



Death benefits

Who should read this?

CSS members who would like information on the benefits available to their dependents on their death. You should read the fact sheet together with your spouse to make sure you both understand the options available.

What is in this fact sheet?

- > Who is eligible to receive a benefit?
- > Who is a spouse?
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Who is eligible to receive a benefit?

Benefits are payable to your spouse and/or children should you die while you are a contributing member, a deferred benefit member or after retirement provided you were receiving a CSS pension. The calculation of benefits and the eligibility requirements that need to be satisfied at the time of your death are explained below.

On your death, your spouse will receive a CSS benefit provided that they had a marital or couple relationship with you at the time of your death.

Who is a spouse?*

For the purposes of the *Superannuation Act 1976*, a **spouse** is a person who had a marital or couple relationship with a member or a pensioner at the time of their death.

A **marital or couple relationship** is a relationship between a member or pensioner and a person of the same sex or opposite sex who lived together as husband and wife or partners in a permanent and bona fide domestic relationship for a continuous period of at least three years at the date of death.

If the relationship had existed for less than three continuous years at the member or pensioner's death, eligibility can still be determined where ARIA is satisfied that the person ordinarily lived with the member or pensioner as husband and wife or partners.

In making an assessment of eligibility, ARIA may consider the following factors:

- > financial dependence
- > whether you were legally married
- > whether you were in a registered relationship
- > whether you and your partner in the relationship had a child who was:
 - > born of your relationship
 - > adopted by you during the relationship
 - or
 - > where the child is a child of both of you within the meaning of the *Family Law Act 1975*
- > joint ownership of property
- > any other evidence ARIA may consider relevant.

Where a person previously had a marital or couple relationship but the relationship finished before the date of death, a spouse benefit may still be payable if:

- > at the time of the deceased person's death, the spouse was legally married to the deceased person

and

- > they were wholly or substantially dependent upon the deceased person at the time of the deceased person's death.

Also, a person can still be considered to be living with another person on a permanent and bona fide domestic basis where it is determined that the person would have been living with the other person except for a temporary absence or an absence resulting from illness or infirmity.

Who is a child?

For the purposes of the *Superannuation Act 1976*, a **child** in relation to a member who has died, is a child (including an adopted child, an ex-nuptial child, a foster child, a step-child, a ward, or a child within the meaning of the *Family Law Act 1975*) of the member or of the spouse of the deceased member.

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 sex 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.

Who is an eligible child?*

An **eligible child**, is a child of the deceased member or pensioner or of their spouse (including an adopted child, an ex-nuptial child, a foster child, a step-child, a ward, or a child of the deceased member or spouse within the meaning of the *Family Law Act 1975*) who:

- > has not reached age 16
- or
- > is age 16 or more but less than age 25
- and
- > is receiving full-time education at a school, college or university
- and
- > is not ordinarily employed or self-employed
- and
- > immediately before the death of the member:
 - > ordinarily lived with the member (except where the child is a child of a spouse of the deceased person but not of the deceased person)
 - > was, in the opinion of ARIA, wholly or substantially dependent upon the member
 - or
 - > where the child is born, after the death of the member, and would have, in the opinion of ARIA, ordinarily lived with, or been wholly or substantially dependent on, the member if the child had been born before the death of the member.

Who is a partially dependent child?*

A **partially dependent child** is a child of the deceased member or pensioner or of their spouse (including an adopted child, an ex-nuptial child, a foster child, a step-child, a ward or a child of the deceased member or spouse within the meaning of the *Family Law Act 1975*) who:

- > is not an eligible child and
- > is aged less than 16, or is aged 16 or more but less than age 25 and
 - > is receiving a full-time education at a school, college or university and
 - > is not ordinarily employed or self-employed
 and
- > in respect of whom, immediately before the death of the member, the deceased member was voluntarily making, or required by a court to make, regular maintenance payments.

*These descriptions paraphrase the definitions in the *Superannuation Act 1976* and the *Family Law Act 1975*.

What benefit is payable?

Higher dependent pension option

If you retire on age or involuntary retirement grounds or claim your deferred benefit on age grounds you can elect to receive a lower pension in return for your spouse and/or children receiving a higher pension following your death.

By electing to reduce your pension to 93% of the normal pension rate, your spouse and/or children will receive a higher pension following your death. **Tables 1 and 2** show the various percentages payable.

This option is not available if you retire on invalidity grounds or if you die while you are still a contributing or deferred benefit member of the CSS.

Spouse of a contributing member or deferred benefit member

If you die while you are a contributing or deferred benefit member, the pension payable to your spouse will be a percentage of the invalidity pension that would have been payable had you retired on invalidity grounds. **Table 1** shows the various percentages.

The potential invalidity pension would take into account any reduction in benefits that may apply because of the application of a benefit classification certificate (see the **Invalidity benefits** fact sheet for more information).

Your spouse may choose any of the benefit choices that would have been available to you on invalidity retirement. For example, if your spouse decided to take a standard Consumer Price Index (CPI) pension and a lump sum, they would be paid a pension of 67% of your potential invalidity standard CPI indexed pension and 100% of the lump sum that would have been payable (i.e. a lump sum of your member contributions and Fund earnings and productivity component).

Spouse of a pensioner

If you die while receiving a CSS pension, your spouse will be entitled to receive a pension that is a percentage of the pension being paid to you at the time of your death.

The percentage payable will depend on whether you chose the higher dependent pension option at the time of your retirement. **Table 1** shows the various pension percentages.

If your marital or couple relationship started after you began receiving your pension and after you reached age 60, and the relationship had existed for less than three continuous years at the date of death, your spouse will receive a proportion of the spouse's pension that would normally have been payable. For example, if the relationship existed for one year, then your spouse would receive one-third of the full spouse's pension.

Apportionment of spouse's benefit

Where you are survived by more than one spouse, the benefit payable to each spouse may be apportioned having regard to their respective needs.

Continuation of spouse's entitlement

Where a spouse who is receiving a pension remarries or starts a new relationship, the pension continues to be paid. However, they need to tell us as soon as possible so that our records remain correct.

Rates of spouse's pension

Table 1 shows the percentage of your pension that would be payable to your spouse in the event of your death.

Table 1 - Calculation of spouse's pension

Number of dependents	Amount as a percentage of former member's standard rate pension	Amount as percentage of former member's reduced rate pension*
Spouse only	67%	85%
Spouse and one child	78%	97%
Spouse and two children	89%	108%
Spouse and three or more children	100%	108%

* These percentage rates apply to a member who chose the higher dependent pension option when they retired - refer to the **Higher dependent pension option on page 3.**

Associate pensioner

An associate pension, that is, a pension that is payable to the associate of a member or pensioner as the result of a family law split, does not pass to the associate's spouse or children on the associate's death.

Payment of children's pensions

For the purposes of determining eligibility for CSS children's benefits, a child includes a natural child, an adopted child, an ex-nuptial child, a foster child, a step-child, a ward, or a child within the meaning of the *Family Law Act 1975* who was either living with you or wholly or substantially dependent upon you at the time of death.

A child can also include your spouse's child provided they were wholly or substantially dependent upon you at the time of death.

Where a child is born after the date of death, the child will be entitled to children's benefits if it is determined that the child would have lived with the member or been dependent on him/her.

Children's pensions are payable until the child reaches 16 years of age or until the age of 25 if the child is a full-time student and not ordinarily employed.

If there is a spouse and eligible children, the amount of spouse's pension payable is increased in respect of the eligible children.

If there are eligible children, but no eligible spouse, then orphan's benefits are payable.

The rates of spouse's pension (including children's pensions) and orphan's pension are shown in **Table 1 and 2** (the percentages in the third column of these tables only apply where a member chose the higher dependent pension option when they retired).

Rates of orphans' pension

Table 2 shows the calculation of orphans' pensions.

Table 2 - Calculation of orphan's pension

Number of orphans	Amount as a percentage of former member's standard rate pension	Amount as percentage of former member's reduced rate pension*
One	45%	51%
Two	80%	92%
Three	90%	108%
Four or more	100%	108%

* These percentage rates apply to a member who chose the higher dependent pension option when they retired - refer to the **Higher dependent pension option on page 3.**

Payment of benefit where there are no dependents

If you die before retirement and no spouse and/or children's benefits are payable, a benefit comprising your member contributions and Fund earnings and the minimum employer benefit payable under the superannuation guarantee legislation is payable to your estate.

Minimum benefit payable —death of a pensioner

The minimum benefit that must be paid in respect of a CSS member is the total of their member contributions and Fund earnings and the minimum employer benefit payable under the super guarantee legislation.

Where no further pension is payable (i.e. you die and no spouse and/or children's pensions are payable, or your spouse subsequently dies and no children's benefit is payable), the minimum benefit payable is compared to the total benefits paid out as pension and lump sum and any minimum benefit balance is paid to your estate.

Surcharge debts

If you die as a contributing member or a deferred benefit member any surcharge debt is deducted from outstanding benefits payable to your estate or spouse and/or children.

Where death occurs after retirement there is no subsequent adjustment of CSS benefits but the Australian Taxation Office (ATO) may seek to recover, from your estate, any 'trailing' surcharge debt that had not been taken into account before the date of death. Generally such an amount relates only to the last financial year before retirement.

Bi-annual adjustment of pensions

Pensions paid in respect of spouses and/or children are subject to bi-annual cost-of-living adjustments based on upwards movements in the CPI.

How to apply for a benefit

Death whilst a contributing member or deferred benefit member

Your spouse or legal representative can make an application using the form **Benefit application—spouse (or spouse and children) of a deceased member**.

This is available at www.css.gov.au or call 1300 000 277.

The benefit application for orphans, **Benefit application—orphan of a deceased member**, is also available.

Death following retirement

Your spouse or legal representative can make an application using the form **Benefit Application—Spouse of a pensioner benefit application** at www.css.gov.au or call 1300 000 277.

The benefit application for orphans, **Benefit Application—Orphan of a pensioner**, is also available.

Where can I get more information?

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