



Guidelines for invalidity retirement

Including Pre-Assessment Payments (PAP), Partial Invalidity Pension (PIP) payments and procedures

This guide provides information about the invalidity retirement process for CSS and PSS members, including reference to the requirement for employers to notify us of specific circumstances relating to the affected member so that assessment of their entitlement to PAP or PIP can occur.



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Defence Force Retirement and Death Benefits Scheme
ABN: 39 798 362 763

Australian Defence Force Superannuation
ABN: 90 302 247 344
RSE: R1077063

Commonwealth Superannuation Scheme
ABN: 19 415 776 361
RSE: R1004649

Public Sector Superannuation accumulation plan
ABN: 65 127 917 725
RSE: R1004601

Military Superannuation and Benefits Scheme
ABN: 50 925 523 120
RSE: R1000306

Australian Defence Force Cover
ABN: 64 250 674 722

Public Sector Superannuation Scheme
ABN: 74 172 177 893
RSE: R1004595

1922 Scheme
DFRB Scheme
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Part A: The invalidity assessment process

Introduction

1. Since 1 July 1990 members of Public Sector Superannuation Scheme (PSS) created under the *Superannuation Act 1990*, and eligible employees of Commonwealth Superannuation Scheme (CSS) established under the *Superannuation Act 1976*, have been subject to invalidity retirement procedures which are significantly different from procedures which applied in the past. The invalidity arrangements apply to all persons who are **members** for the purposes of PSS or **eligible employees** for the purposes of CSS, in circumstances where the instrument or notice of invalidity retirement was not signed by the employer before 1 July 1990.
2. In brief, for both CSS and PSS, invalidity benefits will not be payable in respect of a person unless Commonwealth Superannuation Corporation (CSC) has certified that invalidity benefits will be payable to that person. We will not give a certification unless satisfied a person is **totally and permanently incapacitated** (further definition is in paragraph 9 below).
3. The procedures in relation to members/eligible employees are similar. The major difference between the two schemes is that members of PSS will not be entitled to receive invalidity benefits if they retire on the ground of invalidity after reaching age 60 whereas eligible employees of CSS may receive invalidity benefits if retired on invalidity grounds up to maximum retiring age (usually age 65).
4. The invalidity retirement process is designed to enable a thorough assessment of the person's condition and to fully consider prospects of rehabilitation and/or retraining before we issue the invalidity retirement certificate.
5. The legislation introduced a concept of Pre-Assessment Payments (PAP) which is discussed in paragraphs 20–38. These payments will ensure that a person who is, or is likely to become, totally and permanently incapacitated is not left without income during the period of assessment of his or her case.

Legislation

6. Subsection 13(1) of the *Superannuation Act 1990*¹ provides that a person who is under age 60 cannot be retired on the ground of invalidity unless we certify that if the person is retired he or she will be entitled to receive invalidity benefits.
7. Subsection 54C(1) of the *Superannuation Act 1976*² provides that a person who has not reached his or her maximum retiring age cannot be retired on the ground of physical or mental incapacity to perform his or her duties unless we certify that if the person retires he or she will be entitled to receive invalidity benefits.
8. Invalidity benefits will be payable only where we are satisfied that a person is **totally and permanently incapacitated**.
9. Total and permanent incapacity means the person is **unlikely ever to work again in a job for which he or she is reasonably qualified by education, training and experience or could be so qualified after retraining**.³

Application for issue of invalidity certificate

10. Employers of staff are bound by **Fitness for Continued Duty Instructions** issued by the Australian Public Service Commission and should have particular regard to the procedures for invalidity retirement set out in those instructions (similar procedures should be followed for CSS and PSS members employed by approved authorities). Normally it would be expected that other avenues such as redeployment, rehabilitation and partial invalidity pension payments (see paragraphs 45–57) would have been explored before an application is made for PAP and for the issue of an invalidity retirement certificate.

1. *Superannuation Act 1990* – austlii.edu.au/au/legis/cth/consol_act/sa1990195/

2. *Superannuation Act 1976* – comlaw.gov.au/Series/C2004A01462

3. TPI is defined in section 54 of the *Superannuation Act 1976* and in Rule 1.2.1 of the PSS Rules.

11. Applications for the issue of an invalidity retirement certificate should be made using the **Application for issue of an invalidity retirement certificate (SPC)** form. Copies of the **SPC** and **Medical examination report for invalidity retirement (SM2)** forms, to be completed by an Approved Medical Practitioner (AMP), can be obtained from the Employer Administration Centre (EAC) website at eac.csc.gov.au. Employers are asked to assist us by ensuring the form/s contains the relevant employment and superannuation details. We **do not** require information about any private insurance cover that the member may have.
12. Relevant medical and employment evidence must be submitted with the application. **Medical evidence should be as comprehensive as possible and must include complete information from the member's treating doctors and a completed SM2 form in which the AMP indicates that he or she has examined the person** and expresses an opinion that the person is, or is likely to become, totally and permanently incapacitated. Employment evidence should include a duty statement and job description of the person's actual position immediately before commencing sick leave as well as a duty statement and job description of the person's nominal position, if different from actual position.

The decision making process

13. The relevant CSS legislation or PSS rules require that we engage a panel of persons with experience in assessing invalidity claims to assist it in deciding whether to issue a certificate. In practice, we have engaged the services of a panel of experienced medical practitioners and assessors to undertake panel assessments of applications for invalidity retirement. **Other than in exceptional circumstances we will be referring all applications for invalidity retirement to the Panel.**
14. Before making a decision, we:
 - a) may require the person to undergo a further medical examination, usually by an AMP and within six months of the application
 - and
 - b) are required to forward the report of that examination and any other medical evidence (including that provided by the employer) to the panel
 - and
 - c) where the application for a certificate is made because of a compensable condition, are required to have a recommendation from Comcare as to whether it recommends invalidity retirement. (Where an employer is a self-administrating compensation agency, we will initially seek the views of the relevant compensation agency concerning invalidity retirement.)
15. It is important that employers ensure that documentation sent with the application form is as comprehensive as possible. All medical evidence and other material in support of the application will be sent to the panel. We may require additional medical examinations and may also be asked by the panel to provide additional information.
16. The panel must make a recommendation to us, as to whether it considers the employee is Totally and Permanently Incapacitated (TPI) within two years of the date the person commences on sick leave or such further period as we determine. Compensation cases require recommendation within two years of the date of the application for the issue of a certificate.
17. The panel shall make recommendations, with reasons, on:
 - a) whether the person is totally and permanently incapacitated
 - and
 - b) any other matter the panel considers relevant, or we require.
18. After following the above process we are required to decide whether to issue an invalidity retirement certificate having regard to:
 - a) the advice of the panel
 - b) whether it is practical for the person to be employed in a job that he or she is qualified for or **could be so qualified after retraining.**
19. Our decision, with reasons, a copy of the panel recommendation, and advice as to appeal rights, will be communicated to the person concerned. The decision, reasons, and panel recommendation will also be provided to the employer.

Please note that it is the employer's decision whether a person is retired on the grounds of invalidity. If the employer decides not to terminate the employment on invalidity grounds, the employee will not get an invalidity benefit.

Part B: Eligibility for Pre-Assessment Payments (PAP)

20. After 28 days or more continuous absence from work as a result of a serious medical condition for a non-compensable condition, consideration must be given to granting PAP.
21. For such an assessment to take place, it is requested and recommended that employers notify us within four weeks of the employee being absent for 28 days or more continuously. The preferred method of notification is to email **caseworkservices@admin.csc.gov.au**
22. Before making a decision on whether to approve PAP, we are required to consider a medical report from an AMP who has examined the person. The report should address the question of whether there is a **likelihood** of total and permanent incapacity. The **SM2** form has been designed for use in these cases. It would be expected that the employer would have already required the employee to undergo at least one examination by either a medical practitioner, or other appropriate health practitioner, to assess fitness for duty before a decision was taken to request examination by an AMP using the **SM2** form. Some conditions will require an AMP that is a Psychiatrist (e.g. mental health conditions and chronic pain). **Applications for PAP sent to us without a properly completed SM2 form cannot be processed and will be returned to the employer.**
23. To allow us sufficient time to process applications for PAP and, as far as possible, avoid a temporary break in the member's income, applications should be referred to us within four weeks of the member's absence for a continuous period of 28 days or as requested by us when we contact the employer biannually. As a result of that contact, we may request further information about employees.
24. A PAP is NOT payable:
 - in the first six months while a person still has sick leave credits
 - or
 - for persons on compensation leave for the same condition
 - or
 - for members of PSS who are Limited Benefits Members.
25. If we decide that there is **little likelihood** that the person will be unable to ever work again in a job for which he or she is trained or could be trained for, we will notify the person and the employer that we will not be making PAP. If this occurs, we will also advise that no further action will be taken unless the situation changes and a new medical review determines that there is a **real likelihood** that the member will never work again in a job for which he or she is trained for or which they could be retrained. We will request further reviews of this employee, unless they have now returned to work and are medically fit for duty.
26. If we decide there is a **real likelihood** of total and permanent incapacity, we will approve the request for PAP. We will advise the employer that we have approved PAP, the methodology for calculating the level of those payments, and the date of effect of the payments.
27. The application for the issue of an invalidity retirement certificate will be referred to the panel for consideration (unless the exceptional circumstances of the case warrant immediate submission to us as mentioned in paragraph 13).

Rehabilitation

28. As a matter of routine, in the course of the PAP and invalidity retirement processes, we will receive advice on the likelihood of total and permanent incapacity. If the AMP considers that the person is likely to become totally and permanently incapacitated, we will also consider whether a program of rehabilitation may prevent that total and permanent incapacity.
29. It is, of course unlikely that the panel will recommend, or we will require, an employer to repeat attempts at rehabilitation where such avenues have been exhausted. Employers will reduce the possibility of duplication of effort and assist the processing of invalidity retirement cases if they ensure that all relevant documentation is forwarded with the initial application.
30. However, if the panel as part of its recommendations require further rehabilitation to prevent invalidity retirement it has the discretion to do so under legislation. If this was required, we would contact the member and the employer and inform them of such a recommendation.

Rates of PAP

31. Eligibility to receive PAP will be determined by us having regard to the matters advised in paragraphs 20–29. We will also determine and advise the method for calculating the rate of PAP payment payable having regard to the principles outlined in paragraphs 32 – 36 which are being provided to assist employers understand and explain the rates of PAP payable.
32. The rate of payment will be:

Option	Description
(a) in the first six months	<ol style="list-style-type: none"> i) zero payment of PAPs while the person is on paid sick leave, whether at full or half pay rates ii) equal to 50% of normal fortnightly salary (including recognised superannuation allowances) – the same as half pay sick leave. less <ul style="list-style-type: none"> • partial invalidity pension and/or <ul style="list-style-type: none"> • compensation payments related to a condition that is not the condition causing the member to be off work (if any).
(b) in the second six months – the greater of:	<ol style="list-style-type: none"> i) a rate equivalent to the maximum invalidity benefit that would be payable if the person retired on that day and had not elected to take a refund of accumulated contributions less <ul style="list-style-type: none"> • the sum of any fortnightly amounts of sick leave pay • partial invalidity pension • compensation payments in relation to a condition other than the condition to which the retirement application relates or ii) 50% rate as calculated in (a)(ii) above.

Please note:

- In the first 6 months, all full pay sick leave credits must be exhausted prior to commencing pre-assessment payments.
 - For partial invalidity pension recipients, the updated former salary (including recognised superannuation allowances) should be used.
33. The actual rate of PAP is affected by the following factors:

- a) whether the person is a full-time or part-time employee at the time sick leave commences
 - b) the availability of sick leave pay
 - c) payment of PIP
- and
- d) payment of fortnightly compensation payments in relation to a condition other than the condition to which the sick leave relates
- and
- e) where a PAP payment is payable as a result of a second or subsequent assessment of the member where we determine the date payable.

Adjustments to PAP

- 34. PAP will need to be adjusted where a person receives payments as a result of access to new accruals of sick leave, increases in compensation payments in relation to a condition other than the condition to which the sick leave relates, etc. The employer will need to notify us if any of these changes occur.
- 35. PAP will also need to be increased by employers in line with movements in the person's normal salary or the person's notional invalidity benefit. Adjustments will occur as follows:
 - a) in the first six months after the **first day of sick leave**, in line with normal wage and salary increases that would have applied if the person had remained at work
 - b) in the period after the first six months:
 - for those persons whose entitlement is 50% of salary, in line with normal wage and salary increases that would have applied if the person had remained at work
 - for those persons whose entitlement is the **notional fortnightly invalidity retirement benefit**, in line with increases to superannuation pensions that would have applied if the person had retired. (These adjustments are based on movements in the CPI and are made twice annually. We will advise employers of the adjustment by which particular PAP are to be increased.)
- 36. An example of PAP, if approved, is set out below:

A person goes on sick leave because of a permanent physical or mental incapacity on 24 February 2014; sick pay (full and half) expires on 8 March 2014. Partial income maintenance would be provided as follows:

- a) for the period from 24 February 2014 to 8 March 2014 inclusive – sick pay paid by the employer
- b) with effect from 13 March 2014 (ie the next contribution day after sick pay runs out to 23 August 2014, inclusive – PAP paid by the employer on behalf of us at the rate of 50% of salary (the salary on which sick pay was based)

and

- c) from 24 August 2014 until a decision is taken by us on whether the person is totally or permanently incapacitated – PAP at the greater of either –
 - i. 50% of the actual salary

or

 - ii. the notional fortnightly invalidity retirement benefit (this amount would differ depending on whether the person was a member of CSS or PSS and would need to be obtained from us, who will do the calculation).

Method of payment

37. Subject to the matters discussed in paragraphs 20–27, entitlement to PAP will commence with effect from the first contribution day (i.e. salary payday):
- after the person has been on continuous sick leave for six months
 - or
 - if it occurs earlier
 - or
 - after the person has no full or half pay sick leave credits
 - or
 - where a PAP is payable as a result of a second or subsequent assessment of the **member**, the date **we** determine.
38. PAP payments are to be paid by the employer through their normal salary payment systems. Members' normal deductions from pay including superannuation contributions and any member premiums for additional death and invalidity cover (applies to PSS members only) are to be deducted by the employer from the PAP pay each fortnight.
39. Employers are reminded that they will need to ensure that overpayments do not occur as a result of failure to reduce, or cease, PAP at the appropriate times. All such overpayments will be recoverable. PAP ceases on a contribution day after whichever is the earliest of these dates:
- a) the date we notify the employer about the decision on invalidity retirement
 - b) the date the person returns to work
 - c) the date the person dies
 - d) the date the person fails to commence a rehabilitation program without good and sufficient reason
 - e) the date that the person's employment ceases by any method – e.g. resignation
- or
- f) the date the person fails to undergo a medical examination without good and sufficient reason.
40. Employers should notify us promptly where (b), (c) or (e) applies and should cease the PAP on the contribution day immediately following either of those dates.
41. We will advise employers in cases where PAP are to cease in relation to (a), (d) or (f) of paragraph 39 above and will specify the contribution day on which PAP are to cease.
42. Where we notify the employer that we have agreed to issue an invalidity retirement certificate, the employer should take prompt action to finalise the invalidity retirement process. Where we do not issue a certificate, the employer should take appropriate action having regard to the relevant terms and conditions of employment.

Part C: Eligibility for Partial Invalidation Pension (PIP) payments

Please refer to Part D for new audit and reporting arrangements

43. There are a number of factors to consider when determining whether an employee is eligible for PIP payments.
44. If the employee is a member of CSS they will be eligible if:
- a) they are a former invalidity pensioner and their current salary is less than the equivalent of the annual salary at the time of invalidity retirement
 - or
 - b) they have not attained maximum retirement age (usually age 65) and
 - they have suffered a permanent decrease in annual salary or had a recognised salary allowance withdrawn
 - and
 - we are satisfied that the salary decrease is attributable to a physical or mental incapacity
 - and
 - they have completed at least eight years membership
 - or
 - they have completed less than eight years membership and there is no Benefit Classification Certificate (BCC) in force. If a BCC is in force, the condition(s) specified are not causing or are not connected to the condition(s) for which the employee is applying for a PIP.
45. In CSS they will not be eligible if:
- a) they are receiving compensation payments for the condition causing partial incapacity (private insurance or income protection is not counted as compensation)
 - or
 - b) they have less than eight years membership and a BCC is in force which specifies the condition or a condition which is causing or substantially contributing to the condition which is causing the partial incapacity.
46. If the employee is a member of PSS they will be eligible if:
- a) they are a regular member who was an invalidity pensioner and who has been re-employed at a lower-paid level than the level held prior to invalidity retirement
 - or
 - b) they are a regular member who is suffering a permanent salary decrease, including the loss of a recognised allowance, because a medical condition has caused them to work reduced hours, be redeployed to a lower-paid position, or a combination of both.

47. In PSS they will not be eligible if:
- a) they are a casual member or a re-employed invalidity pensioner who was a casual member at the time of their retirement
 - or
 - b) they are a Limited Benefits Member (LBM) or would have been a LBM if they had not failed to disclose medical evidence on entry to PSS. Employees in this category must incur another permanent decrease in salary after their LBM period expires in order to qualify for a PIP
 - or
 - c) they are a member who is receiving compensation payments for the condition which is causing the decrease in salary. Compensation means regular, ongoing payments, but does not include third party payments or Military compensation
 - or
 - d) they are a member who has reached the maximum retirement age
 - or
 - e) the decrease in salary is not permanent – ie they require reduced hours while recovering from an illness or injury.
48. A request for a decision on PIP payment should be referred to us immediately when an employee:
- commences working permanently reduced hours
 - and/or
 - commences working permanently in a lower position/level
 - and
 - the reduction in hours or lower position/level can be attributed to a permanent medical condition
 - or
 - their situation has changed.
49. The preferred method of notification is to email caseworkservices@admin.csc.gov.au
50. We may also require further information on these employees as a result of our twice yearly request (Part D) to identify members who have not yet had their PIP approved for commencement, or for those already in receipt of a PIP who have had a change in hours or position/level (as outlined in the above dot points).
51. We will no longer be requesting annual reviews of employees on PIP as they should be provided as part of the audit (Part D). Reviews will NOT require a medical assessment for us unless their situation has changed.

52. The PSS PIP payable varies with each member. It is calculated as a proportion of the difference between the previous higher salary and the decreased salary. The PSS PIP is not equal to the whole decrease in salary.

The formula provided in the PSS Rule is:

$$\frac{\text{Invalidity Pension Rate}}{\text{Average Salary before Decrease}} \quad \times \quad \text{Salary decrease}$$

where:

Invalidity Pension Rate is the rate of pension that would have been payable if he/she had retired on invalidity grounds on the day before the date of the decrease and had chosen to take his/her whole benefit as pension.

Average Salary before Decrease is his/her average salary on the day before the date of the decrease.

Salary Decrease is the decrease in basic salary and/or recognised allowances.

The salaries to be provided are the real salaries as per the agency's workplace agreement, at the time of the reduction in level or hours. Salaries should not be calculated using AWOTE.

We will calculate the proportion, using the information on the employee's superannuation record. This proportion should never be changed except on our instruction.

53. PSS PIP is paid by the employer through the normal salary system. The employer will be reimbursed the PIP payments after lodging a reimbursement claim to us.
54. On approval of PIP, the employer is given a simplified formula for calculating a new PIP rate when changes are necessary:

$$\text{Proportion} \times \text{Difference} = \$ \text{ annual gross PIP}$$

Where the factors are:

Proportion (Invalidity pension rate divided by Average Salary) as calculated by us.

Difference (loss of salary) which is the former higher salary minus the lower decreased salary.

55. PSS PIPs must be adjusted by the employer when the employee's salary or former salary changes because of:
- pay increases at either the employee's current or previous positions
 - salary increases due to increments, promotions, higher duties or any other allowance which is accepted as salary for superannuation purposes.

If there is an agency salary increase, the employer recalculates the PSS PIP rate by inserting the new salaries into the formula. This information is found on the EAC website. If the increases apply to both the old and the decreased salary, there should be no or very little change to the PSS PIP rate.

If the PIP recipient works more hours or receives HDA, the employer must insert the new salary into the decrease salary section of the formula, which will result in a decrease in the PSS PIP rate.

The employer does not need to advise us of these adjustments as they will be evident when the employer lodges their reimbursement claim form.

Please note: The start dates for PAP and PIP payments, or for the reimbursement of payments, are NOT determined by the employer. We will advise you of the start date based on the assessment of each case.

Part D: New audit and reporting requirements

56. From October 2014, a staged rollout will result in us requesting twice yearly that employers notify details of all staff who are:
- members of CSS and PSS
- and
- who have been off work due to a serious medical condition
- and
- have been off work continuously for 28 days or more.
- When responding to these requests, please only advise about those employees whom you have not already been in contact with us about and who have not already been approved for a PAP or a PIP payment.
57. For PAP assessments we will need to be advised again of those employees previously reported who are still undertaking rehabilitation or who are still off work due to a serious medical condition, and at the previous contact, you were advised that PAP was not payable at that time.
58. For PIP assessments we will need to be advised of any employee that has been in receipt of a PIP and whose situation has changed, and the change has not been reported to us, and any person that is covered under paragraphs 44 – 55 and has not been reported to us.
59. We also will be using this audit as part of the PIP review process. It should be noted that medical assessments for members who are in receipt of a PIP will not be required unless their situation has changed. It is therefore important that you also provide these employee's details in the audit.
60. When notifying us of staff identified in paragraphs 56 – 59 you should provide all supporting medical documentation for assessment.

Part E: Further information and forms

61. Any queries relating to the invalidity retirement process and PAP should be directed to **EAC on 1300 338 240. Please note that only general employer enquiries should be directed to this number. Case specific questions should be directed to the Case Manager who writes to your department when a claim has been accepted or is ongoing.**
62. Forms mentioned in these guidelines are available on the PSS and CSS member websites, or for employer forms on the EAC website.
63. The EAC also contains a portal for information on Invalidity, PAP and PIP information and training guides – eac.csc.gov.au

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