

Benefit for Permanent Impairment Resulting from HOD Injury (S.12D)

The Police Superannuation Scheme (PSS) provides benefits for permanent impairment and pain and suffering resulting from a hurt on duty (HOD) injury received in the NSW Police Force. These benefits are available only for an injury received on or after 21 November 1979. See also PSS Fact Sheet 15 *Pre 21 November 1979 benefits arising from work-related injuries*.

SAS Trustee Corporation (STC) is the trustee of the PSS. The administration of permanent impairment and pain and suffering claims is undertaken by Allianz Australia Insurance Limited (Allianz), which also administers medical treatment expense claims on behalf of STC.

Who can apply?

You can apply if:

- the delegate of the Commissioner of Police has decided that the injury in respect of which you are making a benefit claim was an HOD injury, and
- you are a contributor or former contributor to the PSS. To have contributed to the PSS, you must have joined the NSW Police Force before 1 April 1988.

If you have recovered damages in relation to the HOD injury, you are not eligible for a benefit from the PSS for permanent impairment or medical and related treatment. Please note also that if you recover damages for an HOD injury **after** you receive a benefit from the PSS for that injury, you must repay the PSS benefit.

If you have received a Victims Compensation payment in relation to the HOD injury, any benefit you receive from the PSS for permanent impairment must be reduced by the amount of the Victims Compensation payment.

You will need to disclose damages and Victims Compensation payments you receive if they relate to the same injury as your PSS benefit claim.

Benefits for permanent impairments and losses

The benefit regime that applies to the payment of permanent impairment or loss arising from an HOD injury is determined by whether the injury was received:

1. between 21 November 1979 and 30 June 1987,
2. between 1 July 1987 and 31 December 2001, or
3. on or after 1 January 2002.

1. Injury between 21 November 1979 and 30 June 1987

Permanent loss of bodily functions resulting from an HOD injury during this period may be compensable under the *Workers Compensation Act 1926* as provided in the *Table of Disabilities* in s.16. The type of losses for which benefits may be claimed is more limited than for injuries received later. For example, no benefits are available for permanent impairment of the neck, back or pelvis, or for permanent psychological impairment arising from injury during this period.

2. Injury between 1 July 1987 and 31 December 2001

Payments for any permanent impairment and loss of efficient use caused by injury during this period are determined according to the *Table of Disabilities* in the *Workers Compensation Act 1987*.

In order to receive a payment under section 66 of the *Workers Compensation Act 1987*, the minimum level (or threshold) of permanent loss must be one percent or more for a given body part or system, other than hearing loss (see Hearing loss on the next page). No benefits are available for permanent psychological impairment arising from injury during this period.

The Police Superannuation Scheme (PSS) is administered by Mercer Administration Services (Australia) Pty Ltd on behalf of the Trustee, SAS Trustee Corporation (STC). PSS is governed by the *Police Regulation (Superannuation) Act 1906*, 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 PSS.

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.

To the extent permitted by law, STC, its directors and employees do not warrant the accuracy, reliability or completeness of the information contained in or omitted from this fact sheet.

Generally, the maximum amount for any single permanent loss is \$100,000 and for multiple permanent losses is \$121,000.

You should only make a claim for injury during this period if the medical condition is stable.

3. Injury on or after 1 January 2002

For injuries received on or after 1 January 2002 an assessment of permanent impairment takes into account all the body parts or systems affected and measures the degree of whole person impairment (WPI). The WPI must be assessed in accordance with the *Workcover Guides for the Evaluation of Permanent Impairment*, available on the WorkCover New South Wales website at www.workcover.nsw.gov.au.

Single and multiple physical injuries arising from an incident are assessed together to determine the degree of WPI.

You should only make a claim for injury during this period if the maximum medical improvement has been reached, i.e. the condition has been medically stable for the past 3 months and further recovery or deterioration is not expected in the next 12 months.

As from 1 January 2002, the maximum benefit for permanent impairment benefit (now WPI) was increased to \$200,000.

For injuries received on or after 1 January 2006, the amount of benefit payable for permanent impairment of the back was increased by 5%, from \$200,000 to \$210,000.

For injuries received on or after 1 January 2007 the maximum WPI benefit for multiple injuries suffered in any single claim was increased to \$220,000 and the maximum benefit for a back injury was increased to \$231,000.

Hearing loss

To be eligible for a benefit for permanent hearing loss as a result of being hurt on duty, the minimum level (or threshold) is six percent binaural hearing loss. This threshold applies whether the injury was received before or after January 2002. Hearing acuteness declines as a result of degenerative changes in the ear that occur with age (presbycusis), and an adjustment is made for this when measuring for work-caused hearing loss.

Psychological injury

Primary psychological or psychiatric injuries received on or after 1 January 2002 give rise to benefits provided the decision-maker determines that the degree of WPI is at least 15%. A primary psychological injury is one where the psychological injury is diagnosed as the primary injury

and is not the consequence of physical injury. In all cases, psychological and psychiatric injuries that arise as a consequence of, or are secondary to, physical injuries are disregarded in determining the degree of WPI.

Where a primary psychological or psychiatric injury arises out of the same incident as a physical injury, the applicant is entitled to a benefit for impairment from only one of these injuries, whichever results in the greater compensation being payable.

To the extent that psychological impairment is due to something that occurred before 1 January 2002 (e.g. an incident that contributed to a person's psychological impairment), the percentage WPI is reduced.

Pain and suffering benefit

If an injury gives rise to a benefit for permanent impairment or loss of at least 10% of the maximum payable for a single permanent loss (as measured in the *Table of Disabilities*), an applicant may also be eligible for 'pain and suffering' payments under section 67 of the *Workers Compensation Act 1987*.

A person is eligible to be considered for a separate payment for pain and suffering where:

- An injury received between 1 July 1987 and 31 December 2001 results in a permanent loss or losses of 10% or more of the maximum amount for a single loss. This maximum amount for such a single loss is \$100,000 for an injury received between 1 February 1992 and 31 December 2001.

Accordingly, if an injury has caused a permanent loss or impairment giving rise to a benefit of at least \$10,000, the person would be eligible for a pain and suffering benefit also. However, a person would not be eligible for a pain and suffering benefit where they were paid \$10,000 or more only because of 2 or more losses from different HOD events.

For example, a person makes a claim following an ankle injury in 1998 and a left hand injury in 2000. The ankle injury is assessed as having caused 10% permanent loss of use of the leg below the knee (10% of \$70,000). The left hand injury is assessed as having caused 10% loss of use of the hand (10% of \$65,000). Although the combined payments (\$7,000 + \$6,500 = \$13,500) exceed \$10,000, the benefits for the individual losses do not, so there is no entitlement to a pain and suffering benefit.

- An injury received on or after 1 January 2002 results in a level of whole person impairment at or above 10 percent (or 15 percent for a primary psychological injury).

Pain and suffering is actual pain, distress or anxiety you suffer as a result of the permanent impairment or any necessary treatment. The maximum amount payable in a most extreme case of pain and suffering is \$50,000.

Eligibility for further benefit

A person who has previously received a s.12D benefit for permanent impairment arising from an HOD injury, and who seeks to make a further claim in respect of that injury, needs to provide medical evidence that there has been an increase in the level of permanent impairment from that injury since the earlier claim was finalised. In order to maintain consistency, such evidence should, if possible, be provided by the same medical practitioner who assessed the person in relation to the earlier claim.

What is my right to information?

Every effort is made to meet the reasonable expectations and needs of persons seeking information. At times, however, formal application under the *NSW Government Information (Public Access) Act 2009 (GIPA Act)* may be required.

Personal information that may relate to a claim for permanent impairment and pain and suffering is held by:

- Allianz in respect of claims made for permanent impairment and pain and suffering from October 2007.
- The NSW Police Force in respect of hurt on duty decisions made by the Commissioner's delegate.
- Mercer in relation to other PSS benefits.

Mercer will coordinate requests for information held by Allianz and Mercer. Therefore, you should make any enquiry for this information by contacting Customer Service, Mercer:

By mail: Mercer Administration
PSS Team
PO Box 1229
Wollongong NSW 2500

By phone: 1300 130 097 (for the cost of a local call, unless calling from a mobile or pay phone) between 8.30 am to 5.30 pm, Monday to Friday.

Website: www.statesuper.nsw.gov.au

By email: enquiries@stc.nsw.gov.au

What are my appeal rights?

If you are not satisfied with the outcome of your application for a benefit for permanent impairment, or loss, or pain and suffering, you may appeal that decision to the District Court within 6 months of being notified of the decision in writing.

Where do I get more information?

An application form is available from the State Super website at www.statesuper.nsw.gov.au or from the Allianz website at www.allianz.com.au (on the Workers Compensation page) or by calling 1300 788 946.

General information about benefits for permanent impairment and pain and suffering can be found on the WorkCover NSW website at www.workcover.nsw.gov.au.

How do I apply?

To apply for a permanent impairment benefit arising from an HOD injury, you should:

1. refer to the application form (PSS Form 17)
2. complete and sign the application form and gather all relevant medical reports and records, and
3. send the completed application form, together with all the documentation you are providing with the application, to:

Allianz Australia Insurance Limited
GPO Box 4056
Sydney NSW 2001

Phone: 1300 788 946

Fax: 1300 788 942

If you are capable of completing and signing the form, you should do so. However, someone else can complete the form for you, but if someone else signs the application form on your behalf, that person must complete Part L of the Form.

It is important that you read the Privacy Statement set out in Part M of the application form before you complete the form and sign it. The application form cannot be accepted by Allianz if it is not signed and dated.

We are required under the law to inform you that giving false or misleading information is a serious offence.

Section 307A of the *Crimes Act 1900 (NSW)* makes it an offence for a person to make a statement in connection with an application for a benefit under a NSW law, where the person knows or is reckless as to whether:

- a) the statement is false or misleading in a material particular, or
- b) omits any matter or thing without which the statement is misleading in a material particular.

Section 307B of that Act makes it an offence for a person to provide information in connection with a NSW law, knowing that the information:

- a) is false or misleading in a material particular, or
- b) omits any matter or thing without which the information is misleading in a material particular.

A “material particular” is one that is relevant to the question of whether or not you get a benefit described in this fact sheet and for which you are applying. For instance, including an incorrect phone number without checking the application form for errors might be reckless and false but that information would not normally be “material” to your application.

More information

If you need more information, please contact us:

Telephone: **1300 130 097** (for the cost of a local call, unless calling from a mobile or pay phone)
8.30 am to 5.30 pm, Monday to Friday.

Personal interviews: Please phone 1300 130 097 to make an appointment.

Postal address: State Super, PO Box 1229, Wollongong NSW 2500

Internet: www.statesuper.nsw.gov.au

Email: enquiries@stc.nsw.gov.au