

# Invalidity Retirement (Medical Discharge)

## Introduction

You may be eligible for one of two different types of invalidity benefit depending on the circumstances which led to your retirement. The benefits are:

- (1) **General Benefit** (not Hurt on Duty)
  - (a) retirement after less than 20 years service — payment of a lump sum, or
  - (b) retirement after 20 years or more service — payment of a pension.
- (2) **Hurt on Duty Benefit** — no age or service restriction — payment of a pension.

The payment of either invalidity benefit is conditional on:

- (a) the Trustee of PSS being satisfied on medical advice that a scheme member has become incapable, due to a certified infirmity of body or mind, of personally exercising the functions of a police officer, including those of a constable, and
- (b) the scheme member having been discharged as medically unfit from the NSW Police Force.

In addition, for a claim for a Hurt on Duty benefit to be accepted, the Trustee must determine the nature of the infirmity, and the Commissioner of Police must certify that the infirmity was sustained as a result of the member having been *hurt on duty*.

For more information on who can apply for a medical discharge and how an entitlement is determined see PSS Fact Sheets 11: *Medical Discharge Benefit for Members of the Police Force (s8/s10B(1))* and PSS Fact Sheet 12: *Medical Discharge Benefit for former Members of the Police Force (s10B(2))*.

## Service

The benefit entitlements set out in this Fact Sheet apply to members whose service has been on a full-time basis. A member's service generally accrues at a reduced or nil rate during periods of part-time employment and leave without pay (including ordinary leave without pay taken on a part-time basis).

Both the General Invalidity Benefit and the Hurt on Duty Benefit are adjusted by a member's equivalent service ratio, which is calculated as at the member's date of discharge. If a member has worked on a part-time basis, including periods of ordinary leave without pay taken on a part-time basis, they will have their benefit reduced, unless their total period of equivalent full-time service is at least 30 years.

## Invalidity — general benefit

- (a) If you have completed less than 20 years scheme membership, a gratuity (ie. a lump sum) is payable equal to twice your annual *salary of office* (superable salary) at the time you retire.
- (b) If you have completed at least 20 years scheme membership, an indexed fortnightly pension is payable. The amount of pension payable depends on the length of your scheme membership, as indicated by the examples in the following table:

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.

## Invalidity pension as a percentage (%) of superable salary

Years of Scheme Membership	%
20	48.50
22	53.35
24	58.20
26	63.05
28	67.90
30 or more	72.75

The exact percentage depends on the length of time you have been a member of PSS, in years and full months. This is worked out using a formula which is available on request to Mercer, the scheme administrator.

## Lump sum option

A member who is eligible for an invalidity pension has an option to commute all or part of the pension to a lump sum. An election to commute the pension cannot be processed prior to the member turning age 55, and a member can only make one election to commute any part of their pension. The timeframe for processing commutation elections varies depending on the age of the member when the pension commenced to be paid.

### Pension commences before age 55

If your invalidity pension commences prior to your 55<sup>th</sup> birthday you will be able to commute all or part of your pension to a lump sum at age 55. If you make no election to commute at age 55 you will have a second and final opportunity to commute at age 60. If you wish to make an election to commute all or part of your pension at age 55 you must lodge an election with the SAS Trustee Corporation no earlier than six months before your 55<sup>th</sup> birthday, and no later than six months after your 55<sup>th</sup> birthday. If you are eligible to make an election to commute all or part of your pension at age 60 you must lodge an election with the SAS Trustee Corporation no earlier than 6 months before your 60<sup>th</sup> birthday, and no later than six months after your 60<sup>th</sup> birthday.

If an election is processed after your 55<sup>th</sup> (or 60<sup>th</sup>) birthday, the lump sum is reduced by the amount of commuted pension paid to you since you turned 55 (or 60).

### Pension commences between age 55 and 60

If your invalidity pension commences between age 55 and 60 you will be able to commute all or part of your pension to a lump sum on the date your pension commences. If you make

no election to commute at pension commencement date, you will have a second and final opportunity to commute at age 60. If you wish to make an election to commute all or part of your pension at your pension commencement date, you must lodge an election with the SAS Trustee Corporation no later than six months after the day on which you became entitled to the allowance. If you are eligible to make an election to commute all or part of your pension at age 60 you must lodge an election with the SAS Trustee Corporation no later than six months after your 60<sup>th</sup> birthday.

If the election is not made until after your pension commences to be paid to you (or after you turn age 60), the lump sum is reduced by the amount of commuted pension paid to you since the pension commencement date (or age 60).

### Pension commences after age 60

If your invalidity pension commences after age 60 you will have one opportunity to commute your pension, at the date your pension commences. If you wish to make an election to commute all or part of your pension at your pension commencement date, you must lodge an election with the SAS Trustee Corporation no later than six months after the day in which you became entitled to the allowance. If the election is not made until after your pension commenced to be paid to you, the lump sum is reduced by the amount of commuted pension paid since the pension commenced to be paid.

The amount of the lump sum is calculated by multiplying the annual superannuation pension payable at the time the election takes effect by the appropriate commutation factor listed in Table 1 below and, in the case of a partial commutation, by the proportion of the pension you elect to commute.

**Table 1 Commutation factors**

Age at time commutation election takes effect	Commutation factor
55	11.82
56	11.64
57	11.46
58	11.28
59	11.10
60 or older	10.92

### Example 1:

A member who began to receive an invalidity pension at age 50 who was receiving a fortnightly invalidity pension of \$1,000 before tax (\$26,090 per annum) at age 55 could elect to exchange the whole of that pension to a lump sum

of \$308,383.80 ( $\$26,090 \times 11.82$ ). The member decided to commute only half of that pension, which resulted in a lump sum of \$154,191.90 ( $\$26,090 \times 11.82 \times 0.5$ ) and a continuing pension of \$500 ( $\$1000 \times 0.5$ ).

**Note:** Because the member commuted half of the pension at age 55, no further option is available to commute any of the remainder at age 60, as a member is only able to make one election to commute the invalidity pension.

### Example 2:

A member who began to receive an invalidity pension at age 56 initially elected to receive a full pension. However, three months after the pension commenced, the member lodged an election to commute the pension in full. The member was receiving a fortnightly invalidity pension of \$1,500 before tax (\$39,135 per annum) at pension commencement so the commutation resulted in a lump sum of \$455,531.40 ( $\$39,135 \times 11.64$ ). As the member had received six fortnightly pension payments totalling \$9,000 before the lump sum was paid, this amount was deducted from the lump sum, resulting in a net payment of \$446,531.40.

If this member had decided instead to commute only half of that pension, the lump sum would have been \$227,765.70 ( $\$39,135 \times 11.64 \times 0.5$ ) with a continuing pension of \$750 ( $\$1500 \times 0.5$ ). In this case only \$4,500 would be deducted from the lump sum, resulting in a payment of \$223,265.70.

### Spouse Pension

A spouse or de facto partner entitlement exists in the PSS for an eligible spouse or de facto partner (including a same sex partner). More information on this entitlement is contained in PSS Fact Sheet 6: *Death Benefits*. However, it should be noted that spouse and de facto entitlements are affected when a member commutes all or part of the invalidity pension. The entitlement decreases in the same proportion as the member commutes the pension, e.g. if 50% of the pension is commuted, the spouse is entitled to 50% of the spouse pension. If a member commutes the entire invalidity pension, the spouse is not entitled to any pension.

It is recommended that members seek professional financial advice before making the decision to commute their pension.

### Invalidity — Hurt on Duty

If you are retired due to a disability caused by being Hurt on Duty, you will receive an indexed fortnightly pension based on a percentage of your superable salary at the time of your retirement. Note: These benefits are not available to members employed by the Police Association of NSW – only the general invalidity benefit is available to these members.

The basic Hurt on Duty pension is equal to 72.75% of your superable salary. However, at the Trustees' discretion this percentage may be increased to a **maximum** of:

- a) 85% — with the percentage of additional pension above 72.75% determined by the Trustee in proportion to your incapacity to undertake alternative employment outside the NSW Police Force, or
- b) 100% — if you are totally incapacitated for any work and the Trustee is of the opinion that the injury was caused by risks to which you were exposed which are special to Police work. If so, the amount of additional pension above 85% is determined by the Trustee in proportion to the extent of those risks.

The actual benefit payable is reduced for any periods of part time employment.

A maximum benefit of 72.75% of the superable salary applies if the injury in question occurred before 21 November 1979.

### Lump sum options:

A member on a Hurt on Duty pension has two types of commutation options. These can be divided into the standard commutation options and special provisions for the redemption of the prescribed part of a Hurt on Duty pension.

#### Standard Commutation Option

The standard commutation rights are the same as those described previously for the general invalidity pension. Broadly, this means that a member who is eligible for a Hurt on Duty invalidity pension has the option to commute all or part of their pension to a lump sum at certain prescribed times. A member cannot commute any part of their Hurt on Duty pension under the general commutation provisions before they turn age 55, and can only make one election to commute any part of their pension under the general commutation provisions. For more information on these rules refer to the Lump Sum Option section of the General Invalidity Pension set out previously in this Fact Sheet.

It should be noted that when a Hurt on Duty pension has been commuted in full a member cannot apply for a Hurt on Duty pension increase. It should also be noted that spouse and de facto partner entitlements are affected when a member commutes all or part of their Hurt on Duty invalidity pension. The entitlement decreases in the same proportion as the member commutes the pension, e.g., if 50% of the pension is commuted, the spouse is entitled to 50% of the spouse pension. If a member commutes the entire invalidity pension, the spouse is not entitled to any pension.

It is recommended that members seek professional financial advice before making the decision to commute their pension.

### Redemption of the Prescribed Part of a Pension

Members on a Hurt on Duty pension have additional commutation options. These are based on the prescribed part of their pension, which is an amount calculated on an annual basis that is, in the opinion of the trustees, the amount that would have been payable to the member in weekly payments of compensation under the *Workers Compensation Act 1987* if the disabled worker had been entitled to payments under that Act. This amount is calculated at the date of the member's discharge from the NSW Police Force.

Members can apply to commute the prescribed part of their pension, however their application must be approved by the SAS Trustee Corporation (STC). The amount that can be commuted varies depending on the age of the member as follows:

- A member aged 55 or more may be allowed by STC to exchange up to 40% of the prescribed part of their pension payable for five years to a lump sum, provided that the former scheme member retired due to a *Hurt on Duty* injury sustained on or after 1 July 1987.
- A member aged under 55 may be allowed by STC apply to exchange all or part of the prescribed part of their pension for a lump sum, but this option will only be approved in special circumstances, and only where the former scheme member retired due to a *Hurt on Duty* injury sustained on or after 1 July 1987.
- An option to redeem (i.e. exchange) a certain part of your pension may be allowed by STC if you are a former scheme member who retired due to a *Hurt on Duty* injury sustained between 21 November 1979 and 30 June 1987, subject to certain conditions.

Redemptions of the prescribed part of a Hurt on Duty pension do not affect commutation rights under the standard commutation option.

Further information on these options are contained in PSS Fact Sheet 13: *Partial Commutation (redemption) of Hurt on Duty (Hurt on Duty) Invalidity Pension under section 10C*.

### Rehabilitation obligations where discharged after being Hurt on Duty

From 30 June 2006, if a member applies for a Hurt on Duty invalidity pension, the pension will not be paid if the Commissioner of Police decides that the member has not complied with a reasonable direction about participation in an injury management program approved by the Commissioner.

The legislation does not give the Trustee any discretion in relation to this matter. Any queries in relation to this program should be directed to the employer.

### Basic Benefit and Additional Employer Contribution (AEC) account

The Basic Benefit is payable in addition to the PSS benefits detailed above. Certain members are also entitled to the additional employer contribution (AEC) benefit.

The Basic Benefit is fully paid for by your employer and accrues at the rate of up to 3% of either final average salary or final salary for each year of service from 1 April 1988 or employment commencement date if later. On retirement due to a medical discharge, if a member is discharged prior to reaching age 55, the salary figure used to calculate the basic benefit is the member's final salary, i.e. the member's salary on their last day of service. Where a member is discharged after reaching age 55, the salary figure used to calculate the basic benefit is the member's final average salary, i.e. the average of the member's salaries at the date of ceasing employment and at 31 December in each of the two previous years.

Not all PSS members will have an AEC account, as it only applies to members whose employment after 30 June 2013 was subject to NSW Public Sector Wages Policy. Eligible members receive an additional employer contribution at the rate of 0.25% of their salary for the 2013–14 financial year and 0.5% of their salary for the 2014–15 to 2021–21 financial years. From 1 July 2021 AEC is paid at the rate of 1.0% of member's salary. Interest is paid on the contributions that accumulate in an AEC account. .

PSS members were not eligible for the AEC benefit from 1 July 2013 to 30 June 2014, as the 0.25% SG rate increase that applied from 1 July 2013 was not taken into account in the Crown Employees (Police Officers - 2011) Award. PSS members, other than members of the Police Executive Service, became eligible on 1 July 2014.

Your Basic Benefit and any AEC benefit are generally subject to compulsory preservation until you have reached the Commonwealth preservation age (between 55-60). See STC Fact Sheet 10: *Basic Benefit* and STC Fact Sheet 20: *SANCS Additional Employer Contributions (AEC) Account* for more information.

## Fact Sheets about related topics:

PSS Fact Sheet 3: *Benefits on Normal Retirement*

PSS Fact Sheet 4: *Benefits on Early Voluntary Retirement*

STC Fact Sheet 3: *Taxation*

STC Fact Sheet 4: *When can I be paid my superannuation benefits?*

STC Fact Sheet 10: *Basic Benefit*

STC Fact Sheet 11: *CPI Adjustment of your pension*

STC Fact Sheet 13: *Information about the Commonwealth Government's Superannuation Co-contribution and the low income superannuation tax offset*

STC Fact Sheet 20: *SANCS Additional Employer Contributions (AEC) Account*

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## More information

If you need more information, please contact us:

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