

Benefit Payments : accessing superannuation

The Regulations to the Superannuation Industry (Supervision) Act (1993) set out detailed rules governing when members can *voluntarily* access their superannuation as well as when benefits *must* be cashed.

There have been many changes over recent years and this article provides a handy table which can be used to check an individual situation. It does not cover every possibility but goes through the main ones in detail. A glossary is also included for your reference.

Perhaps most significantly:

- the 50% reduction that applied to the normal minimum payment amounts for the 2008/09 financial year has been extended to 2009/10. The relief applies to all:
 - account-based pensions (including transition to retirement pensions);
 - allocated pensions (including non-commutable and transition to retirement pensions); and
 - market-linked (term allocated) pensions.

Importantly, however, the relief *does not* apply to any defined benefit pensions, ie lifetime/life expectancy complying pensions, flexi lifetime pensions etc;

- the changes introduced as part of Super Simplification relate to how superannuation benefits are *taxed*, rather than how benefits are *accessed*. Apart from the introduction of the “transition to retirement” pension outlined below, there have been *virtually no changes* to the conditions of release which dictate when people can voluntarily access their superannuation. Importantly, whilst people aged 60 or over may be entitled to tax free superannuation benefits, they do not automatically have unfettered access to their superannuation upon reaching age 60 – a condition of release must still be met in order to access certain benefits;
- for any transition to retirement (or non-commutable) pension, restrictions are imposed limiting the amount of pension that can be drawn (ie, there is a maximum pension payment) and lump sum payments can only be drawn in very limited circumstances (eg, the person has unrestricted non-preserved funds); and
- individuals are no longer required to cash out their superannuation or convert it to a pension during their lifetime, however, it is compulsory to cash out (or commence a pension) when a member dies.

Importantly note that the ability of a superannuation fund to pay benefits (or alternatively *not* pay benefits in the case of those who wish to remain accumulating) is also governed by its trust deed and rules. The trust deed and rules should always be reviewed (and amended if necessary) to ensure it allows (or does not require) the payment of benefits in the desired form.

	Age of the member			
	Under preservation age	Over preservation age but less than 65	Over 65 but less than 75	Over 75
Compulsory cashing of benefits	No – except on death	No – except on death	No – except on death	No – except on death
Voluntary cashing of preserved benefits				
Transition to retirement pension	No	Yes (if not 'retired')	Any benefit can be voluntarily cashed after age 65, regardless of work status or other factors.	
Gainfully employed fewer than 10 hours per week or not at all	No	Yes (but only if 'retired')		
Gainfully employed more than 10 hours per week	No	No, unless 'retired'		
Terminal medical condition	Yes	Yes		
Permanent Incapacity	Yes	Yes		
Severe financial hardship	Yes Limited to a single lump sum (\$1,000 - \$10,000pa)	Yes (Not limited if aged at least preservation age plus 39 weeks)		
Compassionate Grounds	Yes (a single lump sum determined by the Regulator)	Yes (a single lump sum determined by the Regulator)		
Temporary Incapacity	Yes (but only as a non commutable income stream)	Yes (but only as a non commutable income stream)		

	Age of the member			
	Under preservation age	Over preservation age but less than 65	Over 65 but less than 75	Over 75
Termination of employment with an employer who contributed to the relevant superannuation fund	Yes (but only as a non-commutable lifetime income stream)	Yes (but only as a non-commutable lifetime income stream)	Any benefit can be voluntarily cashed after age 65, regardless of work status or other factors.	
<i>Voluntary cashing of restricted non-preserved benefits</i>	On termination of employment with an employer who has contributed to the relevant superannuation fund.	On termination of employment with an employer who has contributed to the relevant superannuation fund.	Can be voluntarily cashed at any time after age 65, regardless of work status or other factors.	
<i>Voluntary cashing of unrestricted non-preserved benefits</i>	Yes	Yes	Can be voluntarily cashed at any time after age 65, regardless of work status or other factors.	

Glossary	
Compassionate grounds	The Regulator will generally release benefits on compassionate grounds in circumstances where the member needs to pay for medical treatment/transport, loan repayment to prevent foreclosure on a mortgage, home modifications needed due to severe disability, expenses associated with palliative care.
Gainfully employed	Employed or self-employed for gain or reward in any business, trade, profession, vocation, calling, occupation or employment.
Permanent incapacity	means ill-health (whether physical or mental) and the Trustee is satisfied that the member is unlikely to ever be gainfully employed in an area for which they are reasonably qualified by education, training or experience.
Retired	Reached preservation age that is less than 60 : <ul style="list-style-type: none"> a paid employment arrangement has ceased (either now or in the past); and the trustee is reasonably satisfied the member never intends to be gainfully employed (for at least 10 hours per week) in the future. <p>If the member is aged 60 or over:</p> <ul style="list-style-type: none"> a paid employment arrangement ceases after age 60; or an arrangement under which the member was gainfully employed has come to an end and the trustee is reasonably satisfied the member never intends to be gainfully employed (for at least 10 hours per week) in the future.
Severe financial hardship	If the Trustee is satisfied (based on written evidence) that: <ul style="list-style-type: none"> the member has reached preservation age plus 39 weeks or more and: <ul style="list-style-type: none"> the member has received Commonwealth income support payments for a cumulative period of 39 weeks after the member reached preservation age; and the member is not gainfully employed for at least 10 hours a week; otherwise: <ul style="list-style-type: none"> the member has received Commonwealth income support payments for a continuous period of 26 weeks; and the member is unable to meet reasonable and immediate family living expenses.
Temporary incapacity	The member has ceased to be gainfully employed due to ill-health (whether physical or mental) but they are not permanently incapacitated (as defined above).
Terminal medical condition	If the following circumstances exist: <ul style="list-style-type: none"> two registered medical practitioners have certified, jointly or separately, that the person suffers from an illness, or has incurred an injury, that is likely to result in the death of the person within a period (the certification period) that ends not more than 12 months after the date of the certification; at least one of the registered medical practitioners is a specialist practicing in an area related to the illness or injury suffered by the person; for each of the certificates, the certification period has not ended.
Transition to retirement pension	An account-based pension where the total payments (excluding lump sums (if allowable)) in a financial year are no more than 10% of the account balance at: <ul style="list-style-type: none"> 1 July in the financial year in which payments is made; or on the commencement day of the pension (if not 1 July). <p>Once the member 'retires' or reaches age 65 the 10% limit is removed.</p>