



# Beneficiary nomination

## Who should read this?

Members who want to make sure we pay their PSSap death benefits to the dependants and/or legal personal representative they nominate.

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## What you should know up front

It is important that you read the disclaimer at the end of this fact sheet. Before making any decisions, please read the **PSSap product disclosure statement** and consider seeking advice from a licensed professional such as a financial planner, accountant or solicitor.

## Can I nominate someone to receive my PSSap benefit if I die?

Yes. The PSSap rules allow you to nominate one or more dependants and/or your legal personal representative to receive your benefit, including any insurance, if you die.

The person you nominate is called a beneficiary. To make sure we act upon your nomination, you need to use a legal instrument called a **Binding nomination** form which you will find at [www.pssap.gov.au](http://www.pssap.gov.au), or we can post you a copy.

If your binding nomination is valid and has not expired, we are generally required to pay your benefit to the beneficiaries you nominate.

## Who can I nominate?

Superannuation law restricts the beneficiaries you can nominate to dependants, who are:

- > your spouse (including a de facto spouse of the same sex or opposite sex, who lives with you on a genuine domestic basis)
- > your children of any age (including adopted, step-children, ex-nuptial children, or a child within the meaning of the *Family Law Act 1975*)
- > any person with whom you have an 'interdependency relationship'.

You can also nominate your legal personal representative (the executor of your will, or the administrator of your estate) to receive your PSSap death benefit.

Or, you can nominate a combination of dependants and your legal personal representative.

If a person you nominate is a dependant at the time of your nomination, but is no longer a dependant at the time of your death, we are not required to pay your benefit according to your nomination.

## Who is a child within the meaning of the *Family Law Act 1975*?

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.

## What is an 'interdependency relationship'?

Superannuation law defines an interdependency relationship as between two people who:

- > have a close personal relationship  
and
- > live together  
and
- > one or each of them gives the other financial support  
and
- > one or each of them gives the other domestic support and personal care.

An interdependency relationship may also exist if there is a close personal relationship between the two persons, but one or more of the other requirements for interdependency are not satisfied because of a physical, intellectual or psychiatric disability.

## What happens if I don't have dependants or a legal personal representative?

You cannot make a binding nomination. If you do not have a binding nomination, we make the decision about who receives your benefit.

In doing so we may take into consideration:

- > any application made by any family member or any other person who considers they have a claim
- > any beneficiaries nominated in your will
- > any other information available to identify other potential recipients.

For this purpose, we may:

- > ask your employer for help in identifying family members
- > contact your family and/or solicitor to identify possible beneficiaries
- > advertise in newspapers for potential claimants where we cannot identify family members.

## What happens if I don't nominate someone to receive my death benefit?

You do not have to make a binding nomination. If you do not, or your nomination expires or is invalid, we determine who is entitled to your death benefit and how to divide the benefit. We may at our discretion pay your death benefit to:

- > one or more dependants and/or
- > your legal personal representative or
- > if we cannot find a dependant or your legal personal representative, to any individual we decide.

In exercising our discretion, we will usually consider any application made by your spouse, your child or a person in an interdependency relationship with you or any other person who considers they have a claim. We may also take account of any beneficiaries nominated in an expired or invalid binding nomination or in your will.

In addition, we may use other available avenues to identify other potential recipients. For this purpose, we may:

- > ask your employer for help in identifying family members
- > contact your family and/or solicitor to identify possible beneficiaries
- > advertise in newspapers for potential claimants where we cannot identify family members.

## How do I nominate a beneficiary?

To nominate a beneficiary, you can use a **PSSap beneficiary nomination** form. It is important that you follow the instructions on the form carefully so that your nomination is valid.

Alternatively, you can consult a solicitor to prepare your binding beneficiary nomination which you can send to us.

## Is the PSSap required to pay to nominated beneficiaries in all cases?

We are generally required to pay your benefit in accordance with the valid binding nomination form we receive from you. There are exceptions

to this. We may not be required to pay a death benefit in accordance with a binding nomination if we are:

- > subject to a court order (such as a Family Court of Australia order) preventing payment of the benefit
- > aware you are subject to a court order that prohibits or restricts you from giving a binding nomination or requires you to amend or revoke such a nomination.

## How do I make sure my nomination is valid?

You **must** make your binding nomination (or if amended, done so) strictly in accordance with conditions prescribed under the *Superannuation Industry (Supervision) Act 1993* and the Regulations made under that Act (SIS). Those conditions are:

- > the people you nominate to receive the benefit must be either your dependant (as defined above) or your legal personal representative
- > the proportion of the benefits payable to each person you nominate must be clear or easily ascertainable from the nomination form
- > the nomination must be in writing
- > you must date and sign the nomination in the presence of two witnesses both of whom must be over the age of 18 and not listed as beneficiaries in the nomination
- > the nomination must contain declarations from each of the two witnesses confirming that you signed and dated the nomination before them
- > the nomination must not have been revoked
- > the nomination must have been made, confirmed or amended within three years of your death (that is, you must keep the nomination up to date and review it every three years)
- > you must give us the nomination, (someone else cannot give it to us after your death).

If, when we receive your binding nomination, we think it may be invalid, we will write seeking further instructions from you.

It is important for you to take whatever steps are necessary to make sure the validity of your nomination, including renewing or confirming it every three years. **Remember: if your binding nomination does not meet all the requirements set out above, it will be invalid, and we will not be required to pay your benefit in accordance with it.**

## Can my binding nomination expire?

Yes. It is only valid for three years from when you make, confirm or amend it.

If you want your binding nomination to remain valid, you must renew it in writing before it expires (that is, within three years from the date you originally signed it or within three years of the date it was last confirmed).

To renew your nomination, simply complete a new **PSSap binding nomination** form.

If you choose not to renew your nomination, and you die, we will make a decision about who receives your benefit on the same basis as if you had not made a nomination.

## Can I change my beneficiaries?

Yes. And you should do so whenever your circumstances change, such as divorce, marriage, registered relationship, the birth of children, change in an interdependency relationship, start of a new interdependency relationship or the death of a nominated beneficiary.

To change your beneficiaries, simply complete a new **PSSap binding nomination** form.

## Can I cancel my nomination completely?

Yes. You can cancel a nomination at any time.

If you want to cancel your nomination, simply complete a new **PSSap binding nomination** form, marking the box 'I want to cancel my existing binding nomination.'

## How do I split my benefit between more than one beneficiary?

For each beneficiary, you must nominate the percentage of your benefit you wish them to receive in whole numbers. The total of all nominated percentages must be 100%.

## Can I check my beneficiaries online?

Yes. You can view your beneficiaries whenever you want at the secure **Your account** area at [www.pssap.gov.au](http://www.pssap.gov.au).

## If I nominate a beneficiary, do I still need a will?

A valid binding nomination only requires us to pay your PSSap death benefit to the persons you nominate. It has no bearing on how your other assets will be dealt with in the event of your death. For this reason you should not see a binding nomination for your super as a substitute for having a legally enforceable will.

You should seek advice from a licenced professional to decide whether you need to make a will in relation to other aspects of your estate. You should make sure you have a legally enforceable will if you nominate your legal personal representative as a beneficiary.

## Do I need to get advice?

Nominating beneficiaries is an important decision only you can make. However there are considerations, such as the different tax implications on the distribution of benefits if you intend to nominate your legal personal representative. A licensed professional, such as a solicitor, can help you with identifying considerations that may apply to your personal situation.

## How do I get more information?

Read the **PSSap product disclosure statement**

Read the **PSSap beneficiary nomination** form

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### Warning - This Document Contains General Advice or Information Only

Any advice in this document has been prepared without taking account of your personal objectives, financial situation or needs. Because of this, you should, before acting on any advice in this document, consider the appropriateness of the advice, having regard to your objectives, financial situation and needs. You may wish to consult a licensed financial planner to do this.

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