

# Protecting your nest egg

*your guide to superannuation*

RYAN  
CARLISLE  
THOMAS

LAWYERS

Clients, not cases.

# Superannuation

Superannuation contributions by employers were made compulsory in 1992 for all employees who earn more than \$450.00 per month. The amount of contribution varies depending on your wage. This means if you are working, or have been employed since 1992, you probably have a superannuation fund.

As well as the money paid by your employer into your superannuation fund, you may have made additional contributions to the fund from your own salary. These contributions and any interest earned by the fund are legally yours.

As well as the contributions in your account your superannuation fund may provide additional benefits. Most superannuation funds provide for disability and death benefits, usually in the form of insurance policies. Disability benefits may be in the form of lump sum or weekly payments.

If you suffer an illness or injury and cannot return to work you may have a claim under your superannuation fund.

If your partner or spouse dies, you and any other person who was dependent on the deceased may also be entitled to claim from the fund.

Making an appointment to investigate or pursue a claim from your superannuation fund couldn't be easier. Ryan Carlisle Thomas are experts in superannuation law and can offer you a no obligation first consultation for free.

---

## • Joining a fund

When you commence work your employer should provide you with information about superannuation and ensure you are enrolled in a fund.

In addition, you might have a choice of funds or a choice of benefits within the fund. For example, you might have the choice to contribute more of your salary to the fund than the amount your employer is legally required to put in. You may also have the choice of different levels of disability or death insurance and investment options.

If your employer has not supplied you with any information, you should speak to them and ask for the relevant information. If you know the details of the superannuation fund that you are a member of, you should contact them to explore your options.

---

## • Getting information from your fund

Your superannuation fund is required to send you a statement at least once a year.

This statement will set out the amount of money in the fund, the amount of money contributed by your employer for the year, any amounts contributed by you and any interest earned. It will also show all the fees and charges deducted by the superannuation fund. This statement should also show what level of insurance cover you have.

If you have not received a statement contact your superannuation fund, check that they have your correct contact details and request a statement.

---

## • What if I don't have Super?

If your employer has not enrolled you in a fund or is not making contributions to the fund then you should raise the matter with the employer. If this does not resolve the problem you should speak to your Union or Professional Association.

If you wish, you can report your employer to the Australian Taxation Office. The Australian Taxation Office is responsible for ensuring employers comply with the law requiring them to make superannuation contributions.

---

## • Why should I worry?

The money that should be contributed to your superannuation fund is your ‘nest egg’. When you retire that money will be yours. If that money is not paid into your fund it will not earn interest and you will receive less at retirement than you would otherwise.

In addition, if your employer does not make contributions then any insurance policy held by the fund for the death or disability benefits may lapse. If you are injured during a period when your employer was not making contributions then you might lose your ability to claim your insurance benefits from the superannuation fund.

---

## • What benefits do I have?

### *Retirement benefits*

If you are 55 years of age and stop working, you are entitled to obtain your superannuation benefits. If you’re thinking of leaving work, you should first check with your superannuation fund to see what pay out you can expect. You might also want to obtain financial advice before making any decision. You should contact your Union or Professional Association for information about financial advisers.

### *Disability benefits*

Most superannuation funds have disability benefits. The types of benefits vary from fund to fund. If you are unable to work because of injury or illness, you should check to see what disability benefits are available to you.

### *You don’t have to be injured at work to get access to these benefits*

If you get an illness or injury that stops you from working you may be able to make a claim on the fund.

Your superannuation fund might provide for temporary disability benefits. If you won’t be able to work for some time, you might be entitled to claim these benefits

Typically, disability policies provide for payments of 75% of your wage for up to two years. The actual amounts vary depending on the policy. Under some policies, the disability payments may stop or be reduced if you get payments from WorkCover or other sources or receive a lump sum payout.

---

If you are unable to return to work you might be able to claim a total disability benefit. Under most superannuation funds the definition of total disability means that you are unable to do any work that you are suited to by education, training or experience. The question of your ability to work will largely be determined by medical evidence.

### ***Death benefits***

When you join a fund you may be asked to nominate who you would like your money to go to in the event of your death. If you have not nominated a beneficiary you should contact your superannuation fund and do so.

If you die, your spouse or defacto partner or any other person who was financially dependant on you may claim for some of the money held in the fund. In addition, there may be an insurance policy that pays additional death benefits.

If more than one person is entitled to money from the fund, the trustees of the fund will determine how any money will be distributed. The trustees of the fund will take your nomination into account, however, they are not bound by it.

### ***Getting your benefits***

When you cease work you can apply to your superannuation fund for your superannuation benefits. You may want to obtain financial advice as to what to do with your benefits before you withdraw them from the fund.

### ***Financial hardship***

In some very limited circumstances your superannuation fund may release part of your money to you before retirement age. The tests for financial hardship are very strict and require that you have been in receipt of social security benefits for at least 6 months and that you cannot meet your normal living expenses.

In addition, if your home is about to be sold because you have fallen behind in your payments you may be entitled to receive part of your superannuation.

---

# Disability

If you want to make a claim for disability benefits you should contact your superannuation fund and ask them to send you the necessary forms. You will need to complete a claim form that will ask for personal details, details of your injury or illness, as well as details of the type of work you do. You will also be asked to provide a work history and your level of education. The superannuation fund will require a medical report from one or more of your treating doctors.

## *Disability benefits - the process*

Once you have supplied the superannuation fund with the relevant information they will usually forward it to the insurer. The insurer will consider the material and determine if, in its opinion, you are entitled to payment of the disability benefit. If they decide you are entitled, the insurer will then convey the decision to the superannuation fund.

The trustees of the fund are then required to consider the information again and determine if, in their opinion, you satisfy the definition. If the trustees agree that you satisfy the definition you will be paid your entitlement.

The insurers or the trustees may decide that the medical information they have available is not enough to determine whether you are disabled. If this is the case, they will ask you to attend medical examinations.

When the information from the examinations is presented the insurer and trustees will again consider the material and determine if you satisfy the definition of total and permanent disablement.

## *Disability benefits - the decision*

If the trustees determine that you satisfy the definition of total disablement you will be paid your money. If they decide you do not satisfy the definition they will reject your claim.

It is worth noting that the trustees are not required to give you a reason for their decision.

## *Disability benefits - review process*

If your claim is rejected you are entitled to ask for the decision to be reviewed by the superannuation fund. At this point it is in your interests to send in further medical information to support your claim.

---

If your claim is rejected after being reviewed and you disagree with the decision then you may be able to complain to the Superannuation Complaints Tribunal to have the matter looked at again. Alternatively, your claim can be taken to court.

## Complaints

### *Superannuation Complaints Tribunal*

If you have a complaint about a decision of your superannuation fund you can appeal to the Superannuation Complaints Tribunal. The Tribunal will review the decision that has been made and if it finds the decision was unfair or unreasonable it can change the decision.

In the case of complaints about disablement benefits you must lodge the complaint within one year of the original decision to reject your claim. If the complaint relates to a death benefit the complaint must be lodged within 28 days of the decision.

### *Court actions*

You can also lodge a claim against your fund and the insurer of the fund in the courts. Time limits also apply to court actions.

In the case of most State Government superannuation schemes an appeal against decisions made by the scheme must be made to the Victorian Civil and Administrative Tribunal.

## WorkCover/TAC

If you are getting weekly payments under WorkCover and you are paid a lump sum amount out of your superannuation fund then your WorkCover payments will stop for a period of time. How long they stop for will depend on the size of the payment and on your pre-injury weekly earnings.

You can continue to receive WorkCover payments if the superannuation payment is rolled over into an approved deposit fund.

If your superannuation fund pays you a weekly amount then your WorkCover payments will be reduced by the same amount.

---

If you are receiving payments from the Transport Accident Commission (TAC) then receiving your superannuation benefits will not affect your weekly payments.

## • Other insurance benefits

You may have entitlements to other insurance benefits that you are not aware of. Some banks require that you take out mortgage protection insurance at the time you take out your home loan. If you have mortgage protection insurance and you are unable to work, you may have a claim.

Most credit card companies have insurance as one of the products available with their credit cards. If you have taken out that insurance or it has been provided to you, you may have a claim.

If you are injured playing sport and cannot work then your club may have an insurance policy that covers you.

If you have complaints about insurance benefits that are not part of your superannuation scheme, such as a life insurance company or a general insurance company, you can take your complaints to the Financial Industry Complaints Service.

## • Ryan Carlisle Thomas: Putting people first

Understanding your superannuation can be complicated, especially if a dispute occurs. You may find that during a dispute you need the services of a lawyer to help you understand your rights.

Choose a legal firm you are comfortable with that has a track record in superannuation.

Ryan Carlisle Thomas are experts in superannuation and we have a track record of helping Victorians.

With more than 90 staff in a dozen offices across Victoria, and even NSW, we offer on-the-spot advice and support.

---

Our company believes first-rate legal services should be available for all people.

Our landmark actions have led to compensation for the victims of workplace, professional, medical and corporate neglect.

As the major legal firm in many suburbs and country areas, our company has won loyalty from people who continue to use our full range of legal services including probate, family law, conveyancing, and the like.

We are also committed to personal service, and communicating the law in understandable language.

---

## Because at Ryan Carlisle Thomas, you're a client, not a case

### *Features of the RCT service*

- **Free** initial consultation
- **No fee 'til you win** for injury compensation cases
- **24 hour** toll free advice and referral injury line: **1800 060 070**

### *Comprehensive legal services*

RCT offers a complete, comprehensive legal service including:

**Personal injury law** – Lump sum claims for pain and suffering and financial loss resulting from exposure to chemicals, asbestos, tobacco and other toxic substances, accidents on public, commercial or private property, medical negligence, defective consumer products and wrongful death.

**Work injuries** – Claims for weekly payments and medical expenses caused by work injuries, illnesses and disease and lump sum claims for lost earning capacity, permanent disabilities, pain and suffering and loss of hearing, including lump sum claims for widows, widowers and dependants.

---

**Motor vehicle injuries** – Compensation for loss of earnings, medical expenses and permanent disabilities and damages for serious injuries caused by a motor vehicle, train or tram.

**Criminal law** – Defence of criminal charges arising out of all police and traffic matters and appearances in all criminal courts including bail applications, pleas, committal hearings, trials and appeals.

**Family law** – Applications for divorce, maintenance, custody, access and restraint orders, division of property in matrimonial and defacto relationships and separate representation of children.

**Employment** – Claims for unfair and wrongful dismissal, award breaches and underpayment of wages and advice on contracts of employment.

**Superannuation** – Advice on termination and retirement entitlements, claims for temporary, partial and total and permanent disability benefits and applications to the Superannuation Complaints Tribunal.

**Commercial** – Sale and purchase of businesses and commercial properties, commercial, retail and residential leases, incorporation of Companies and Associations, preparation of Trust Deeds and Partnership Agreements and disputes.

**Wills and Probate** – Preparation of Wills, administration of deceased estates and obtaining Grants of Probate and Letters of Administration.

**Conveyancing** – Sale and purchase of houses and land and preparation of Section 32 Vendors' Statements.

**Migration Law** – Immigration applications and appeals, student visas and family reunions.

**Anti-discrimination and Equal Opportunity claims**

## • Our network of offices

### **Melbourne**

30th Floor, 80 Collins Street  
Tel: 9240 1414 Fax: 9240 1444  
melbourne@rct-law.com.au

### **Melbourne**

Level 4, 540 Elizabeth Street  
Tel: 9342 0100 Fax: 9349 4383  
anf@rct-law.com.au

### **Dandenong**

41 Robinson Street  
Tel: 9238 7878 Fax: 9238 7888  
dandenong@rct-law.com.au

### **Geelong**

127 Myers Street  
Tel: 5221 6266 Fax: 5223 1905  
geelong@rct-law.com.au

### **Ballarat**

29 Lydiard St South  
Tel: 5331 7898 Fax: 5332 1810  
ballarat@rct-law.com.au

### **Cranbourne**

98A High Street  
Tel: 5996 8788 Fax: 5996 8811  
cranbourne@rct-law.com.au

### **Frankston**

37 Playne Street  
Tel: 9770 0544 Fax: 9781 1998

### **Bayswater**

Unit 11  
653 Mountain Highway  
Tel: 9720 9311 Fax: 9720 9225  
bayswater@rct-law.com.au

### **Bacchus Marsh**

26 Grant Street  
Tel: 5367 7441 Fax: 5367 7443

### **Melton**

110 McKenzie Street  
Tel: 9747 6822 Fax: 9747 6024

### **Werribee**

67 Watton Street  
Tel: 9731 0811 Fax: 9731 0822  
werribee@rct-law.com.au

### **Pakenham**

114 Main Street  
Tel: 5941 5722 Fax: 5941 5733  
pakenham@rct-law.com.au

## • Affiliate firms - in Victoria

In addition to our own offices, Ryan Carlisle Thomas has affiliates in Beechworth, Bendigo, Bright, Hamilton, Mildura, Mt Beauty, Myrtleford, Portland, Shepparton, Warrnambool and Wodonga.

## • Affiliated firms - interstate

Interstate affiliates gives us coverage throughout Australia. Our interstate associates are:

### **RL Whyburn and Associates**

Sydney (02) 9565 1200

### **Hall Payne**

Brisbane (07) 3221 2044

### **Dwyer Durack**

Perth (08) 9325 9277

### **Phillips Taglieri**

Hobart (03) 6222 6333

### **Duncan Basheer Hannon**

Adelaide (08) 8231 3668

### **Pamela Coward & Associates**

Canberra (02) 6240 0888

24 Hour  
Client AdviceLine:  
1800 060 070

1800 060 070

*Because at Ryan Carlisle Thomas,  
you're a client, not a case.*