

Death of a scheme member after retirement

In this Fact Sheet, deceased retirees are referred to as pension members even though they include members who elected to commute (exchange) their entire retirement pension to a lump sum. (Note: A deceased pension member does not include a former member who chose to receive a lump sum retrenchment or withdrawal (resignation) benefit, or the immediate lump sum instead of a deferred benefit.)

A pension member aged 55 or over may elect to commute (exchange) all or part of their pension to a lump sum, providing the election is made within the later of six months of the pension starting or after reaching age 55 or 60 as applicable. If the right to commute a pension arose prior to age 60 and was not exercised at that time, a further right to commute the pension arises at age 60, see SSS Fact Sheet 14: *Exchanging your pension for a lump sum*.

In certain circumstances, a pension may also be payable to eligible children of a deceased pension member, see SSS Fact Sheet 12: *Child pensions*.

What benefits are payable?

A pension benefit from SSS is payable to an eligible spouse or de facto partner of a member who dies after retirement while on a scheme pension.

The pension is equal to two-thirds of the pension member's **full** pension entitlement at the date of death (except in the case of a non-invalidity pension member's death, where the relationship existed for less than three years. See point 1, under the heading '*Who is eligible for the spouse or de facto partner's benefit?*').

If the pension member commuted any or all of their pension prior to their death, the spouse pension remains at two-thirds of the **full** pension entitlement, including cost of living increases, that the pension member would have received at the date of death had no commutation occurred.

Pensions are adjusted annually in line with movements in the Consumer Price (All Groups Sydney) Index.

Example

Peter is aged 60 and has retired from employment in the NSW public sector on a pension of \$1,000 per fortnight. Within the prescribed time frame, he has elected to commute \$500 of his pension to a lump sum. The remaining \$500 will continue to be paid to Peter on a fortnightly basis.

One year later Peter unfortunately passes away. Peter was married when he commenced his pension therefore his spouse is eligible to receive a reversionary (spouse) pension.

Assume that there was one Consumer Price Index adjustment of 2% prior to his death. The pension payable to Peter's spouse is 2/3rd of the full pension that Peter would have received at the time of his death had he not elected to commute his pension. That is $\$1,000 \times 2\%$ (cost of living adjustment) $\times 2/3\text{rd} = \$680$.

The State Superannuation Scheme (SSS) is administered by Mercer Administration Services (Australia) Pty Ltd on behalf of the Trustee, SAS Trustee Corporation (STC). SSS is governed by the *Superannuation Act 1916*, the *State Authorities Non-contributory Superannuation Act 1987* and the *Superannuation Administration Act 1996*. The scheme is also subject to Commonwealth superannuation and tax legislation.

STC has published this Fact Sheet. STC is not licensed to provide financial product advice in relation to SSS.

Reasonable care has been taken in producing the information in this Fact Sheet and nothing in it is intended to be or should be regarded as personal advice. If there is any inconsistency between the information in this Fact Sheet and the relevant scheme legislation, the scheme legislation will prevail. In preparing this Fact Sheet, STC has not taken into account your objectives, financial situation or needs. You should consider your personal circumstances and possibly seek professional advice, before making any decision that affects your future.

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Who is eligible for the spouse or de facto partner's benefit?

An eligible spouse or de facto partner of a deceased pension member is:

- a) the widow or widower of the deceased, or
- b) a person in a registered relationship or interstate registered relationship with the deceased within the meaning of the *Relationship Register Act 2010*, or
- c) a person who was in a de facto relationship - within the meaning of the *Interpretation Act 1987* - with the deceased at the time of the deceased's death.

A de facto partner may be a person of either the opposite sex, or if the deceased dies on or after 19 January 2001, the same sex.

With the two exceptions listed below, a spouse or de facto partner of a deceased pension member will qualify for a benefit only if they were the pension member's spouse or de facto partner *before* the deceased pension member became entitled to a pension under the SSS Act, and remained so until the death of the pension member.

The exceptions under which a spouse or de facto partner may be eligible for a benefit even though the relationship started *after* the deceased pension member retired are:

1. Where there is a child born of the relationship who was wholly or substantially dependent on the deceased at any time, or there is a child of the deceased who was conceived before and born alive after the pension member's death. If the relationship existed for at least three years before the pension member's death, the full spouse pension is payable to the eligible spouse or de facto partner. In the case of a relationship that existed for less than three years, the pension is reduced on a pro rata basis. A benefit under this rule is payable only where the pension member's date of death occurred after 28 November 2002.
2. Where the deceased was an invalidity pension member, the applicant for a benefit was the spouse or de facto partner before the pension member reached their normal retirement age and for at least three years before the pension member's death.

The normal retirement age is 60 for most members, and 55 for a woman who, before the invalidity retirement, had contributed to SSS at the higher rate required to retire normally at that age.

Where claims are made by more than one eligible person, the Trustee may decide the appropriate distribution of benefits.

Are benefits payable in other circumstances?

When no further payments are due from the scheme, then all payments already made (including both commutation and pension payments), are measured against the member's withdrawal benefit. The withdrawal benefit is the benefit that would have been payable to the member on their resignation from employment and is calculated upon their exit from the scheme. When the total of the payments already made to both the original pension member and their beneficiaries is less than the total withdrawal benefit, the difference is paid from the scheme.

This calculation would normally be performed if:

- there was no spouse/de facto partner and/or children eligible to receive a pension from the scheme, or
- a member's spouse or de facto partner commutes their entire pension, or
- a child or student's pension ceases because of their age and no spouse pension is being paid.

Is tax payable on a death benefit?

This depends on whether the benefit is paid to a dependant as defined under *Income Tax Assessment Act 1997*. The type of benefit (pension or lump sum) and your age when the benefit is received are also factors.

Please see STC Fact Sheet 3: *Taxation* for details of the Commonwealth tax rules affecting superannuation.

More information

If you need more information, please contact us:

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