

# PSS and CSS INVALIDITY NOTES

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# 1. Introduction

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## 1.1 Board(s) as decision maker

The superannuation legislation provides that an eligible employee is not to be retired on the ground of invalidity unless the CSS or PSS Board has:

- approved the invalidity retirement;
- certified that the employee will be entitled to receive invalidity retirement benefits; and
- issued an Invalidity Retirement Certificate.

This means that no CSS member under the age of 65 or PSS member under the age of 60 can be retired on the ground of invalidity without first being issued with an invalidity retirement certificate by the relevant Board. In other words, **all applications for invalidity retirement for members of the CSS aged less than 65 or PSS members aged less than 60 must be processed by ComSuper.**

## 1.2 Who is ComSuper?

ComSuper is the business name for Commonwealth Superannuation Administration which is responsible for the administration of the superannuation schemes available to Commonwealth and Military employees. ComSuper is committed to providing legislative and administrative advice and support to the Boards of Trustees, employers and members of the schemes.

## 1.3 Why Follow these Procedures?

These procedures are the result of ComSuper's years of administrative experience in the investigation of invalidity retirement matters and they are continually evolving as improved processes become available. At present, these procedures are the most efficient way to conduct an invalidity retirement investigation, whilst ensuring that all legislative requirements are met, and that all parties receive fair and equitable treatment.

## 1.4 What is the Aim of this Guide?

It is strongly recommended that you read and follow the advice in this guide so that you will be able to:

- correctly complete all requisite forms; and
- present a comprehensive application for the consideration of the relevant Board.

## 2. Total and Permanent Incapacity

The legislative criterion to be met before approval of invalidity retirement can be given is **total and permanent incapacity**. The definitions of total and permanent incapacity are contained in subsection 54B of the *Superannuation Act 1976* and Rule 1.2.1 of the Schedule of Rules for the *Superannuation Act 1990* and are reproduced below:

"54B For the purposes of this Part a person is totally and permanently incapacitated if, because of a mental or physical condition, it is unlikely that the person will ever be able to work in any employment or hold any office for which the person:

- (a) is reasonably qualified by education, training or experience; or
- (b) could become reasonably qualified after retraining."

and

"Rule 1.2.1 "totally and permanently incapacitated" means that, because of a physical or mental condition the person is unlikely ever to work again in a job for which he or she is reasonably qualified by education, training or experience or could be so qualified after retraining."

This means that the relevant Board will agree to invalidity retirement and payment of invalidity retirement benefits if it is satisfied that the member is suffering from a permanent medical condition which is likely to prevent the member from ever working again, and which prevents the member from being retrained for any other suitable position.

Please note that this is a strict criterion, and means more than "unfit to perform the full duties of the position".

The relevant Board will, when applying the TPI criterion, assess the member's potential for employment both within and outside the Public Sector.

## 3. Pre-Application Strategies

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An application for invalidity retirement should be the final step in the management of an ill or injured employee. It is expected that, before invalidity retirement is considered, all other avenues of management should have been attempted, in an effort to avoid losing a valuable employee, or a member unnecessarily relinquishing working status. Pre-retirement strategies could include :

- health assessment reports;
- any treatment or strategy recommended by HSA;
- for compensation cases, any recommendations made by Comcare or the administering authority;
- rehabilitation and retraining
- workplace assessments
- functional capacity evaluations
- vocational assessments
- counselling
- psychological testing
- work conditioning programs
- pain management
- employee assistance programs
- daily living assessments;
- graduated return to work;
- redeployment or reduction in hours (may qualify the member for partial invalidity pension);
- any other treatment recommended; and
- appropriate leave to allow adequate recovery time.

### 3.1 Health Services Australia (HSA)

Health Services Australia (HSA) is the preferred medical agency to be used in the coordination of strategies for ill and disabled members. (See 3.2 below). This organisation is aware of the superannuation legislative requirements and has expertise in all relevant medical matters. HSA could be used to assist in:

health assessment reports and recommendations for medical management of members;  
liaison with treating doctors and specialists;  
arrangements for independent specialist examinations; and  
recommendations regarding TPI.

### 3.2. Alternative Providers

Departments/Agencies are free to use alternative providers, but please note that there is a legislative requirement that an examination and recommendation regarding TPI must be obtained from HSA in cases where invalidity retirement is being sought. An HSA report is also required before a decision can be made regarding pre-assessment payments. See Section 9.

## 4. Overview of the Invalidity Retirement Process

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### Employer

When all appropriate pre-retirement strategies have been attempted and HSA has recommended that the member is or is likely to become TPI, the Personnel Officer/Case Manager should collect and collate all the evidence, complete the requisite forms and forward them to ComSuper.

### ComSuper

- A case manager is allocated, and the documentation is reviewed for completeness.
- In compensation cases, an acknowledgment of receipt is forwarded to the employer and a similar acknowledgment is forwarded to the applicant. In non-compensation cases, a determination is made whether pre-assessment payments are payable.
- The applicant and the employer are advised of the pre-assessment decision. If approved, the employer is advised of the rate and method of payment, and reimbursement procedures.
- ComSuper may ask for the employer to collect further evidence.
- The case is then submitted to the Invalidity Assessment Panel.

### Invalidity Assessment Panel

The case is examined by a Panel of medical, para-medical and administrative professionals who have expertise in the assessment of invalidity claims. The Panel reports to the Board and makes a recommendation regarding the TPI criterion.

If the Panel recommends **ACCEPT** the claim, then a delegate of the Board approves retirement and issues an Invalidity Retirement Certificate.

If the Panel recommends **DEFER** the claim (normally to obtain additional medical evidence), then ComSuper will arrange to obtain the further evidence requested by the Panel.

If the Panel recommends that a **HOME VISIT** be made to the member in a case where the paper evidence is inconclusive, then a counsellor visits the member and reports to ComSuper. This report is then resubmitted to the Panel for examination.

If the Panel recommends **DECLINE** the application, then

- ComSuper advises the member and offers the opportunity to make comment or provide more information,
- ComSuper advises the employer and requests an investigation into the practicality of re-employment; and
- Once this information has been provided, ComSuper prepares the case for submission to the Delegate of the CSS/PSS Boards.

### Decision of the CSS/PSS Board Delegate

If the Delegate **APPROVES** invalidity retirement, then

a Delegate issues an Invalidation Retirement Certificate; and the employer formally retires the member and completes the appropriate benefit application.

If the Delegate **DEFERS** a decision, then ComSuper and the employer follow the recommendations of the Delegate.

If the Delegate **DOES NOT APPROVE** invalidity retirement, then Employer resumes management of the case.

Options could be :

- a) further attempts to return member to work
- b) lodge an appeal against primary decision
- c) submit a second application
- d) utilise another method of exit

## 5. Documents Required by ComSuper

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- fully completed application form SPC
- medical form SM2 completed and signed by an HSA Occupational Physician, where possible. If the examination was by an HSA approved country doctor, the SM2 and report must be oversighted by a HSA Senior Medical Adviser.
- Treating specialists/doctors reports. Each report must detail medical conditions, symptoms, treatment and prognosis, and must be as up-to-date as possible. See Section 8 for guidance on ComSuper's main requirements in a medical report. All earlier medical reports should also be supplied to provide a background medical history. (All previous HSA reports should also be included.)
- Independent specialist reports as necessary. Please note that independent psychiatric assessment is required in all psychiatric cases, and in most chronic cases, ie chronic pain syndrome, chronic fatigue syndrome etc.
- Departmental summary of the management of the case, including documentation of any pre-application strategies (rehabilitation or redeployment attempts).
- Sick leave records
- CMAPS form - if the application relates to a PSS member who has less than 3 years contributory service
- Duty statement for current position. If no duty statement is available, please provide a description of the duties performed by the member
- If the member is receiving compensation for the condition for which he/she is applying for invalidity retirement, Comcare or the relevant Administering Authority must be asked to review the case and to provide a Delegate's recommendation, stating, with reasons, whether or not Comcare recommends invalidity retirement for the applicant.

## 6. Help sheet - Form SPC

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Form SPC is the official application form for invalidity retirement and **must be provided with every application**. The information provided on the form is also used to calculate pre-assessment payments. The form is available on the ComSuper internet site at [www.comsuper.gov.au](http://www.comsuper.gov.au).

Complete all sections. Please PRINT

Identify designations, employer etc IN FULL – no abbreviations please

DATE ON WHICH SICK LEAVE COMMENCED - this is the date on which the member commenced continuous sick or compensation leave, and has not returned to work since. Dates for subsequent accruals of sick leave are not required here

Checklist - Tick and attach all documents requested

## 7. Help sheet - Form SM2

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The form SM2 **must be completed** by HSA where a medical examination is conducted in order to establish whether or not the member is totally and permanently incapacitated. The form is available on the ComSuper internet site at <http://www.comsuper.gov.au>

Please **READ** all printed information carefully.

Member to **SIGN DECLARATION** that information has been read and that authority is given to release medical information from listed doctors, hospitals or clinics.

**PRINT** answers. Please use blue or black ink. Other colours, including highlighters, do not photocopy well.

DATE ON WHICH CONTINUOUS SICK LEAVE COMMENCED - see explanation for form SPC above.

**DOCUMENTATION** - all reports detailed should be supplied to the examining Physician with form SM2 prior to the examination, and to ComSuper when application is made.

Scale of incapacity for each condition and ICD codes must be inserted - this helps ComSuper identify whether the reports supplied are sufficiently detailed, having regard to the contribution each condition has made to the overall incapacity.

Examining Physician must answer all questions in section 6.

If the member has been examined by an HSA Approved Medical Officer (AMO) in a country area, the reports and form SM2 must be forwarded to HSA for oversighting and signature by a Senior Medical Adviser.

**IF THE EXAMINING PHYSICIAN DOES NOT RECOMMEND TPI, OR THE SENIOR MEDICAL ADVISER DOES NOT CONCUR WITH THE AMO, DO NOT SEND THE APPLICATION TO COMSUPER BUT FOLLOW THE MEDICAL RECOMMENDATIONS. IF THIS ACTION IS UNSUCCESSFUL, THE MEMBER SHOULD BE REVIEWED BY HSA AND ANOTHER REPORT OBTAINED.**

## 8. Help sheet -Points to be addressed by doctor.

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Because the Invalidity Assessment Panel and the Trustee rely solely on written evidence it is important that the evidence is as comprehensive and current as possible, to assist them in reaching a considered and fair conclusion. Does the medical evidence provide:

- history of the member's illness or accident
- current symptoms/signs
  - as described by the member
  - as observed by the practitioner at presentation
- diagnosis
  - the severity of the condition
  - transitory or long-term
- treatment
  - current medications/physical therapy/psychotherapy and their results
  - results of relevant testing conducted or comments regarding those tests
  - description of any additional treatment which would assist in alleviating the condition
- prognosis
  - the effect of the condition on the member's ability to work
  - could the member be rehabilitated back to former position or its equivalent
  - could the member work modified duties or reduced hours
  - could the member be retrained for any other position
- terminal conditions. Your description of life expectancy will be used to determine processing priority and taxation treatment.
  - life expectancy in months
    - less than 6 months
    - less than 12 months
    - less than 24 months
  - will the member require assistance with personal or nursing care on a daily basis within the next two years

When requesting a medical practitioner to provide a report this page may be copied and referred to the medical practitioner to assist in the preparation of his/her report.

## 9. Help sheet - Pre-assessment Payments

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Pre-assessment payments are designed to provide income maintenance in non-compensation cases during the invalidity retirement process. Pre-assessment payments are generally payable until the Board decides whether to issue an invalidity retirement certificate. Pre-assessment payments are not deducted from any invalidity benefit which might become payable, nor do they have to be repaid if an application is unsuccessful.

### 9.1 Eligibility for Pre-assessment Payments

Pre-assessment Payments are **not** payable :

- in the first 6 months while the member still has sick leave credits (full or half pay)
- to members on compensation leave in respect of the condition in relation to which retirement is sought
- to Limited Benefits Members of the PSS Scheme

Consideration may be given to approving pre-assessment payments to a member who has been off work for a continuous period of 28 or more days because of a serious, but non-compensable condition.

Before deciding to make pre-assessment payments to a member the Board must have a final report from HSA recommending that there is a **likelihood** that the member is, or will become, totally and permanently incapacitated.

When considering whether or not to make pre-assessment payments, the delegate of the Board must decide whether there is a **real likelihood** that the member is, or will become, totally and permanently incapacitated

The decision to commence pre-assessment payments **has no influence** on the eventual decision by the Board on the member's application for the issue of an invalidity retirement certificate. The granting of pre-assessment payments is not a guarantee that an invalidity retirement certificate will be issued.

### 9.2 Commencement of Pre-assessment Payments

ComSuper will send written advice to the employer of the approval of pre-assessment payments, including eligibility dates, rates of payments and information about re-imburement procedures.

Contributions to the superannuation scheme and any member premiums for additional death and invalidity cover are to be deducted from the pre-assessment pay each fortnight at the normal rate.

## Rate of Pre-assessment Payments

The rate of payment will be:

- (a) in the first six months after sick leave commences -
- i) zero while the person is on paid sick leave, whether at full or half pay rates;
  - ii) equal to 50% of normal fortnightly salary, (including recognised superannuation allowances),

LESS

partial invalidity pension, or  
compensation payments related to a condition that is not the condition causing the member to be off work (if any)

N.B: For partial invalidity pension recipients, the *updated full time salary* (including recognised superannuation allowances) should be used.

(b) effective from the first working day after the first six month absence THE GREATER OF:

- i) a rate equivalent to the *maximum invalidity benefit* that would be payable if the person retired on that day and had not elected to take a refund of accumulated contributions,

LESS

- the *sum of* any fortnightly amounts of sick leave pay,
  - partial invalidity pension and
  - compensation payments in relation to a condition other than the condition to which the retirement application relates;
- and

- ii) the amount calculated as per (a)(ii) above.

It follows from the above that all *full pay* sick leave credits must be exhausted *prior* to commencing pre-assessment payments.

## 9.3 Cessation of Pre-assessment Payments

Pre-assessment payments cease on a contribution day specified by the Board after:

- notification of decision on invalidity retirement;
- the person's return to work;

- the person ceasing to be a member of the scheme; or
- the person failing to commence a rehabilitation program or to undergo a medical examination without "good and sufficient" reason.

## 9.4 Help with the calculation sheet

50% of fortnightly salary means ACTUAL SALARY - any salary adjustments are applied to actual salary and will therefore affect pre-assessment payments.

Maximum invalidity benefit is the amount of maximum pension the member would have received had invalidity retirement been effected on the day six months after commencement of continuous sick leave. This rate will be adjusted by the CPI increase, which will be advised by ComSuper. Salary adjustments occurring after six months of continuous sick leave **should not be applied**. The salary that this should be based on is the salary that you would report as the final salary had the member exited on invalidity grounds on that day. i.e. greater of:

- annual salary at the date of exit; or
- the salary on which contributions are based; or
- the highest salary for superannuation purposes received on or after the last birthday anniversary.

## 9.5 Other information about pre-assessment payments

- Approval of pre-assessment payments has no influence on the eventual decision of the Board regarding invalidity retirement.
- If a compensation claim is later accepted and periods of payment overlap, pre-assessment payments are recoverable.
- Pre-assessment payments can be ceased for non-compliance with Panel or Board instructions, on instruction from ComSuper.
- Pre-assessment payments are paid by the employer but funded by ComSuper. The reimbursement arrangements are at Section 11.
- The date of cessation of pre-assessment payments will be advised by ComSuper.

# 10. PRE-ASSESSMENT PAYMENTS (PAP) CALCULATION SHEET

NAME :

AGS NO :

<b>Payment rate in FIRST 6 MONTHS of continuous sick leave</b> While not in receipt of sick leave pay (full or half) - 50% of normal salary, including recognised allowances \$.	1 <sup>ST</sup> Calculation	2 <sup>ND</sup> Calculation (use for salary increases, increments etc)	3 <sup>RD</sup> Calculation (use for salary increases, increments etc)
Date of commencement of PAP (after sick leave pay exhausted)			
50% PAP rate			
<b>Less</b> - Partial invalidity pension payments OR unrelated compensation, if any (fortnightly)			
Total : Fortnightly pre-assessment payments			
Total : Annual pre-assessment payments			
<b>Payment rate AFTER 6 MONTHS of continuous sick leave</b> - effective date and rate advised by ComSuper CSS notified rate ..... % of \$..... (salary on this date* ) = \$.....  PSS notified rate \$. ..... p.a.	1 <sup>st</sup> Calculation	2 <sup>nd</sup> Calculation - use for CPI increments as advised by ComSuper/restarts	3 <sup>rd</sup> Calculation -use for CPI increments as advised by ComSuper/restarts
Date of commencement of PAP for this period			
PAP payment rate			
Fortnightly PAP rate			
<b>Less</b> : Partial invalidity pension payments OR unrelated compensation, if any (fortnightly)			
<b>Less</b> : sick pay (if any)			
Total fortnightly pre-assessment payments			

\* This salary is now FROZEN and should not be altered



## 11. Reimbursement arrangements for pre-assessment payments and partial invalidity pensions

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- ComSuper will provide reimbursement of pre-assessment payments or partial invalidity pensions upon written request from the Department/Authority on the appropriate reimbursement claim form (see 11.2 and 11.3).
- Requests for reimbursement should be made at the completion of the invalidity case, or in six-monthly aggregates in protracted cases.
- Any overpayment of reimbursements of these benefits will be recoverable by ComSuper.
- Requests for reimbursements should be addressed to

The Manager  
PSS/CSS DB Invalidity Assessment  
PO Box 22  
BELCONNEN ACT 2616

and should include employer details i.e. name of department/agency, address, contact officer and telephone number.

The ACT Government has a cost-sharing arrangement with the Commonwealth Government in respect of CSS and PSS benefits, including the payment of partial invalidity and pre-assessment payments. Under this arrangement, the ACT Government is required to meet the costs arising from superannuation membership for the period commencing 1 July 1989. ComSuper will therefore not provide reimbursement of pre-assessment payments or partial invalidity pensions to ACT Government departments.

Consideration is currently being given by the ACT Department of Treasury and Infrastructure for the Commonwealth portion of pre-assessment and partial invalidity payments for pre 1989 service employees to be taken into account in the triennial actuarial reviews of ACT Government liabilities. This will obviate the need for reimbursement to the ACT Government on a case by case basis.

## 11.2 PRE-ASSESSMENT PAYMENTS (PAP) RE-IMBURSEMENT

NAME : \_\_\_\_\_ AGS NO : \_\_\_\_\_

<b>FIRST 6 MONTHS OF CONTINUOUS SICK LEAVE</b> while not in receipt of sick leave pay full or half - 50% of normal salary, including recognised allowances	1 <sup>ST</sup> Calculation	2 <sup>ND</sup> Calculation (use for salary increases)	3 <sup>RD</sup> Calculation (use for salary increases)
Date of commencement of PAP (after sick leave pay exhausted)			
Date of cessation of PAP			
Total number of work days			
Salary			
50% PAP rate			
<b>Less</b> - Partial invalidity pension payments OR unrelated compensation, if any (fortnightly)			
<b>Total</b> : Fortnightly pre-assessment payments			
<b>Total</b> : Annual pre-assessment payments (ie 313 ÷ 12 x fn rate)			
Number of pays at current rate			
<b>AFTER 6 MONTHS OF CONTINUOUS SICK LEAVE</b> (effective date and rate advised by ComSuper)	1 <sup>ST</sup> Calculation	2 <sup>ND</sup> Calc (CPI)	3 <sup>RD</sup> Calc (CPI)
Date of commencement of PAP for this period			
End date of calculation period			
Total number of working days			
PAP rate (as advised by ComSuper)			
<b>Less</b> : Partial invalidity pension payments or unrelated compensation, if any (fortnightly)			
<b>Less</b> : sick pay (if any)			
Total fortnightly pre-assessment payments			
Number of pays at current rate			
<b>GRAND TOTAL OF CLAIM</b>			

Payment details : Please make cheque payable to : \_\_\_\_\_ Or Direct Credit number : \_\_\_\_\_

Contact person : \_\_\_\_\_ Address : \_\_\_\_\_ Phone : \_\_\_\_\_



## 12. Terminally ill cases

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### 12.1 Fast track provisions

Personnel staff of Departments/Agencies should be aware of the "fast track" provisions that ComSuper has set in place to facilitate rapid assessments of requests for invalidity retirement in respect of terminally ill members in either the PSS or CSS.

Once the Department/Agency has been made aware that an employee is terminally ill, arrangements should be made to have the employee medically assessed by HSA (arrangements can be made to have the employee examined at home or in hospital if need be). The Department/Agency should also obtain reports from the employees's treating specialist(s) - the reports should include a prognosis from the doctor as to the member's life expectancy, in terms of weeks, months etc. Once obtained, all the reports should be sent to ComSuper with a request that the case be expedited. Under normal circumstances, ComSuper will finalise the case within 1-2 weeks.

Departments/Agencies should also be aware of the need to advise terminally ill members that they should seek advice from ComSuper as to the range of benefit options that may be available to them before they consider retirement on grounds of invalidity.

### 12.2 Lump sum option

In addition, terminally ill PSS members or PSS members suffering from conditions, the severity of which will require, within two years, personal or nursing care on a daily basis, should be made aware of the option enabling immediate access to his/her accrued benefit in the form of a lump sum rather than pension. It must be stressed that this benefit does not include a component for prospective service to age 60. Members wishing to elect for this option should provide supporting reports from two medical practitioners.

## 13. Addressing the practicality of employment issue

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When the Invalidity Assessment Panel has recommended that the member is not totally and permanently incapacitated (TPI), the Board must consider whether it is **practical** for the member to find employment for which he/she is reasonably qualified, or could become reasonably qualified after retraining.

After considering evidence relating to this matter, the Board may approve an application on the ground that it is not practical for the member to find suitable employment, even though it does not consider that the member meets the criterion of TPI as defined in the legislation.

Therefore, the importance of properly addressing the practicality issue cannot be overstated, and employers are urged to thoroughly investigate this aspect of the case. It is suggested that the following issues are addressed:

- Any specific recommendation, suggestions or observations made by the Panel.
- The possibility of rehabilitating the member back to his/her former position. All attempts at rehabilitation should be fully documented, and reasons for failure reported.
- The member's potential for employment having regard to his/her education, training, skills and interests.
- The possibility of retraining for redeployment of the member to another position either:
  - within the Department
  - within another Department or Agency or
  - within the private sector.
- Report any other information which you consider relevant. For example, if the member's incapacity is adversely affecting work colleagues, details should be provided.

### PLEASE NOTE:

Your report and supporting documents should show proof of genuine attempts to identify and locate suitable employment for the member through rehabilitation, retraining or redeployment.

Detailed reasons for the failure of retraining, or the inability to identify suitable positions should be provided. Do not rely on the argument that the member has been found to be TPI by medical practitioners and therefore cannot be rehabilitated or retrained. Remember that the Panel has already considered the medical evidence and has recommended that the member is **not** TPI.

## 14. PROVISION OF ESTIMATE ON INVALIDITY RETIREMENT

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Requests for an estimate of benefit entitlements should be lodged on a completed Benefit Estimate Request form which is available from our websites under Forms and Publications at [www.css.gov.au](http://www.css.gov.au) and [www.pss.gov.au](http://www.pss.gov.au).

# 15. Partial invalidity benefits

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## 15.1 General

A partial Invalidation benefit is a form of income maintenance. It is paid as a pension when a member of the CSS or PSS incurs a reduction in salary because a non-compensable permanent medical condition causes the member to be downgraded or to work reduced hours or a combination of both. It is also payable in circumstances where an invalidity pensioner returns to work in a position that is a lower classification than the one held when the member was retired.

The documents required by ComSuper to support an application for Partial Invalidation Benefits for either the CSS or PSS are as follows:-

### **Form SPP(PSS), S2PI(CSS)**

official application form, signed by applicant and fully completed and declared by the authorised personnel officer.

### **HSA Report**

health assessment report completed and signed by an HSA Occupational Physician. If the examination was by an HSA approved country doctor, the report should be oversighted by a Senior Medical Adviser. Reports must detail medical conditions, symptoms, prognosis, how the condition affects the members work capacity and must confirm that the condition is permanent. Where part-time hours are recommended, the number of hours and spread of hours must be specified.

### **Treating Dr's/Specialist's Reports**

Reports should be as up-to-date as possible. Any earlier reports should also be supplied as background information.

### **Rehabilitation Reports**

copies of reports from rehabilitation providers should include details of all rehabilitation or retraining attempts made and the positive and negative results. If no rehabilitation assistance was offered, reasons should be given.

### **Determination**

determination by departmental delegate that the member has become a permanent part-time or redeployed employee, with date of effect, or statement of reduction in hours/status, whichever is appropriate.

### **Sick Leave History**

for the past two years or relevant period.

### **CMAFS form**

if the application relates to a PSS member who has less than 3 years contributory service

**Duty Statement**

for current and former position, if a redeployment case. If no duty statement available provide a description of the duties performed by the member.

**Departmental Case Summary**

## 15.2 Help sheet - Partial Invalidity Pensions – CSS Eligibility

Member **is not eligible** for partial invalidity benefit if:

- he/she is receiving compensation payments for the condition;
- he/she has less than 8 years membership and has a benefit classification certificate (BCC) in force which specifies the condition or a condition which causes or substantially contributes to the condition causing the reduction in salary.

Member **is eligible** for partial pension if:

- he/she is a former invalidity pensioner and his/her current salary is less than the equivalent of the salary at the time of invalidity retirement
- he/she has suffered a decrease in annual salary; and the decrease is attributable to a physical or mental incapacity; and
- he/she has completed at least 8 years membership; or
- if less than 8 years there is no BCC in force; or
- if a BCC is in force the condition(s) specified does not apply.

Please note that the salary decrease is a decrease in annual salary. Members of the CSS can only suffer a decrease in annual salary by either **formal** redeployment to a lower classification or **formal** classification as a permanent part-time employee.

## 15.3 Notes on Partial Invalidation Pensions - CSS

### A. Who is entitled?

- Eligible employees whose salary for superannuation purposes decreases as a result of illness. The decrease may have occurred as a result of being redeployed, or a reduction in hours, or a combination of both.
- Invalidation pensioners, who again become an eligible employee on a salary lower than the current equivalent of their retirement salary are also eligible for PIP. No application is required in these cases.
- If the decrease has occurred because of a reduction in hours, the applicant *must formally* become a permanent part-time employee (PPTE).

### B. Who is not entitled?

- Eligible employees with less than 8 years contributory service who have a condition specified in a BCC, which in the opinion of the CSS Board, caused or substantially contributed to the condition causing the reduction in salary.
- Employees who have reached maximum retiring age.
- Employees who are receiving compensation payments in respect of the salary loss.

### C. How do members apply for Partial Invalidation Pension?

An application for partial invalidity pension is made on a form S2PI, which is available on the ComSuper internet site at [www.comsuper.gov.au](http://www.comsuper.gov.au). Forms must be fully completed and declarations signed.

The application must be accompanied by medical evidence to substantiate the claim that the reduction in salary was necessary for medical reasons. Additionally, if the applicant is applying as a result of a reduction in hours, it is necessary to provide documentation to substantiate that the person has become a PPTE. Persons applying for partial invalidity pension should be sent for assessment to an HSA Occupational Physician, who will provide a report indicating whether the person should be redeployed or reduce his/her hours of duty because of a medical condition. The Occupational Physician should be provided with any supporting medical evidence from treating doctors and a comprehensive summary of the background of each case.

Evidence obtained for the purpose of assessing an application for partial invalidity pension may be referred to any doctors or service providers who are

asked to examine and/or provide a report concerning the applicant, to assist in the examination and report writing process.

#### **D. What is paid?**

The pension is a percentage of the decrease in salary. The percentage payable corresponds to the percentage of Government financed invalidity pension that would have been payable had invalidity retirement occurred. The formula is:

$$\frac{A}{B} \times 100 = \text{Percentage Payable} \\ \text{--- (C-D)}$$

- A. being the rate of Government Financed portion of the invalidity pension that would have been payable if the member had been retired on invalidity grounds on the day immediately preceding the reduction in salary
- B. being the salary for benefit purposes on which invalidity pension would have been based
- C. being the salary before the reduction
- D. being the salary following the reduction

#### **E. What happens to contributions?**

If PIP is payable as a result of a reduction in hours, the applicant will have become a permanent part-time employee (PTE). Contributions will therefore be reduced to reflect the lesser hours being worked, on the birthday 12 months after partial invalidity pension becomes payable.

If PIP is payable as a result of being redeployed, contributions will continue at the rate paid prior to the reduction in salary and will remain at that rate until such time as current salary exceeds the salary prior to the reduction. Alternatively, members may elect to contribute at a reduced rate, based on the decreased salary.

#### **F. What is the effect on benefits?**

The salary used in the calculation of future benefits is the updated salary and allowances before reduction.

However, in cases where the applicant is a PTE, fewer years of contributory service are accrued and consequently, future benefits will be reduced. Additionally, if a PTE subsequently retires on invalidity grounds, their

prospective service since becoming a PPTTE will be based on the part-time hours.

#### **G. What is the effect on sick leave?**

In cases where partial invalidity pension is payable because of a reduction in hours, previous sick leave credits are maintained, but any sick leave taken is deducted from credits at the part-time rate. New accruals are granted at a part-time rate to reflect the PPTTE status.

#### **H. What is the effect on recreation leave ?**

Where an employee converts to permanent part-time and has recreation leave which is still payable at the full-time rate, PIP is not payable when this leave is taken as there is no reduction in income. Future recreation leave accrues at the PT rate.

#### **I. How is the partial invalidity pension paid?**

The pension is paid by ComSuper on and from the date of effect of the salary reduction. It is calculated on the basis of a 14 day fortnight and is paid on the alternate Thursday to normal salary paydays.

Pension will be paid by direct credit to an approved financial institution of the applicant's choice. ComSuper is responsible for deducting PAYE income tax and the issue of associated group certificates.

#### **J. When is the Partial Invalidity Pension varied?**

ComSuper will review the salaries used in the formula to calculate pension on or about the same time as the contribution rate is reviewed ie. each birth date, or in the event that higher duties or some other allowance is declared as salary for superannuation purposes. In the event that the applicant's salary is again reduced due to illness a new application must be submitted to ComSuper with appropriate medical evidence including an up-to-date assessment by an HSA Occupational Physician.

#### **K. When is the Partial Invalidity Pension ceased?**

Partial Invalidity pension will cease in the following circumstances:

- if the employee's annual salary becomes equal to or greater than the annual salary that applied before the reduction in salary occurred;
- if the person ceases to be a member of the scheme.

## 15.4 Help sheet - Partial Invalidity Pensions - PSS

Member **is not eligible** for partial invalidity benefit if :

- he/she is receiving compensation payments for the condition;
- he/she is a limited benefits member;
- member is not a regular member.

Member **may be eligible** for partial benefit if :

- he/she has suffered a reduction in actual salary, and
- he/she is working reduced hours or in a lower position, and
- the reduction in hours or status is permanent, and
- the reduction is attributable to a physical or mental incapacity.

Member **is** eligible for partial invalidity benefit if :

- he/she is a reappointed invalidity pensioner, and
- his/her basic (annual) salary and recognised allowances on reappointment are less than the updated former salary, and
- the reduction in salary is permanent, and
- the reduction in salary is attributable to a physical or mental incapacity.

## 15.5 Notes on Partial Invalidation Pensions - PSS

### What is a partial invalidity pension?

A partial invalidity pension is an income maintenance payment made to eligible members who have suffered a **permanent decrease** in salary because of a medical condition.

### Who is entitled?

Partial invalidity pensions may be paid to:

- . PSS regular members who have suffered a permanent salary decrease because a medical condition has caused them to work reduced hours, be redeployed to a lower-paid position, or a combination of both
- . PSS regular members who were invalidity pensioners and have been re-employed at a lower-paid level than the level held prior to invalidity retirement.

### Who is not entitled?

Partial invalidity pensions will not be paid to:

- . casual members or re-employed invalidity pensioners who were casual members at the time of their retirement
- . limited benefits members or members who would have been limited benefits members had they not failed to disclose medical evidence on entry to the scheme
- . members who are receiving compensation payments for the condition which is causing the decrease in salary
- . members who have reached maximum retiring age.

### How do members apply for Partial Invalidation Pension?

The documents required by ComSuper in support of an application for partial invalidity pension are:

- . application form SPP. This form is available from the ComSuper website [www.comsuper.gov.au](http://www.comsuper.gov.au). The member must sign the declaration on this form and the employer must provide all relevant personal and employment details
- . reports from treating doctors and specialists

- . reports resulting from any rehabilitation or retraining attempts made, including reasons for success or failure, or reasons why no rehabilitation attempts were made
- . report from an HSA Occupational Physician or independent specialist in this field. This specialist must provide:
  - . a comprehensive report detailing the member's diagnosis, treatment and prognosis
  - . certification that the member's medical condition is causing the incapacity to work to level/full-time hours
  - . a recommendation of suitable modified duties/suitable reduced hours and spread of hours
  - . certification, as far as is possible to determine, that the medical condition, and therefore the modified situation, is permanent
- . contracts for permanent part-time employment, where a member has formally reduced the working hours, showing number of reduced hours and date of commencement. In cases where the member informally reduces hours or is redeployed, a statement from the appropriate employer's delegate should be included. See information about part-time status below
- . sick leave history for the past two years or relevant period
- . CMAPS form if the application is for a PSS member who has less than three years membership
- . duty statement or description of duties for current and former position, if the member has been redeployed
- . short departmental summary outlining all important aspects of the application.

### **Should applicants sign a permanent part-time contract?**

It is not necessary for a PSS member to formally become a permanent part-time employee (PPTE) in order to be eligible for payment of a partial invalidity pension. However, the type of part-time status of a partial invalidity pension recipient results in differences to contributions, accrual and disbursement of leave, and so on. In addition, the matter of part-time status must be decided prior to a partial invalidity application being forwarded to ComSuper to ensure that the application is decided under the correct rule.

## **What is the effect on contributions?**

Members who remain full-time employees but work part-time hours and are in receipt of a partial invalidity pension (informal part-timers) pay the rate of contributions applicable to the updated full-time salary, even though they are not in receipt of that salary.

Members who sign contracts to become permanent part-time employees (PPTE) and are in receipt of a partial invalidity pension (formal part-timers) pay contributions applicable to the reduced salary from the next birthday after the partial invalidity pension is approved.

Members who are informally redeployed continue to pay contributions applicable to their higher salary.

Members who are formally redeployed pay contributions applicable to the reduced salary from the next birthday after the partial invalidity pension is approved.

## **What is the effect on benefits?**

For PSS members who are in receipt of a partial invalidity pension, future benefits are calculated using the previous multiple and updated previous salary. This includes members who have formally become PPTE — their future benefits are calculated as if they had continued to work full-time; that is, using the full-time multiple and updated full-time salary, regardless of the decrease in rate of contributions. Please note that this is a special circumstance for members in receipt of partial invalidity pension and is not the case where the reduction in hours was not for medical reasons. In addition, employer and productivity contributions must continue to be paid on the higher salary.

## **What is the effect on leave?**

Members who are informal part-timers must use all accrued sick leave before the partial invalidity pension is payable. When new sick leave credits are accrued, the employer must cease partial invalidity pension payments and these sick leave credits must be used before the partial invalidity pension payments can recommence. This is because the sick leave is accrued and disbursed at the full-time rate and therefore there is no reduction in salary when sick leave is taken. Partial invalidity pension must also cease when the member is on full-pay recreation leave or on public holidays.

Members who are formal part-timers (PPTE) are paid their partial invalidity pension continuously, even if using previously accrued sick leave, as this leave must be disbursed at the part-time rate from date of becoming a PPTE. New credits of sick leave are accrued at the pro-rata rate so partial invalidity pensions are paid when this leave is taken. Partial invalidity pensions must not be paid when recreation or LSL is taken at the full-time rate. New credits of this leave are accrued at the part-time rate so partial invalidity pension can be paid when this leave is taken.

All leave which is not sick leave is governed by the APS General Employment Conditions Award (GECA) 1995 or your Workplace Agreement. Any enquiries should be directed to the Department of Employment, Workplace Relations & Small Business.

The principle to be applied is that partial invalidity pension is not payable when members are receiving full pay, because they are not suffering a decrease in salary.

### **When is eligibility for partial invalidity pension reviewed?**

ComSuper asks employers to arrange periodic reviews of members' medical conditions to determine whether their entitlement to partial invalidity pension should continue or be varied.

Members or employers may also initiate medical reviews if they feel that the condition has improved or deteriorated.

Employers should provide the reviewing HSA Occupational Physician with an updated report from the member's treating doctor, a report from the supervisor and sick leave history and duty statement.

If the medical review recommends additional changes to working arrangements which result in a further decrease in salary, the matter should be referred to ComSuper for assessment of whether the PIP should be increased.

### **What is paid?**

The partial invalidity pension is a proportion of the difference between the higher and decreased salary. This proportion is calculated by ComSuper. When a PIP application is approved, ComSuper will advise the employer of the formula and variables to be used in the calculation of the PIP rate.

### **How is partial invalidity pension paid?**

Partial invalidity pensions are paid by the employer through the normal salary system. This means that the partial invalidity pension is calculated on the basis of a 10 day fortnight at the hours specific to the agency and is regarded as salary payment.

The department or agency is reimbursed the money used to pay partial invalidity pensions by ComSuper when they lodge a reimbursement claim form. The form is available from the ComSuper website (Invalidity Notes, section 11.3) and should be lodged every six months.

There are different arrangements for ACT government departments. Please refer to section 11.1 of Invalidity Notes.

## When is partial invalidity pension varied?

Partial invalidity pensions must be **adjusted** by the employing agency when members' salaries or former salaries change because of:

- . pay increases at either the member's current or previous positions
- . salary increases due to increments, promotions, higher duties or any other allowance which is accepted as salary for superannuation purposes.

So if the PIP recipient works more hours or receives HDA, the employer inserts the new salary figures into the formula provided by ComSuper and recalculates the reduced rate of PIP payment. It is not necessary for the employer to advise ComSuper of these adjustments as they will be evident when the reimbursement claim form is lodged. Please note however, that no **increase** in rate of partial invalidity pension can be made until ComSuper has approved that increase.

## When does partial invalidity pension cease?

Partial invalidity pensions must **cease** when:

- . members' salaries become equal to or greater than the salary applicable before the reduction occurred
- . the medical circumstances no longer apply
- . members cease to be members of the PSS
- . members subsequently become entitled to compensation payments for the same condition causing the decrease in salary.

Partial invalidity pensions must be **suspended** when members take leave without pay that is not sick leave without pay.

Partial invalidity pensions will be **stopped** if members fail to comply with directions from the PSS Board, such as requests to provide medical evidence, or to attend or continue a program of rehabilitation.

## 15.6 Help sheet – Summary of Effects of Partial Invalidity Pensions (PIP)

Remember the main criterion: *permanent decrease in salary attributable to physical or mental incapacity*. There are two groups who could suffer a reduction in salary for two reasons.

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1. REAPPOINTED INVALIDITY PENSIONERS  
CSS Automatic, no application required, paid by ComSuper  
PSS None anticipated due to TPI criterion at exit

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2. SERVING ELIGIBLE EMPLOYEES / MEMBERS

A. - BASIC (ANNUAL) SALARY - FORMAL (as determined by Department Delegate)

<u>effect on</u>	<u>CONTRIBS</u>	<u>BENEFITS</u>	<u>SICK/L</u>	<u>REC/L</u>
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(i) REDEPLOYMENT

CSS	none unless elect lower salary rate	none, based on higher sal	none	none
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PSS	RNB* after PIP	none, based on higher sal and FT multiple	none	none
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(ii) REDUCTION IN HOURS - PPTE

CSS	RNB* after PPTE for 12 mths	reduced, fewer years of contrib service	All s/l taken at a PT rate. New credits accrual become PT	No PIP when FT rec. New PT rate
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PSS	RNB* after PIP	none, based on higher sal and FT multiple	as above	as above
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\*reduced next birthday

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B. - (REAL) ACTUAL SALARY - INFORMAL arrangements - PSS ONLY

REDEPLOYMENT	none	none	none	none
REDUCED HOURS	none	none	must use accrued s/l first. PIP ceases on new accruals	as per conditions of service as governed by GECA 1995/Workplace Agreement

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Remember: Cease PIP during LWOP (except SLWOP), on compo, on reaching former salary, on exit from the scheme, OR when any full-time leave payments are made.

CSS - paid by ComSuper into Bank Account on pension paydays

PSS - paid by employer for ComSuper, through salary system, on normal payday

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## **16. PSS/CSS DB INVALIDITY ASSESSMENT UNIT**

Contact us at :

PSS/CSS DB Invalidation Assessment  
PO Box 22  
Belconnen ACT 2616

Phone PSS Members : 1300 000 377

Phone CSS Members : 1300 000 277

Fax No. 02 6272 9811

Email PSS Members : [invalidity.assessment@pss.gov.au](mailto:invalidity.assessment@pss.gov.au)

Email CSS Members : [invalidity.assessment@css.gov.au](mailto:invalidity.assessment@css.gov.au)