



INFORMATION SHEET

Claims for death benefits are made at a time when people are upset and usually anxious about their circumstances.

The process of claiming a Death benefit can appear complex, particularly if you are unsure about superannuation entitlements.

This brochure explains:

- Who is entitled to claim a Death benefit;
- The steps you must go through when making a claim;
- What the trustee of the superannuation fund needs to consider in reviewing a claim; and
- Some of the legal and superannuation terms you may come across.

Although everyone involved will attempt to process the claim as quickly as possible, there are strict guidelines about who is entitled to receive a death benefit. See the section *Who can receive a death benefit?* In some circumstances, this process can become complicated and may take some time to resolve.

What is a death benefit

A death benefit consists of:

- the deceased member's account balance in their superannuation fund account. This may include contributions made by the employer and/or member, and any amounts rolled over from other funds (less any appropriate charges and taxes); and
- any insurance benefit which may be payable, the amount of which depends on the member's level of insurance cover with the Fund and their age at the time of death.

If the deceased member did not have insurance cover through their superannuation fund, the death benefit will be the member's account balance only.

Who can receive a death benefit?

The Trustee can only pay a death benefit as permitted by the Superannuation Industry (Supervision) Act 1993 ('the SIS Act'), the Commonwealth legislation that governs superannuation, and the Fund's Trust Deed (the legal document which sets out the rules governing the Fund) and the Income Tax Assessment Act 1997.

These generally restrict the range of potential beneficiaries to people who were a 'dependant' of the deceased member, and/or the deceased's legal personal representative.

Who are dependants?

Under the SIS Act, the term 'dependant' generally means one or more of the following people:

- the spouse of the member (including a de facto spouse);
- any child of the member – including any step child, any child recognised by the member as an adopted child and any child of the member born after the member's death;
- any person who the Trustee considers to have been wholly or partially financially dependent on the member at the time of a member's death;
- any person who the Trustee considers to have been in an 'interdependency relationship' with the member at the time of the member's death.

Financial dependency

Being financially dependent on the deceased does not necessarily mean that you depended on them totally for financial support. You may claim as a dependant, even if you were only partially financially dependent on the deceased.

Financial dependency may include a dependency on the deceased for payments of bills, rent, maintenance payments, and shared financial commitments, such as a mortgage.

Interdependency relationship

Two people will have an interdependency relationship if:

- they have a 'close personal relationship'; and
- they live together; and
- one or each of them provides the other with financial support; and
- one or each of them provides the other with domestic support and personal care.

OR

- they have a 'close personal relationship'; and
- they do not live together, nor provide each other with financial support, nor provide each other with domestic support and personal care because one or both of them suffer from a disability.

OR

- they have a 'close personal relationship'; and
- they live together; and
- one or each of them provides the other with financial support; and
- one or each of them provides the other with support and care of a type and quality normally provided in a close personal relationship, rather than by a mere friend or flatmate.

OR

- they have a 'close personal relationship'; and
- they do not live together, nor provide each other with domestic support and personal care because they are temporarily living apart.

A 'close personal relationship' is one that involves a demonstrated and ongoing commitment to the emotional support and well-being of the two parties.

Two persons do not have an interdependent relationship if one of them provides domestic support and personal care to the other:

- under an employment contract or a contract for services; or
- on behalf of another person or organisation such as a government agency, a body corporate or a benevolent or charitable organisation.

Who is a legal personal representative?

Generally, the legal personal representative is the person who is the executor of the Will or, if the deceased did not have a Will, the administrator of his/her estate. The administrator of the estate will be the person who has been granted Letters of Administration from the Supreme Court.

Nominated beneficiaries

The Trustee is legally responsible for deciding to whom the death benefit will be paid. Many members nominate the person(s) to whom they would like their benefit paid when they die.

The Trustee will consider all preferred beneficiary nominations but does not have to follow them. See the sections on What does the Trustee have to do? and Identifying Dependants.

Binding Nomination

You can make a binding nomination for your superannuation account to be paid to one or many of your dependants, and/or to your legal personal representative. A binding nomination means AustralianSuper will be bound to pay the people you have nominated, as long as they qualify as legal dependants and/or as your legal personal representative.

What does the Trustee have to do?

When a member dies, the Trustee of their superannuation fund has a responsibility to pay their death benefit in the proportions it decides to the late member's dependants and/or to their estate, as permitted by legislation and the Trust Deed.

The Trustee will consider a number of things in making the decision. See Identifying Dependants for more information.

The Trustee must pay the benefit within strict legal guidelines, even if the decision is an unpopular one.

What happens when a death claim is made?

This section shows you the steps involved in making a death claim and the processes by which the Trustee decides who is eligible to receive a death benefit.

1. Providing information

When notified of a death of a fund member, the Fund will send the applicant (also known as a claimant) a letter enclosing an Application for Payment of Benefit and Statutory Declaration.



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Applicants for a death benefit may include a dependant (that is, a spouse, a child, a financial dependant, or a person who was in an interdependency relationship with the deceased), or the deceased's legal personal representative.

The letter will give an estimate of the deceased member's account balance and advise the applicant whether or not the deceased had insurance cover with the fund. If they did have insurance cover, the letter will also advise the amount of the insured benefit. Furthermore, the letter will request additional documents, including:

- proof of age of the deceased member (this may be a certified copy of a Driver Licence, Passport or Birth Certificate). See the section *What is a Certified Copy?*;
- certified copy of the deceased member's Will (if there is one);
- certified copy of the full Death Certificate;
- a Statutory Declaration, which each potential beneficiary will be asked to complete, to show how, and to what extent, they were dependent on the deceased member at the time of their death.

The Trustee may seek relevant information including confirmation of whether they wish to claim an interest in the benefit from all dependants.

If the deceased had no dependants, the Fund may ask for Probate of the Will or Letters of Administration to be provided. You may want to ask your solicitor or the Public Trustee to advise you about this. Probate is obtained to enable the deceased's executors to deal with the deceased estate under the terms of their Will. Letters of Administration are obtained to enable the deceased's legal personal representative to deal with the deceased's estate where there is no Will.

If Probate or Letters of Administration are required, the Fund Trustee generally will not pay the death benefit until it receives this documentation. If this applies to your claim you should ask your solicitor to make the application as soon as possible.

2. Identifying dependants

When all documents are returned to the Fund, the Trustee will consider to whom the death benefit should be paid.

If the member had insurance cover it will lodge the claim with the superannuation fund's Insurer.

The Trustee of the superannuation fund has to:

- identify people who might have been dependants of the deceased (as defined above); and
- look at their relationship with the deceased and the extent to which they may have been financially dependent or interdependent at the time that the member died.

The Trustee will do this by:

- considering the information provided by any dependants or the deceased member's legal personal representative;
- checking the member's Will, if they had one; and

Tax on Death Benefits (Lump Sum)

Paid To	Is Tax Payable
Dependant including <ul style="list-style-type: none"> – Surviving spouse or de-facto – Former spouse – A child (under 18) of the deceased* – A child between the ages of 18 and 25 still at school* – Any person financially dependant on the deceased at the time of death – Any person in an interdependent relationship with the deceased at the time of death 	No
Trustee of the deceased estate where beneficiaries are dependants of the deceased	No
Non-dependant of the deceased	Yes. The taxable portion will be taxed at 16.5%. Any untaxed element will be taxed at 31.5%**. If the tax file number of the non-dependant is not provided tax will be paid at 46.5%.

Tax on Benefits (Income Stream)

Paid To	Is Tax Payable
Dependant Spouse <ul style="list-style-type: none"> – Over the age of 60 – Under the age of 60 	No Yes. The income is taxed at marginal rates less a 15% offset. The benefit becomes tax free once the beneficiary turns 60
– Child of the deceased under 25	The benefit must be paid as a lump sum (tax free) on the beneficiary turning 25.
A non-financial Dependant	Must be paid as a lump sum and cannot be received as an Income Stream, see above table for tax payable

*A child of any age is potentially eligible to receive a death benefit, but concessional tax treatment only applies to a child under age 18 or between 18–25 and still at school or who is permanently disabled. Please note in the Tax Act, the meaning of the term "dependant" is slightly different to the meaning in SIS. The Tax Act does not count a child over 18 as a dependant whereas SIS classifies any child of the member as a dependant. It is also possible that you may be considered a "financial dependant" under SIS and not under the Tax Act.

**These figures include the Medicare levy.

- considering the position of any nominated beneficiary.

The Trustee must also take into account the circumstances of each applicant at the date of the member's death to ensure that the appropriate person receives the benefit.

3. Advising applicants

When the Trustee has decided who will be the recipient(s) of the death benefit, the Fund will write to all the applicants advising them who the Trustee proposes the benefit will be paid to and the way in which the benefit will be divided (if it is being paid to more than one person).

Once applicants receive this advice they have 28 days to respond and confirm with the Trustee either that they are satisfied with the decision or that they want the Trustee to review it. The Trustee must review the decision if requested and may ask claimants to provide further information to help with the review.

Generally, no portion of the benefit will be paid until the Trustee is satisfied that all issues have been resolved.

4. If you disagree with the decision

If you disagree with the outcome of a death claim, you may provide your reason of objection, in writing to the Fund.

Your objection will be investigated and, if you are not satisfied with the Fund's response, you may ask the Superannuation Complaints Tribunal (SCT) whether you are eligible to submit a complaint.

5. Paying the death benefit

Once the Trustee has confirmed to whom the payment will be made, the recipient(s) will receive the death benefit payable. This benefit will consist of the account balance and any insurance benefit.

Recipients will receive documentation with the payment, which will explain the calculation of benefit and will show any tax that has been deducted or any special conditions that may apply.

What is a certified copy?

When making a death claim you will be asked to provide the Fund with certified copies of various documents.

A certified copy is one that is certified as being a true copy of the original by a person in your state or territory qualified to witness Statutory Declarations. Depending on your state's requirements these may include a Justice of the Peace; a Solicitor or Barrister or a Notary Public, a police officer; a dentist; a pharmacist; a doctor or a school principal.

To have a document certified, take the original document and a photocopy of it to an appropriate person in your state or territory. They will stamp, sign and date the photocopy to certify that it is a true copy.

Do not send the original document.

Queries

Any queries about death benefit payments should be made on **1300 659 337**.