



Death and invalidity benefits

Issued 6 December 2019

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Invalidity benefits

If you are retired from the Australian Defence Force (ADF) on the ground of invalidity, you may be eligible to receive a MilitarySuper invalidity benefit to help you resettle into civilian employment.

However, you will not be eligible for invalidity benefits if your transition or retirement:

- occurred within your first two years of service and was due to a condition that was present on entry and was not materially aggravated by your service
- in the opinion of CSC, was a result of your willful action to obtain an invalidity benefit, or
- was because of an injury which occurred while you were absent without leave for a period over 21 consecutive days, and your salary and allowances for that period had been forfeited under the regulations made under the *Defence Act 1903*.

If none of these conditions apply to you, then you may be eligible to receive an invalidity benefit, regardless of whether the condition that led to your medical transition from the ADF was service-related or not.

CSC will assess your case and if it considers you to be eligible, will classify you into one of three classification groups. CSC will determine your percentage of incapacity in relation to appropriate civilian employment, taking into account your condition and your formal qualifications, experience and skills. The invalidity classifications are Class A (incapacity of 60% or more), Class B (30%-59% incapacity) and Class C (less than 30% incapacity).



Military
Superannuation &
Benefits Scheme

Death and dependants' benefit

In the case of your death whilst you are a MilitarySuper contributor, preserved benefit member or pensioner, a benefit will be paid to your eligible dependants, or to your estate where you do not have any eligible dependants.

Amount of invalidity benefits available to you

Class A invalidity

If CSC assesses you as Class A (incapacity of 60% or more), you will be entitled to:

- CPI-indexed pension calculated from the lump sum value of the employer benefit that would have applied based on your final average salary on the date of your retirement, and the benefit multiple you would have received, had you remained in MilitarySuper until your compulsory retiring age for rank (CRA). This is usually age 60 unless you have a higher CRA for rank or you elected to keep an earlier CRA
- plus a lump sum of your member benefit accrued as at 30 June 1999 (if applicable) – that is your own contributions and interest up until that time.

Your post 30 June 1999 member benefit and ancillary benefit remains preserved in MilitarySuper or a regulated superannuation fund of your choice until you reach your preservation age.

The employer benefit is paid as an indexed pension using the conversion factor of 11 (or a higher factor if your retiring age for rank is less than 60). The appropriate conversion factors are listed in Table 1. The employer benefit cannot be taken as a lump sum.

For an example of the calculation used to determine the amount of a Class A invalidity pension, please refer to the **Invalidity Benefits** factsheet which can be found at csc.gov.au/militarysuper/

Table 1. Pension conversion factors

Age	Factor
45	14.0
46	13.8
47	13.6
48	13.4
49	13.2
50	13.0
51	12.8
52	12.6
53	12.4
54	12.2
55	12.0
56	11.8
57	11.6
58	11.4
59	11.2
60	11.0
61	10.8
62	10.6
63	10.4
64	10.2
65	10.0

Note that generally your pension conversion factor is worked out based on your age in years and days. If your retiring age for rank is less than 55, your benefit will still be projected and calculated based on a CRA of 55.

Class B invalidity

If CSC assesses you as meeting Class B (incapacity between 30 – 59%), you will be entitled to:

- a. a CPI indexed pension of the greater of either:
 - half the Class A rate or
 - the pension calculated on your accrued multiple up to the time of discharge
- b. plus a lump sum of your member benefit as at 30 June 1999 (if applicable) – that is, your own contributions and interest up until that time.

Your post 30 June 1999 member benefit and ancillary benefit remains preserved in MilitarySuper or a regulated superannuation fund of your choice until you reach your preservation age and are retired from the workforce.

The Class B pension is calculated as half of your actual service plus prospective membership to your compulsory retiring age, and uses the pension conversion factor applicable to your compulsory retiring age. The pension based on actual membership is calculated in the same way as a redundancy pension, using the pension conversion factor for the age at retirement. Your employer benefit cannot be taken as a lump sum.

For an example of the calculation used to determine the amount of a Class B invalidity pension, please refer to the **Invalidity Benefits** factsheet which can be found at csc.gov.au/militarysuper/

Class C invalidity

If CSC assesses you as Class C (incapacity of less than 30%), no additional invalidity benefits are payable to you.

Your MilitarySuper benefit is calculated the same as if you had resigned from the ADF. You will be entitled to:

- a. a lump sum of your member benefit as at 30 June 1999 (if applicable) – that is your own contributions and interest up until that time
- b. plus your post 30 June 1999 member benefit and ancillary benefit, which remains preserved in MilitarySuper or a regulated superannuation fund of your choice until you reach age 60 and cease employment or reach your preservation age and retire from the workforce

Your employer benefit, accrued to the time of your medical transition, remains preserved in MilitarySuper until:

- age 55, at which time you can take it all as a pension, or
- age 55 when you can have it paid as a rollover to another fund where it must remain preserved until you reach age 60 and cease employment, or retire permanently from the workforce at or after you reach your preservation age, or
- age 55, where you elect to take a part pension (50% or greater) and the balance is paid as a rollover to another super fund until you reach your preservation age and retire permanently from the workforce, or
- you reach age 60 and cease employment or reach your preservation age and retire permanently from the workforce, at which time you can take it all as lump sum or as a mixture of lump sum and pension providing you convert at least 50% to pension, or
- age 65 at which time the benefit must be paid to you regardless of your circumstance.

If your initial classification is Class C you are not subject to classification reviews.

Costs

Invalidity benefits through MilitarySuper are provided for you at no extra cost to you and they are available to you automatically. You cannot opt out or change your level of invalidity benefits.

Classification reviews and reclassification

Invalidity classification reviews

If you are initially classified as Class A or B, your invalidity benefit is not guaranteed for your lifetime. Your invalidity classification will be subject to periodic medical reviews by CSC until you reach age 55. As a result of these reviews, your invalidity classification may change to reflect a change in your incapacity, resulting in a change to your benefit.

In addition to these periodic reviews, in the event that you consider at any time that your retiring impairment has deteriorated and affects your capacity to do the types of employment identified as relevant to you in light of your skills, qualifications and experience, you may request CSC to review your classification level. If you are receiving a Class B pension or you have been re-classified as a Class C from Class A or B, you can request a review at any time up to age 65.

If you are initially classified as Class C your classification is not subject to review, although you do have the opportunity to ask for reconsideration of the initial classification, at the time you are classified (within 30 days of receipt of the decision unless special circumstances apply).

Reclassification to Class C invalidity

If at any time your invalidity classification is reviewed and your classification is changed from Class A or B to Class C, your pension will be ceased immediately. At this time, your employer benefit will be recalculated and preserved in MilitarySuper.

For an example of the calculations used in the reclassification from Class B to C invalidity, please refer to the **Invalidity Benefits** factsheet which can be found at www.csc.gov.au/militarysuper/

Reclassification from Class A to Class B

If you are in receipt of an invalidity Class A pension, and a medical review results in a re-classification to Class B, your pension benefit will change to reflect the new classification. A Class B pension is the greater of either:

- a. half a Class A pension, or
- b. the employer benefit at exit divided by the age factor at exit

For an example of the calculations used in the reclassification from Class A to B invalidity, please refer to the **Invalidity Benefits** factsheet which can be found at csc.gov.au/militarysuper/

Opportunities to provide further information

If a CSC case officer is going to recommend to the delegate that your classification be downgraded following your medical review, you will have the opportunity to provide new evidence. In line with the principles of procedural fairness, you will be sent a copy of the recommendation and asked to submit any additional evidence that you would like considered prior to the delegate's decision in relation to your invalidity classification. You will have 30 days from the date of receipt of the recommendation in which to provide any additional information. Following the receipt of your response or the culmination of the 30 day period, the delegate will make a decision within ten days in relation to your invalidity classification. You will receive notification of the determination within five business days of the delegate's decision.

Reconsideration of a decision made by a delegate of CSC

A MilitarySuper member affected by a decision by CSC or a delegate of CSC may apply to CSC for reconsideration of the decision within 30 days of receipt of the decision (unless special circumstances apply). There are no associated fees for requesting reconsideration at present.

Returning to the ADF

If you are in receipt of an invalidity pension (i.e. Class A or B) and subsequently return to the ADF, your pension will be cancelled, your employer benefit will be recalculated and preserved and you will rejoin MilitarySuper as a contributing member. If following your period of re-entry you retire on invalidity grounds again, you will be reassessed for eligibility with regard to invalidity benefits. If at the end of your period of re-entry you do not retire on invalidity grounds, your previous invalidity pension will not be reinstated.

Circumstances when you are not eligible for MilitarySuper invalidity benefits

You will not be eligible for invalidity benefits if your transition or retirement:

- occurred within your first 2 years of service and was due to a condition that was present on entry and was not materially aggravated by your service, or
- in the opinion of CSC, was a result of your willful action to obtain an invalidity benefit, or
- was because of an injury which occurred while you were absent without leave for a period over 21 consecutive days, and your salary and allowances for that period had been forfeited under the regulations made under the *Defence Act 1903*.

If none of these conditions apply to you, then you are eligible to receive an invalidity benefit, regardless of whether the condition that led to your leaving the ADF was service related or not.

Other considerations relating to invalidity benefits

Surcharge debt

Any surcharge debt you may have accrued whilst a contributor must be recovered from MilitarySuper benefits when they are paid. Normally this is achieved by reducing the MilitarySuper pension benefit that is otherwise payable. You can elect to have it covered from your lump sum if you choose.

Early release (Class C)

In certain circumstances, such as financial hardship or on compassionate grounds or if incapacity prevents you from working again, you may be able to access all or some of your preserved Class C employer benefit early. See the Preserved Benefits fact sheet for more details, including the criteria you must meet before the preserved Class C employer benefit can be released.

Invalidity benefits are not income tested

MilitarySuper invalidity pensions are not adjusted on account of other income, including repatriation, compensation and social security payments. However, some of those payments may be adjusted to account for your MilitarySuper invalidity pension.

Forms required for completion

If you are transitioning from the ADF because of invalidity, complete the **Application for Invalidation Benefits** form available from the MilitarySuper website.

Death and dependants' benefits

Benefits payable

The benefits payable upon death vary according to whether your death occurs:

- in service (ie as a contributing member) or
- as a pensioner, or
- after exit but before receiving your employer benefit (ie as a preserved benefit member).

Death in service

Death benefit

If you die while you are a contributing member of MilitarySuper, your dependants or your estate (if you have no dependants) will be entitled to:

- your member benefit and ancillary benefit, payable as a lump sum; and
- your employer benefit, which is calculated as the amount that would have been payable to you if you had retired on Class A invalidity grounds less an adjustment to recover any remaining surcharge debt at the time of death.

Eligible dependants for death in service

Eligible Spouse	
100% lump sum benefit	Your spouse may take 100% of the employer benefit as a lump sum. Where this option is selected, the calculation of children's benefits (if you have any eligible children) is included in the lump sum amount. That is your employer lump sum benefit is paid totally as a lump sum and no additional benefit becomes payable.
OR	
50% or more converted to a pension	Your spouse may wish to convert the whole lump sum to a pension. In this case the, rate of pension will be 67% of the Class A invalidity pension (this is the eligible pension). If there are eligible children, the pension benefit will be increased at the rate of 11% of the eligible pension for one child, 22% for two children and 33% for three or more children. When the benefit is taken as a pension the amount payable to your spouse and children are identified separately. This is because once your child turns 18 and remains in full time study, the relevant child component of the pension i.e. 11% is paid directly to the child. The child component ceases permanently once the child turns 25 (but may cease earlier if a child is not in full-time study over the age of 18).

In the event that there is more than one eligible surviving spouse, both of whom meet the criteria, then your benefit will be apportioned at the rate (determined by CSC) of the total benefit to each spouse, while the remaining benefit will be allocated at the discretion of CSC according to financial need. Each spouse will have the option of taking the employer benefit as a lump sum or pension or a combination of both.

A spousal pension continues to be paid for the duration of your spouse's life.

Child dependants

Dependant's pension

A child dependant's benefit is also payable to each eligible child where no spousal benefit is payable or where the spouse later dies. These pension benefits are payable at the rate of 45% of the Class A invalidity pension for one child, 80% for two children.

Financial dependants

Lump sum benefit

Where you do not have an eligible spouse or children, but where you have one or more people who are financially dependent on you and you have notified CSC in writing to this effect and made provision for such people or person in your will, then a benefit is payable as a lump sum to or for the benefit of such people or person.

Estate

Lump sum benefit

In the event that there is no eligible spouse or child dependants or other financial dependants, then your death benefit will be paid as a lump sum to your estate.

Death whilst a pensioner (other than an invalidity pensioner)

If you die whilst in receipt of a pension, your eligible spouse receives 67% of the pension that you were receiving. If you have eligible children (children under 18 or full-time students under 25), their pension entitlement will be added to your spouse's pension at the rate of 11% for one child, 22% for two children and 33% for three or more children.

If you are survived by eligible children but not by an eligible spouse, your eligible children receive a pension benefit equal to 45% of your pension where there is one child, 80% for two, 90% for three and 100% for four or more children.

Death of an invalidity pensioner

Where you are in receipt of a Class B invalidity pension at the time of your death and the cause of your death is a result of your prescribed impairment, the pension payable to your eligible spouse or child is calculated as if you had been in receipt of Class A pension.

A similar provision applies where you were once in receipt of a Class A or B pension but had been reclassified as Class C prior to your death.

If you are an invalidity pensioner without eligible dependants at the time of your death and you die within 10 years of your pension commencing, your estate may receive a lump sum calculated on the basis of the residual capital value of the current pension. The lump sum would be the amount of pension that would have been paid from your date of death to ten years after your pension started, provided the amount of pension already paid to you is less than the lump sum value of your employer benefit at retirement.

In the event of your death before pension payments have reached the capital amount of the 3% productivity benefit, and where you have no eligible dependants, any shortfall is paid to your estate.

Death whilst a preserved benefit member

If you have a preserved benefit, having transitioned from the ADF, and your death occurs prior to receiving your preserved benefits then your eligible dependants will be paid your preserved benefit. The preserved employer benefit will be paid either as a pension, a lump sum or a combination of both and your preserved member benefit and ancillary benefit will be paid as a lump sum. If there are no eligible dependants, a lump sum of all your combined preserved benefits will be paid to your estate.

Eligible dependants

In MilitarySuper, an eligible spouse and children are regarded as dependants. The eligibility requirements that need to be satisfied are explained below.

Dependant spouse

An eligible spouse is a person with whom you had a marital or couple relationship at the time of your death – the test for this is whether you had been living on a permanent and bona fide domestic basis as husband, wife or partner for a continuous period of at least three years up to the date of your death.

Where a marital or couple relationship had existed for less than three years at the date of your death, CSC may decide that your spouse is nevertheless an eligible dependant. In coming to this decision, CSC takes into account evidence such as whether:

- the applicant spouse was wholly or substantially dependent upon you
- the applicant spouse was legally married to you
- your relationship was registered under a law of a state or territory as a prescribed kind of relationship
- you had a child born of the relationship, a child adopted during the relationship, or a child of both people within the meaning of the *Family Law Act 1975* (see Child's benefit section below for full definition)
- a home which was the usual place of residence was jointly owned.

CSC may also take into account any other evidence it considers relevant.

Where you previously had a marital or couple relationship but the relationship had ended before your death, a benefit may still be payable to your spouse if:

- at the time of death, you were legally married; and
- the person was wholly or substantially dependent upon you at the time of death.

Dependant child

An eligible child is a child who is under the age of 18 or a full-time student between the ages of 18 and 25 at the time of your death. From age 25, benefits will no longer be payable to any children. Child includes your step-child, adopted child, foster child, ward, ex-nuptial child or a child within the meaning of the *Family Law Act 1975* or these categories of child of your eligible spouse, who was wholly or substantially dependent upon you at the time of your death.

The meaning of child in the *Family Law Act 1975* includes children:

- born to a woman as the result of an artificial conception procedure while that woman was married to, or was a de facto partner of, another person (whether of the same or opposite sex); and
- who are children of a person because of an order of a state or territory court made under a state or territory law prescribed for the purposes of section 60HB of the *Family Law Act 1975*, giving effect to a surrogacy agreement.

Full-time students between age 18 and 25 years

A child's pension ceases when the child reaches 18 years of age unless he or she is a full-time student. Before the pension ceases, CSC will contact the child or their guardian to find out if the child is a full-time student and will send the parent or guardian the appropriate form to fill in.

Where the child has reached 18 years of age, the form should be completed by the child. The form has to be signed by the principal or registrar of the educational institution attended by the child.

Also, an annual student review exercise is conducted for students aged between 18 and 25 years. In this case CSC sends out a form each year to the parent/guardian or student to confirm the student's ongoing eligibility for benefits. The form must be completed and returned or the pension will be ceased.

Marital or couple relationships commencing after age 60

In the event that you commence a marital or couple relationship post-retirement and this relationship is of less than three years duration at your date of death, a pro-rata of your surviving spouse's pension will be payable. In this instance, where the pension is a small amount, your surviving spouse can elect for a one off lump sum to be received.

Tax payable on a death benefit

The tax payable on a death benefit depends on how the benefit is paid. A pension will be subject to PAYG tax, like the tax you pay on your fortnightly salary. A lump sum paid to an eligible dependant for MilitarySuper purposes, or a dependant for tax purposes is not subject to tax. However, a lump sum paid to an estate may be taxed when the estate is finalised.

Absence without leave

Unless mitigating circumstances apply, if your death occurs whilst you are absent without leave (AWOL) and your absence is greater than 21 days, the benefit payable to your eligible beneficiaries or estate will be confined to a refund of your benefit based on actual service undertaken by you, up to the date of your death, rather than on any prospective service.

Surcharge debt

Should your death occur while you are in service or whilst you are a preserved benefit member, any surcharge debt that may have accrued will be paid from the death benefit payable to your eligible dependants or your estate. Please see the Superannuation contributions surcharge factsheet available on our website at www.csc.gov.au/militarysuper for further details.

Ancillary contributions

If, prior to your death, you made contributions into your MilitarySuper ancillary benefit, these amounts will be paid as a lump sum to your eligible beneficiaries or estate as applicable.

Pension indexation

All pensions are indexed twice yearly with effect from the first pension payday in January and July. The adjustment is based on any upward movement in the Consumer Price Index (CPI) for the six months ending 31 March and 30 September each year. If the CPI rises, pensions are increased. If the CPI falls, pensions will remain the same.

Pensions that have been paid for the whole six months before a January or July adjustment are varied by the CPI change for those six months. The first CPI adjustment to a pension is calculated as a proportion of the full amount, e.g. if you have been in receipt of pension for three months the adjustment will be half of the full CPI amount for that six month period.

CSC issues statements in January and July each year showing the pension applicable for the next six months. Taxation information is included with the July information.

Family law

MilitarySuper dependants' benefits are subject to splitting arrangements under family law legislation. For example, under these arrangements a portion of the benefit may be paid to the spouse or de facto of a previous marriage or relationship.

Family Court orders/agreements splitting benefits can vary on a case-by-case basis and also according to different scenarios. Further information regarding family law can be found on the MilitarySuper website at csc.gov.au/militarysuper

Forms for completion

All application forms relating to death or invalidity benefits can be found on the MilitarySuper website at csc.gov.au/militarysuper/



Email
members@enq.militarysuper.gov.au



Phone
1300 006 727



Fax
(02) 6275 7010



Post
MilitarySuper
GPO Box 2252
Canberra ACT 2601



Web
csc.gov.au



Overseas Callers
+61 2 6275 0000