



Dependants' benefits

DB01—February 2009

Introduction

The DFRDB Scheme provides for the payment of benefits to the eligible dependants of its members. There is a quick guide to DFRDB death in service benefits at the end of this leaflet. The following paragraphs contain more detailed information.

Your dependants may also be entitled to claim Social Security or Veterans' Affairs benefits. When the time comes, they should get in touch with the appropriate department to find out whether or not they are entitled to claim any benefits.

Who is eligible to receive dependants' benefits?

The DFRDB Authority will decide whether or not your dependants satisfy the conditions in the DFRDB Act. The Authority is a body of five people, and its Chairman is the Commissioner for Superannuation. As well as the Chairman, there is a representative of the Department of Defence, and one representative of each of the three Services. The Authority is permitted to make decisions itself, but it may also appoint delegates to make decisions on its behalf.

Dependants' benefits fall into two main categories. There are benefits which are payable to eligible spouses, and benefits which are payable to eligible children, including orphans.

Will my spouse be eligible?

Your spouse will be eligible for a benefit, in most cases, if he or she is living in a marital or couple relationship with you at the time of your death. Generally speaking, this means that your spouse must have been living with you, as your husband, wife, or partner for at least three years before your death.

From 1 January 2008 full benefits will be paid if the marital or couple relationship has existed for at least three years. Where the post-retirement relationship has existed for less than three years, a pro-rata of the spouse's pension will be payable.

If you are legally married, but you are not living in a marital or couple relationship at the time of your death, your husband, wife or partner may still be entitled to receive a spouse's benefit. This can only happen if the Authority decides that the separation was due to illness or posting, or that your husband, wife or partner was wholly or substantially dependent on you at the time of your death.

If the Authority decides that your spouse is eligible to receive a benefit, then he or she will get that benefit for life, regardless of any change in their circumstances.

Will my children be eligible?

If you have any children who are under the age of 16 at the time of your death, they will be eligible to receive benefits. If your children have reached the age of 16, but they have not yet turned 25, they may still be eligible for benefits if they are studying full-time. Benefits cannot be paid to children after the age of 25.

Eligible children can be ex-nuptial children, adopted children, foster children, stepchildren, or a child within the meaning of the **Family Law Act 1975**. They can also be children, including ex-nuptial children, of your spouse, if they are wholly or substantially dependent on 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 or, 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.

If your spouse dies before you do, and you are survived by children who are eligible to receive benefits, those children will be eligible to receive orphans' benefits. Eligible children will also be eligible for orphans' benefits if they are in the custody of a person who is not entitled to receive a spouse's benefit.



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What happens if I have no eligible dependants?

If you die as a contributor, and you are not survived by any eligible dependants, arrangements will be made to have a lump sum paid to your estate. This lump sum will be an amount equal to one and a half times the total amount of money you have contributed to the Scheme at the time of your death, plus the productivity benefit contributed by the Department of Defence.

If you die whilst a recipient of retirement pay, and you are not survived by any eligible dependants, your benefit will stop when you die. If there is any money owing to you at the time of your death, it will be paid to your estate. No other benefits are payable.

What will my spouse receive?

If your spouse is eligible to receive a benefit, that benefit will be worked out in one of two ways, depending on whether you die as a contributor or as a recipient.

Death as a contributor

If you die as a contributor, your spouse will receive a benefit equal to 47.8125 per cent of your annual salary at the time of your death. For DFRDB purposes, your annual salary is the maximum rate of pay which applies to your rank and pay group, plus an eligible allowance if you are entitled to it.

If you die as a contributor, your spouse will also be entitled to convert part of his or her benefit to a lump sum. This is known as the commutation option. The lump sum is tax exempt.

Your spouse may elect to take up the commutation option at any time in the six months after you die, and in so doing he or she can claim a lump sum amount of up to twice your annual salary. Such an amount is the largest lump sum allowable under the legislation, and if your spouse elects to claim this maximum amount, then his or her annual benefit will be reduced by an amount equal to 4 per cent of the total of the lump sum. Once your spouse has elected to take up the commutation option, the portion of the original benefit which has

been commuted cannot be restored, and the benefit will then be reduced from the date that the commutation takes effect.

Further on in this leaflet, you will find examples which show you the way dependants' benefits are worked out. In Example 1, you will see how a spouse's benefit is calculated if a member dies as a contributor, and you will also see how the calculation is worked out if the spouse has elected to claim the maximum allowable lump sum.

Death whilst in receipt of retirement pay

If you die as a recipient, and your spouse is eligible to receive a benefit, that benefit will be worked out as a percentage of the benefit you are receiving at the time of your death.

If you are receiving retirement pay, and you elected to take up the commutation option when you left the Defence Force, your spouse will get an amount equal to 62.5 per cent of what you would have been getting at the time of your death if you had not commuted. If you did not elect for commutation, your spouse will get 62.5 per cent of what you are getting when you die.

If you are receiving invalidity pay, the equation is generally much the same—your spouse will receive a benefit equal to 62.5 per cent of what you are getting at the time of your death. There is one possible exception to this, and it applies if you are receiving invalidity pay at the time of your death, or you have received invalidity pay at some time, and your death is caused by the same medical condition that caused your retirement from the Defence Force. If that happens, your spouse may be entitled to receive a higher benefit, and he or she should get in touch with ComSuper for further information.

If you die as a recipient, there is another aspect of your spouse's benefit that you should know about. It concerns an extra sum of money which will be paid to your spouse after your death. This extra money is payable because the DFRDB legislation intends that, for the first seven paydays after you die, your spouse's benefit should be on a par with what you had been getting before your death.



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ComSuper will pay this money to your spouse in the form of a single, one-off payment, rather than paying separate amounts every payday for seven paydays. This is done purely for the sake of simplicity; and your spouse will not lose out in any way as a result of this process. The one-off payment will form part of the first benefit payment your spouse receives. From then on, your spouse will receive a regular benefit payment on a fortnightly basis.

What will my children receive?

If your children are eligible to receive benefits, the payment they receive will depend on whether or not they are eligible orphans.

If your children are eligible but they are not eligible orphans, they will each receive a fixed amount of money as an annual benefit, plus an amount equal to one-sixth of your spouse's uncommuted benefit. It is currently fixed at \$582.89 and is increased each July and January by the Consumer Price Index (CPI).

If your children are eligible orphans they will receive a fixed amount of money as an annual benefit, plus an amount equal to one-eighth of what an eligible spouse's uncommuted benefit would be. The fixed amount for orphans is \$9,341.20. This is increased each July and January by the CPI.

There is, however, another condition that limits the amount of money that can be paid to eligible orphans.

If you die as a contributor, and you are survived by eligible orphans, the total amount of money that could be paid to them would be at the rate of 76.5 per cent of your annual salary, for DFRDB purposes, at the time of your death.

If you die as a recipient, and you are survived by eligible orphans, the total amount payable to them would be at a rate equal to the benefit you were receiving at the time of your death. This could vary should you be receiving invalidity pay at the time of your death, or you had received invalidity pay at some time, and your death is caused by the same medical condition that caused your retirement from the Defence Force. In that case, your orphans may be entitled to receive more money, and ComSuper will be able to provide further information on these benefits.

If you have a look at Example 2 later in this leaflet, you will see how the benefit payments are worked out in the case of eligible children and eligible orphans. This example also shows you how the limitation is applied to orphans' benefits.

How do my dependants apply for their benefits?

To get their benefits, your dependants will need to complete some forms and return them to ComSuper.

If you are survived by an eligible spouse, the first thing he or she will have to do is to complete an **Application for Spouse, Child/Student or Student Pension** form, which is known as a D80. The D80 also caters for eligible orphans.

There are also some documents which will have to be sent to ComSuper so that the eligibility of your dependants can be confirmed. These documents are listed in the D80, and they should be sent in along with the completed package.

As well as the D80, your spouse should complete a taxation form, called a Tax File Number Declaration, which is attached to the D80. If ComSuper does not get one of these, it will have to deduct tax from your spouse's benefit at the highest marginal rate. This could mean that your spouse's benefit would be taxed at the rate of 46.5 cents in the dollar. For the same reason, taxation forms should also be submitted by, or on behalf of, all eligible children and eligible orphans.

If you die as a contributor, and you are survived by an eligible spouse, he or she will need to complete a D80 form. Your spouse will need to complete this form in order to take up the commutation option explained earlier.

Copies of these forms can be obtained from the Internet at www.dfrdb.gov.au or by telephoning **1300 001 677**. If you die as a contributor, your service office takes on the responsibility of getting in touch with your dependants and helps them to complete all the forms properly.



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How will my dependants' benefits be paid?

Your dependants' benefits will generally become payable from the day after the date of your death, and the money will be paid to them on a fortnightly basis. If you are survived by an eligible spouse, your spouse will continue to receive that money every fortnight for the rest of his or her life. If you are survived by eligible children or eligible orphans, they will be paid fortnightly until their eligibility ceases.

Your spouse's benefit will go up in line with upward movements in the CPI. The CPI increase is applied in January and July each year, and it will also be applied to children's and orphans' benefits.

Benefit payments, including the commutation lump sum will be deposited directly into your bank, credit union or building society account, as long as that account is held at a branch in Australia. The account must be held in the name of the person eligible to receive the benefit, or a joint account.

Your dependants will have to pay tax on their benefits as if they were wage or salary earners, because DFRDB payments are regarded as taxable income. The one exception to this rule is that if you die as a contributor, and your spouse elects to take up the commutation option, he or she will not have to pay any tax on the lump sum.

Of course, there will obviously be many cases, especially in regard to children's and orphans' benefits, where the payment falls underneath the tax-free threshold. No tax will have to be paid in those cases, even though a tax return must be submitted for each dependant who receives a benefit. At the end of each financial year, ComSuper will send out Payment Summary Advices to your dependants, which will show the amount of money they received in benefit payments for the year and the amount of tax they paid, if any.

Can my dependants appeal?

The DFRDB Act allows for any person who is affected by a decision of the DFRDB Authority to appeal against that decision if he or she is dissatisfied with it.

For more information on how to appeal against a decision, refer to the DFRDB **About Your Scheme** booklet, available on the DFRDB website www.dfrdb.gov.au.

Some examples

Here are some hypothetical examples which show you the way your dependants' benefits are worked out. In these examples, you are a Warrant Officer, and you die as a contributor. You can simply substitute your own figures for the ones that are used.

The first example shows you what happens if you are survived by an eligible spouse who elects to take up the commutation option. In taking up this option, your spouse has also opted to claim the maximum allowable lump sum.

The second example shows you the way payments are worked out if you are survived by any eligible children or eligible orphans.

Example 1: Death as a contributor

This example takes you through the steps involved in calculating your spouse's benefit, including the calculation of the commutation. This procedure was discussed under the heading 'What will my spouse receive?'.

Spouse's benefit

Annual salary	\$68 035
Percentage of your salary that your spouse will receive	47.8125%

Using these figures, you can now work out your spouse's entitlements.

Step 1: Spouse's benefit	
$\$68\ 035 \times 47.8125\%$	= \$32 529.23 pa
Step 2: Commutation	
$\$68\ 035 \times 2$	= \$136 070



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In Step 1, you have worked out your spouse's annual benefit, before commutation and before tax. Then, in Step 2, you have worked out the amount of money your spouse will receive as a lump sum, having elected to claim the maximum lump sum allowable under the legislation. Your annual salary has been multiplied by two in order to reach this figure, and you will remember that your spouse does not have to pay any tax on this amount.

Step 3: Commutation reduction

$$\$136\ 070 \times 4\% = \$5\ 442.80\ \text{pa}$$

Step 4: Reduced spouse's benefit

$$\$32\ 529.23 - \$5\ 442.80 = \$27\ 086.43\ \text{pa}$$

The calculation in Step 3 has given you a figure which is actually the difference between your spouse's benefit before commutation and your spouse's benefit after commutation. Then in Step 4 you take that figure, \$5 442.80, away from \$32 529.23, which leaves you with \$27 086.43. This figure, \$27 086.43, is your spouse's annual benefit, after commutation and before tax.

Example 2: Children's benefits

This example is really an extension of the first one. It has been developed further to show you how children's and orphans' benefits are worked out.

Member's annual salary at the time of death	\$68 035 pa
Spouse's uncommuted benefit	\$32 529.23 pa
Fixed amount for a child	\$545.46 pa
Fixed amount for an orphan	\$8 741.28 pa

Using these figures, you can now work out the benefit which would be payable to each eligible child and each eligible orphan. This was discussed under the heading **What will my children receive?**. Steps 1 and 2 show you the way a child's benefit is worked out, while Steps 3 and 4 take you through the calculation of an orphan's benefit.

Child's benefit

Step 1		
\$32 529.23 / 6	=	\$5 421.54 pa
Step 2		
\$5 421.54 + \$545.46	=	\$5 967.00 pa

You have now worked out that each of your eligible children would be entitled to receive a benefit of \$5 967.00 per year, before tax. There is no upper limit on the amount payable in respect of eligible children. Thus, in this example, the benefit simply increases by \$5 967.00 for each eligible child.

Orphan's benefit

Step 3		
\$32 529.23 / 8	=	\$4 066.15 pa
Step 4		
\$4 066.15 + \$8 741.28	=	\$12 807.43 pa

You have now worked out that, in the event of you leaving eligible orphans on your death, each of your eligible orphans would be entitled to receive a benefit of \$12 807.43 per year. The amount payable per orphan is therefore:

- \$12 807.43 for one eligible orphan
- \$25 614.86 for two eligible orphans
- \$38 422.29 for three eligible orphans
- \$51 299.72 for four eligible orphans.

You will remember that there is a limit to the amount of money that can be paid to eligible orphans. The total amount payable to eligible orphans cannot be greater than an amount equal to 76.5 per cent of annual salary at the time of death.

In this example, if there are more than four eligible orphans, the maximum amount that can be paid in respect of all orphans is \$52 046.78 (76.5% of \$68 035). This must be divided by the number of eligible orphans to determine the amount payable to each eligible orphan.



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Thus the amount payable to each eligible orphan, would be:

- if there were five eligible orphans, \$10 409.36 each (\$52 046.78 / 5)
- if there were six eligible orphans, \$8 674.46 each (\$52 046.78 / 6)

and so on.

In this situation, the pension payable would be reassessed when an orphan ceases to be eligible, such as when entitlement ceases after reaching age 25.

If you need more information...

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