

# Fact Sheet > Super SA > Lump Sum BENEFICIARIES AND YOUR SUPER ENTITLEMENT

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- > The role of the Family Law Act
- > Eligible children
- > If you die leaving a spouse before or after age 55
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- > Factors that can affect the amount of entitlement received
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As a member of the Lump Sum Scheme, an entitlement is payable upon your death.

On your death, an entitlement will be paid to your:

- Spouse and/or putative spouse (if any) plus
- Eligible children (if any) or
- Estate.

### Putative spouse

A person is the putative spouse of a member if the person and the member had been cohabiting as defacto spouses at the date of the member's death and:

– had been cohabiting continuously for the preceding three years, or for a total of not less than three out of the four preceding years, or

– a child of whom both persons are the parents has been born.

A person is also recognised as a putative spouse of the member if in a Registered Relationship with the member (within the meaning of the *Relationships Register Act 2016*).

### The role of the Family Law Act

The introduction of the ability to have flagging orders, superannuation agreements and court orders, under the Commonwealth *Family Law Act* now gives you the ability to determine who may share your super interest in the event of a breakdown in your marriage or de facto relationship. Subject to a satisfactory property settlement which must take into account super, you may exclude a former partner from being entitled to any part of your super, even though you may not be divorced or may have chosen not to divorce.

If your relationship breaks down and you have permanently separated or divorced, Part VIII B of the *Family Law Act 1975* (Cth) enables you to split and share the accrued interest in your super with your former partner in the same way as other property in a marriage.

It is up to the parties who are permanently separating to agree how they will share the property in the marriage, including superannuation interests.

You do not have to split a superannuation entitlement. By sharing other assets, you may avoid splitting a superannuation interest.

A property settlement or superannuation agreement that takes into consideration super as described above, effectively terminates any right of your former partner to a beneficiary entitlement from your super on your death, even though you may still be legally married but permanently separated. Therefore, if you die after you have undergone a property settlement or superannuation agreement, your entitlement will not be paid to your former spouse.

### Eligible children

The Lump Sum Scheme provides for certain entitlements to be paid to children, irrespective of whether there is a spouse, if the child or children meet the 'eligible child' definition.

In relation to a deceased member, an eligible child is:

- (i) a child of the member, or  
(ii) a child in relation to whom the member had assumed parental responsibilities and who was cared for and maintained, wholly or in part, by the member up to the date of the member's death.
- (i) under the age of 16 years, or  
(ii) between the ages of 16 and 25 years and in full-time attendance at an educational institution recognised by the Super SA Board for the purposes of this definition.

### If you die leaving a spouse and/or putative spouse (before age 55)

Your spouse, putative spouse, or both if applicable, will receive in total a lump sum entitlement worked out using Extrapolated Points with a maximum of 420 points (ie 35 years).

In working out your death entitlement, Extrapolated Points take into account your Accrued Points and then assume you would have continued accruing

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Points in the Scheme until age 60 in the case of death before age 55.

Extrapolated Points are adjusted for part-time service over the whole of your contributory membership (if any).

### If you die leaving a spouse and/or putative spouse (after age 55)

Your spouse, putative spouse, or both if applicable, will receive in total a lump sum equal to your Member Component and an Employer Component. This lump sum entitlement is the same as your retirement benefit.

### If you die leaving a spouse and/or putative spouse and eligible children

Your spouse and/or putative spouse will receive a lump sum, as described above. Eligible children will each receive a fortnightly income of up to a maximum of 5% of your Entitlement Superannuation Salary (ESS). The ESS is your full-time equivalent annual salary at the time of application for entitlement. If there are more than three children, a maximum of 15% of your ESS is divided among them. The fortnightly income will be adjusted twice yearly according to the Consumer Price Index (CPI), all groups index for Adelaide.

### If you die leaving eligible children only

If you were contributing, your Estate will receive a lump sum equal to the greater of two times your ESS or your Member Account, plus your Rollover Account plus your PSESS Account (if you have one) plus an Employer Component.

If you were not contributing, your Estate will receive a lump sum equal to your Member Component and an Employer Component.

Eligible children will each receive a fortnightly income up to a maximum of 15% of your ESS. If there are more than three children, a maximum of 45% of your ESS is divided among them. The fortnightly income will be adjusted twice yearly according to the CPI, all groups index for Adelaide.

Sam and Peter had been married for ten years when they separated. They did not divorce and did not enter into a property settlement through the Family Court. Peter began a new relationship with Shannon and they had been living together for 12 years when Peter died. Peter's super was worth \$100,000.

Because Sam was still Peter's legal spouse, and even though Peter had named Shannon as his beneficiary in his will, the entitlement must be split between the two partners in the ratio of how long they lived with Peter. Shannon received \$54,500 and Sam received \$45,500.

If Peter had wished to exclude Sam from his super entitlement, they should have divorced or entered a property settlement through the Family Court, or a superannuation agreement which dealt with the superannuation entitlement.

### If you die leaving no spouse/putative spouse or eligible children

Your Estate will receive a lump sum equal to your Member Component and an Employer Component, and your Estate will be distributed according to your Will. You should therefore ensure that your Will reflects your wishes regarding the distribution of your Estate. If you do not have a Will, the Estate will be distributed according to the rules of intestacy.

### Factors that can affect the amount of entitlement received

- The amount of death entitlement received may be affected by any pre-existing medical condition you had when you joined the Scheme. This is called a "limitation of entitlements". Should the cause of death be unrelated to the disclosed medical conditions, normal entitlements will apply.
- If you are under age 55, your death entitlement will be reduced if your spouse and/or putative spouse and/or eligible children are receiving, or are entitled to receive, workers' compensation payments in relation to your death.

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- If you have had any periods of casual or part-time employment, your death entitlement will be reduced proportionally.

### How to claim a death entitlement

In the case of your death, your spouse and/or putative spouse, or the person acting on behalf of your children or Estate, will need to complete an *Application for Payment in Relation to a Deceased Member* form.

If you were also a member of Triple S, a separate application needs to be completed for this entitlement, a Triple S *Application for Payment in Relation to a Deceased Member* form. For further information, see the Triple S *Death and Total and Permanent Disablement* fact sheet.

For advice in relation to Wills, Estates and Family Law issues, members should seek the advice of a legal practitioner.

### Supporting documents

In addition to your completed application form, Super SA will need certified copies of the following supporting documents.

#### If the deceased member has a spouse/putative spouse/eligible children:

- Death certificate
- Marriage certificate issued under the *Births, Deaths and Marriages Act 1996*, Registered relationship certificate issued under the *Relationships Register Act 2016* or statutory declarations supporting putative spouse status (if applicable) (form available from Super SA)
- Birth certificates of any eligible children
- Student declaration stating full-time student status if over age 16 (complete an *Application for Student Income* form, available from Super SA)
- Bank account details of eligible children or spouse (a copy of the bank statement showing account details is required).

#### If the deceased member has eligible children only:

- Death certificate
- Executor's birth certificate or photo ID
- Grant of Probate or Letters of Administration
- Will naming the Executor
- Birth certificates of any eligible children
- Student declaration stating full-time student status, if over age 16 (complete an *Application for Student Income* form, available from Super SA)
- Bank account details of eligible children (a copy of the bank statement showing account details is required).

#### If the deceased member has no spouse/putative spouse and no eligible children:

- Death certificate
- Executor's birth certificate or photo ID
- Grant of Probate or Letters of Administration
- Will naming the Executor.

Some of the supporting documents can take up to six weeks to obtain. To avoid delays, forward your application form to Super SA as soon as possible. Supporting documents can subsequently be supplied as soon as they become available.

### Certified copies

Certified copies are copies authorised, or stamped as being true copies of the originals, by a person or agency recognised by the law of the state in which they are certified. These include a:

- Justice of the Peace
- Commissioner for taking Affidavits
- Notary Public
- Proclaimed Police Officer.

Alternatively, you can bring the original documents into the Super SA office to be witnessed by a Super SA staff member.

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### Birth, death, marriage and registered relationship certificates

Birth, death, marriage and registered relationship certificates are available from the Office of Consumer and Business Services (CBS). For general enquiries, contact CBS on 131 882 or their website [www.cbs.sa.gov.au/births-deaths-marriages](http://www.cbs.sa.gov.au/births-deaths-marriages).

Application forms, including information on how to lodge your application are available from:

- Registration Office: Level 2, Chesser House, 91-97 Grenfell Street, Adelaide
- Post Office
- Online: [www.cbs.sa.gov.au](http://www.cbs.sa.gov.au).

### How long does it take?

Birth, death, marriage and registered relationship certificates are usually issued within three working days. Priority applications are issued over the counter or by same day Express Post.

### Grant of Probate (with a Will)

The Executor will need to apply for probate. Probate is the official recognition that a Will is legally valid. The application is called a *Grant of Probate* and needs to be made to the Probate Registry of the Supreme Court. The Grant certifies that the court recognises the authority of the Executor to administer the Estate.

### Letters of Administration (without a Will)

If there is no Will, an application can be lodged to appoint an administrator to administer the Estate in accordance with the rules of intestacy.

The application is for *Letters of Administration* and needs to be made to the Probate Registry of the Supreme Court.

### How to apply for a Grant of Probate or Letters of Administration

You can:

- Appoint a solicitor to make the application on your behalf. If you need help finding a solicitor, contact the Law Society of South Australia on (08) 8229 0200.

- Appoint the Public Trustee or a Trustee Company to act as an Executor or administrator of the Estate. For more information contact the Public Trustee on (08) 8226 9200.
- Prepare the application personally.

Applying for a Grant of Probate or Letters of Administration can be a complex process and you may wish to seek legal assistance.

For further information contact the Probate Registry on (08) 8204 2444 or visit [www.courts.sa.gov.au](http://www.courts.sa.gov.au) and click on the *Probate/Wills* link.

### How long does it take?

Probate or Letters of Administration cannot be granted earlier than 28 days after death. Normally the grant is made within two to five weeks of application.

To avoid delays forward your application form to Super SA as soon as possible. You can then forward the Grant of Probate or Letters of Administration to Super SA as soon as they become available.

### Where to send the application form and supporting documents?

Provide your completed application form and supporting documents to Super SA.

In person: Ground Floor  
151 Pirie Street  
Adelaide SA 5000  
(enter from Pulteney Street)

By post: Super SA  
GPO Box 48  
Adelaide SA 5001

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## Further information

The following documents may be of assistance if read in conjunction with the information presented above:

- Lump Sum *Application for Payment in Relation to a Deceased Member* form
- *Points* fact sheet
- *Death* fact sheet
- *Super and the Breakdown of Relationships* fact sheet
- Lump Sum Scheme Product Disclosure Statement
- *Triple S Death and Total and Permanent Disablement* fact sheet

Fact sheets on a range of topics relating to your super are available on the Super SA website and from Super SA. Alternatively, if you have any enquiries regarding death entitlements or any other matters raised in this fact sheet, please contact Super SA.

### Contact us

#### Address

Ground floor,  
151 Pirie Street  
Adelaide SA 5000  
(Enter from Pulteney Street)

#### Postal

GPO Box 48, Adelaide, SA  
5001

**Call** (08) 8207 2094 or  
1300 369 315

**Email** [supersa@sa.gov.au](mailto:supersa@sa.gov.au)

#### Website

[www.supersa.sa.gov.au](http://www.supersa.sa.gov.au)

### Disclaimer

The information in this document is intended to help you understand your entitlements in the Lump Sum Scheme. Super SA does its best to make sure the information is accurate and up to date. However, you need to be aware that it may not include all the technical details relevant to the topic. For the complete rules of the Lump Sum Scheme, please refer to the *Superannuation Act 1988*. The Act and accompanying Regulations set out the rules under which the Lump Sum Scheme is administered and entitlements are paid. You can access a copy from the Super SA website.

The Lump Sum Scheme is an exempt public sector superannuation scheme and is not regulated by the Australian Securities and Investments Commission (ASIC) or the Australian Prudential Regulation Authority (APRA). Super SA is not required to hold an Australian Financial Services Licence to provide general advice about the Lump Sum Scheme.

The information in this document is of a general nature only and has been prepared without taking into account your objectives, financial situation or needs. Super SA recommends that before making any decisions about the Lump Sum Scheme you consider the appropriateness of this information in the context of your own objectives, financial situation and needs, read the Product Disclosure Statement (PDS) and seek financial advice from a licensed financial adviser in relation to your financial position and requirements.

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