streams) Regulations 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.	5 April 2022

Note: This table relates only to the provisions of this instrument as originally made.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 the following:

- (a) the *Income Tax Assessment Act 1997*;
- (b) the *Retirement Savings Accounts Act 1997*;
- (c) the *Superannuation Industry (Supervision) Act 1993*.

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Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.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

Income Tax Assessment (1997 Act) Regulations 2021

1 At the end of Subdivision 294-B

Add:

294-25.02 Credit in transfer balance account—commutation of certain capped defined benefit income streams

- (1) For the purposes of item 5 of the table in subsection 294-25(1) of the Act, a transfer balance credit arises under this section in your transfer balance account if:
- you receive a superannuation lump sum because a capped defined benefit income stream (the *commuted stream*) covered by any of items 1 to 7 of the table in subsection 294-130(1) of the Act is commuted, in full or in part, on or after 1 July 2017; and
 - the superannuation lump sum is transferred directly to the purchase of a superannuation income stream (the *commenced stream*) that is covered by an item of the following table and is in the retirement phase.

Covered superannuation income stream		
Item	Topic	A superannuation income stream is covered if:
1	Life expectancy pension	it is a pension for the purposes of the SIS Act that is provided under rules that meet the standards of subregulation 1.06(7) of the SIS Regulations
2	Life expectancy annuity	it is an annuity for the purposes of the SIS Act that is provided under a contract that meets the standards of subregulation 1.05(9) of the SIS Regulations
3	Market linked pension	it is a pension for the purposes of the SIS Act that is provided under rules that meet the standards of subregulation 1.06(8) of the SIS Regulations
4	Market linked annuity	it is an annuity for the purposes of the SIS Act that is provided under a contract that meets the standards of subregulation 1.05(10) of the SIS Regulations
5	Market linked pension (RSA)	it is a pension for the purposes of the RSA Act that is provided under terms and conditions that meet the standards of subregulation 1.07(3A) of the RSA Regulations

- (2) The amount of the credit is the value worked out under item 2 of the table in subsection 294-25(1) of the Act for the commenced stream as if that item applied to the commenced stream.
- (3) The credit arises immediately after the transfer balance debit arises in relation to the commutation under subsection 294-80.02A(3) of this instrument.
- (4) For the purposes of subsection 294-25(3) of the Act, item 2 of the table in subsection 294-25(1) of the Act does not apply to superannuation income streams that are purchased in circumstances resulting in transfer balance credits arising under this section.

2 After section 294-80.02

Insert:

294-80.02A Debit in transfer balance account—commutation of certain capped defined benefit income streams

- (1) For the purposes of item 8 of the table in subsection 294-80(1) of the Act, a transfer balance debit arises under this section in your transfer balance account if:
 - (a) you receive a superannuation lump sum because a capped defined benefit income stream (the *commuted stream*) covered by any of items 1 to 7 of the table in subsection 294-130(1) of the Act is commuted, in full or in part, on or after 1 July 2017; and
 - (b) the superannuation lump sum is transferred directly to the purchase of a superannuation income stream (the *commenced stream*) that is covered by an item of the table in subsection 294-25.02(1) of this instrument and is in the retirement phase.
- (2) The amount of the debit is the amount worked out under item 1 of the table in subsection 294-80(1) of the Act (as it applies in relation to a capped defined benefit income stream under section 294-145 of the Act) for the commuted stream as if that item applied to the commuted stream.
- (3) The debit arises at the later of:
 - (a) immediately after the commencement of the *Treasury Laws Amendment (Allowing Commutation of Certain Income Streams) Regulations 2022*; and
 - (b) immediately after the commutation occurs.
- (4) For the purposes of subsection 294-80(3) of the Act, item 1 of the table in subsection 294-80(1) of the Act does not apply to capped defined benefit income streams that are commuted in circumstances resulting in transfer balance debits arising under this section.

Retirement Savings Accounts Regulations 1997**3 Subparagraph 1.07(3A)(e)(viii)**

Omit “and”, substitute “or”.

4 At the end of paragraph 1.07(3A)(e)

Add:

- (ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

5 At the end of paragraph 1.08(2)(b)

Add:

- (iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

Superannuation Industry (Supervision) Regulations 1994

6 Subparagraph 1.05(9)(e)(ii)

Omit “and”, substitute “or”.

7 At the end of paragraph 1.05(9)(e)

Add:

- (iii) to allow commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

8 Subparagraph 1.05(9)(h)(ix)

Omit “and”.

9 At the end of paragraph 1.05(9)(h)

Add:

- (x) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

10 Subparagraph 1.05(10)(d)(viii)

Omit “and”.

11 At the end of paragraph 1.05(10)(d)

Add:

- (ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

12 Subparagraph 1.06(7)(e)(ii)

Omit “and”, substitute “or”.

13 At the end of paragraph 1.06(7)(e)

Add:

- (iii) to allow commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

14 Subparagraph 1.06(7)(g)(ix)

Omit “and”.

15 At the end of paragraph 1.06(7)(g)

Add:

- (x) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

16 Subparagraph 1.06(8)(d)(viii)

Omit “and”.

17 At the end of paragraph 1.06(8)(d)

Add:

(ix) in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; and

18 After subparagraph 1.07B(3)(b)(iii)

Insert:

(iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

19 After subparagraph 1.07C(2)(b)(iii)

Insert:

(iv) to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*; or

20 At the end of subregulation 1.08(2)

Add:

; or (d) is for conversion in relation to a commutation in order to comply with section 136-80 in Schedule 1 to the *Taxation Administration Act 1953*.