Victorian Members of Parliament (MPs) and former MPs are either members of the defined benefit schemes under Part 3 of the *Parliamentary Salaries, Allowances and Superannuation Act 1968* (Vic) (PSAS Act), or the accumulation scheme under Part 4 of the PSAS Act. There are currently two defined benefit schemes operating in respect of MPs, the Existing Benefits Scheme and the New Benefits Scheme.

A1. Which scheme applies

All MPs were eligible to participate in the Existing Benefits Scheme when the PSAS Act came into force in 1968. MPs that were members of the previous scheme could elect within 3 months to transfer to the Existing Benefits Scheme.[[1]](#footnote-1) Generally speaking:

* the Existing Benefits Scheme covers former MPs elected before 2 July 1996 who did not elect to join the New Benefits Scheme when it was introduced
* the New Benefits Scheme covers existing and former MPs elected between 2 July 1996 and 9 November 2004
* the accumulation scheme covers existing and former MPs first elected from 10 November 2004.

A2. Overview of how the defined benefit schemes operate

MPs in the defined benefit schemes are required to make after-tax contributions from their parliamentary salary to the Parliamentary Contributory Superannuation Fund (PCSF) in exchange for a financial benefit upon leaving the Parliament.

Subject to certain eligibility requirements, former MPs in a defined benefit scheme receive a pension, which is revertible to their partner or eligible children upon the former MP’s death.

Former MPs who are not eligible for a pension instead receive a lump sum payment.

A3. Amendments made in 2019

Prior to 2019, MP contributions and former MP pension entitlements under the defined benefit schemes were based on the current basic salary paid to MPs, and the additional salaries paid to certain parliamentary office holders.

Legislative reforms carried out in 2019 introduced the concept of the ‘basic salary portion’ (BSP).[[2]](#footnote-2) MPs (including those in defined benefit schemes) continue to receive the basic salary and any additional salary (if any) to which they are entitled. However, the superannuation contributions of MPs in the defined benefit schemes and the pension entitlements of beneficiaries (i.e. former MPs, partners and eligible children) are now calculated using the BSP.

The BSP was set at $168,901 per annum by the Tribunal in the *Members of Parliament (Victoria) Determination No. 01/2019.* It is automatically indexed each financial year by the greater of the:[[3]](#footnote-3)

* annual increase in the All Groups Consumer Price Index number for Melbourne, or
* annual increase in full-time adult average weekly ordinary time earnings of employees in Victoria in original terms as published by the Australian Bureau of Statistics, or
* the indexation method set out in clause 8 of the *Members of Parliament (Victoria) Determination No. 01/2019*.

Legislative changes were also made to how the additional salaries of parliamentary office holders are treated for the purposes of contributions and entitlements. Following those changes, office holders that receive an additional salary are required to make additional contributions to the PCSF, and receive an increased superannuation benefit when they leave the Parliament, based on the BSP multiplied by a percentage specified in the PSAS Act in respect of that office (Additional Salary Percentage, or ASP). The ASP for each office corresponds to the additional salary paid for that office prior to September 2019.[[4]](#footnote-4)

A4. MP contributions

MPs in the defined benefit schemes are required to make after-tax contributions to the PCSF. All MPs are required to contribute an amount equal to 11.5 per cent of the BSP for their first 20.5 years of service. If an MP receives an additional salary, they are also required to contribute 11.5 per cent of the BSP multiplied by the applicable ASP for as long as they hold that office (equations 2.1 and 2.2).[[5]](#footnote-5)

Equation 2.1: MP contributions under a defined benefit scheme – first 20.5 years

$$contributions=\left(0.115×BSP\right)+ (0.115×BSP×ASP)$$

Equation 2.2: MP contributions under a defined benefit scheme – after 20.5 years

$$contributions=0.115×BSP×ASP$$

A5. Pension eligibility

Existing Benefits Scheme

A pension is payable to former MPs under the Existing Benefits Scheme if they satisfy any of the following:[[6]](#footnote-6)

* their aggregate period of service as an MP is at least 15 years
* their aggregate period of service is at least 12 years and they cease to be an MP due to resignation or retirement which does not require or cause the holding of a by-election (other than on the day of a general election)
* their aggregate period of service is at least 8 years, and:
	+ they cease to be an MP as a result of a defeat at an election, or
	+ they cease to be an MP due to resignation or not seeking re-election for good and sufficient reasons which satisfy ESSSSuper (as the trustee of the PCSF).
* their aggregate period of service is at least 6 years, they served in at least three Parliaments, are over the age of 60 and cease to be an MP as a result of not seeking re-election at a general election.

New Benefits Scheme

Under the New Benefits Scheme, a former MP’s eligibility for the pension depends on whether their retirement from the Parliament was considered to be ‘voluntary’ or ‘involuntary’.[[7]](#footnote-7)

A former MP is considered to have involuntarily retired if:

* they were at least 60 years old at the time that they ceased to be an MP, or
* they were defeated at an election.

A former MP’s retirement is considered voluntary if:

* they were less than 60 years old at the time they left the Parliament, or
* it occurred in circumstances which, in the opinion of ESSSuper (the administrator of the PCSF), should be treated as such.

If a former MP’s retirement is considered involuntary, they are eligible for the pension if:[[8]](#footnote-8)

* they were an MP for at least 8 years, or
* they have on at least three occasions ceased to be a member of the Parliament on the dissolution or expiration of the Legislative Assembly, or due to expiration of their term of office.

If a former MP’s retirement is considered voluntary, they are eligible for the pension if:

* they were an MP for at least 12 years, or
* they have on at least four occasions ceased to be a member of the Parliament on the dissolution or expiration of the Legislative Assembly, or due to expiration of their term of office.

A6. Value of the pension

Existing Benefits Scheme

The value of the pension provided to former MPs in the Existing Benefits Scheme depends on a number of factors, and is determined using the formula in equation 2.3.

Equation 2.3: Value of MP pension under the Existing Benefits Scheme

$$pension=A×R×BSP$$

The variable A takes into account the former MP’s length of service in the Parliament. Generally speaking, the longer a former MP served the higher the pension they will receive. The highest pension is paid to former MPs who served an aggregate of at least 20.5 years. The value of A ranges from 0.36 to 0.75.

The variable R takes into account the years in which a former MP may have been an office holder and received an additional salary. Generally speaking, the more additional salary a former MP received the higher their pension. The specific formulas used to calculate the variables of A and R are set out in section 15 of the PSAS Act.

New Benefits Scheme

The value of the pension provided to former MPs in the New Benefits Scheme is calculated as a percentage of the current BSP. The minimum amount that can be paid is 50 per cent of the BSP (currently $84,450.50 per annum). For every year of service over 8 years, the former MP receives an additional 2.5 per cent, up to a maximum of 75 per cent for 18 or more years of service. A pro rata amount is paid for partial years of service.[[9]](#footnote-9)

Former MPs who were an office holder also receive an additional pension, based on the years that they held that office and the applicable ASP (equation 2.4). For former MPs who held more than one office, the additional pensions are combined. However, the total additional pension a former MP can receive cannot exceed 75 per cent of the BSP multiplied by the highest ASP that applies to the offices they held.

Equation 2.4: Value of additional pension under the New Benefits Scheme

$$pension=BSP×ASP×0.0625× years office held$$

A7. Payments for MPs who are not eligible for the pension

Under both defined benefit schemes, lump sum payments are made to:

* former MPs who cease to be a member as the result of defeat at an election, or as the result of resignation or not seeking re-election, and who are not eligible for the pension
* the personal representative of an MP who dies while serving if they are not survived by a partner or eligible children.[[10]](#footnote-10)

Existing Benefits Scheme

The lump sum payment is equal to the sum of:

* the contributions made from the MP’s salary
* 2 1/3 times the contributions made before 1 December 1993 and 1 2/3 times the contributions made after that date (Additional Amount).

However, if a lump sum payment is being made to a former MP who did not cease to be a member of the Parliament—

* as the result of defeat at an election, or
* as the result of resignation or not seeking re-election, for good and sufficient reasons which satisfy the trustees—

then they only receive their contributions back plus half of the Additional Amount.

Special rules apply for former MPs that receive a lump sum payment and subsequently become eligible for a pension (i.e. as a result of returning to the Parliament).

New Benefits Scheme

If a former MP retired involuntarily, the lump sum payment is equal to the deductions made from the MP’s salary multiplied by 3 1/3.[[11]](#footnote-11)

If a former MP retired voluntarily, their lump sum payment is instead equal to the sum of:

* the deductions made from their salary
* 1 1/6 times the deductions made during the last 8 years of service.

A8. Converting all or part of a pension into a lump sum

Existing Benefits Scheme

Former MPs in the Existing Benefits Scheme that are entitled to the pension may, within 3 months of ceasing to be a member of the Parliament, elect to convert all or part of their pension into a lump sum payment.[[12]](#footnote-12)

The former MP’s ongoing pension is then reduced by the percentage of the pension that they converted into a lump sum. For former MPs that were younger than 66 years old when they left the Parliament, the maximum lump sum is equal to the annual pension entitlement multiplied by 10. The lump sum payment is reduced for former MPs that reached 66 years of age while serving as an MP, unless they left the Parliament at or before the next general election held after they reached 66 years of age and their leaving did not require the holding of a by-election.

Special rules apply for former MPs that choose to convert part of their pension into a lump sum payment, and subsequently return to the Parliament.[[13]](#footnote-13)

New Benefits Scheme

Former MPs in the New Benefits Scheme that are entitled to the pension may, within 3 months of ceasing to be a member of the Parliament, elect to convert all or part of their pension into a lump sum payment. The rules on how the lump sum is calculated and the annual pension is reduced are the same as for the Existing Benefits Scheme, explained above.[[14]](#footnote-14)

Under the rules for the New Benefits Scheme, ESSSuper may defer a former MP’s decision to convert part of their pension into a lump sum for up to 12 months, if it is of the opinion that the person is likely to become an MP again within 12 months of becoming eligible for the pension. If that person becomes an MP again within the 12 month period, their decision is of no effect.

Special rules apply for former MPs that choose to convert part of their pension into a lump sum payment, and subsequently return to the Parliament.

A9. Restrictions on lump sum payments due to preservation

As explained above, under both schemes, former MPs may receive a lump sum payment, either because they are ineligible to receive the pension or because they choose to convert part or all of their pension into a lump sum. However, the lump sum amount that former MPs can receive is restricted by Commonwealth ‘preservation’ rules. These rules restrict how much of a lump sum retirement benefit can be provided to a person before they retire and reach their ‘preservation age’ (which ranges from 55 to 60 years depending on when the person was born). These restrictions cease to apply once the person reaches 65 years or in other specific circumstances (e.g. death or permanent disablement).

A10. Special rules for ceasing to be an MP due to
ill-health

Both schemes feature special rules regarding pensions provided to former MPs who ceased to be a member of the Parliament because their ill-health rendered them incapable of serving. Subject to certain requirements, these former MPs can receive the pension regardless of time served.[[15]](#footnote-15) However, these former MPs are not able to cash out their pension for a lump sum.

A11. Partner pensions

Following the death of an MP or former MP, their partner is entitled to a pension. If an MP dies while in office, their partner receives a pension regardless of how long the MP had served. The method for calculating partner pensions differs between the two schemes.[[16]](#footnote-16)

Existing Benefits Scheme

Under the Existing Benefits Scheme, if a former MP who was receiving the pension dies, their partner receives 2/3 of the pension, or the ‘minimum pension’ (explained below), whichever is greater at the time of the former MP’s death.

If an MP dies while in office and had served an aggregate of at least 8 years, their partner receives either 2/3 of the pension that the MP would have received as a former MP (assuming they were eligible) or the ‘minimum pension’, whichever was greater at the time of the MP’s death.

If an MP dies while in office and had not served an aggregate of at least 8 years, their partner receives the ‘minimum pension’.

The ‘minimum pension’ is calculated using a complex formula set out in section 18 of the PSAS Act. Generally speaking, it can range between 30 and 40 per cent of the current BSP.

New Benefits Scheme

Under the New Benefits Scheme, the partner’s pension is equal to 5/6 of the former MP’s pension. In the case of an MP who dies while in office who has not served at least 8 years at the time of death, their partner’s pension is calculated as if the MP had served at least 8 years.

A12. Pensions to children

Pensions can also be paid in respect of a former MP’s eligible children. Children can receive the pension if they are under 18 years old, or if they are under 25 years old and in the opinion of ESSSuper they are a full-time student. Pensions are also provided for children that are over 18 years old and that have a significant, permanent (or likely permanent) disability that requires ongoing support services.[[17]](#footnote-17)

Broadly speaking, a pension is payable where—

* a former MP receiving the pension, or an existing MP, dies without a partner, or
* both the former MP and their partner have died—

and they leave behind an eligible child.

Under the Existing Benefits Scheme, ESSSuper can pay a pension in respect of each eligible child, although the total value of the pensions cannot exceed the value of the pension that would have been payable to a partner of the former MP.[[18]](#footnote-18)

Under the New Benefits Scheme, the pension each eligible child receives is equal to 1/4 of the pension of the former MP’s partner (or the pension the partner would have received if the former MP had one). If there are more than four children, each receives a pension equal to the pension of the former MP’s partner divided by the number of children.

1. PSAS Act, s21. [↑](#footnote-ref-1)
2. *Victorian Independent Remuneration Tribunal and Improving Parliamentary Standards Act 2019* (Vic), s17(5)(b). [↑](#footnote-ref-2)
3. PSAS Act, s10(1). [↑](#footnote-ref-3)
4. Except for the Parliamentary Secretary to the Premier and the Deputy Government Whip in the Assembly. [↑](#footnote-ref-4)
5. PSAS Act, s14. [↑](#footnote-ref-5)
6. PSAS Act, s15(1A). [↑](#footnote-ref-6)
7. Emergency Services and State Superannuation Board, *Parliamentary Contributory Superannuation Fund Member Handbook - New Benefits Scheme (Division 3)* (ESSSuper: Melbourne, 2017), 7. [↑](#footnote-ref-7)
8. Emergency Services and State Superannuation Board, 12. [↑](#footnote-ref-8)
9. Emergency Services and State Superannuation Board, 12. [↑](#footnote-ref-9)
10. PSAS Act, s15; Emergency Services and State Superannuation Board, 11 and 16. [↑](#footnote-ref-10)
11. If an MP dies while serving and is not survived by a partner or eligible children, the lump sum paid to their estate is equal to the greater of:

the deductions made from the MP salary, plus 2 1/3 times the deductions made during the last 8 years of service

the ‘superannuation guarantee safety-net amount’, which is actuarially determined. [↑](#footnote-ref-11)
12. PSAS Act, s16(1). [↑](#footnote-ref-12)
13. PSAS Act, s20. [↑](#footnote-ref-13)
14. Emergency Services and State Superannuation Board, 13–14. [↑](#footnote-ref-14)
15. PSAS Act, s17; Emergency Services and State Superannuation Board, 16–17. [↑](#footnote-ref-15)
16. PSAS Act, s18; Emergency Services and State Superannuation Board, 15. [↑](#footnote-ref-16)
17. PSAS Act, ss10A and 10B; Emergency Services and State Superannuation Board, 15. [↑](#footnote-ref-17)
18. PSAS Act, s18(6). [↑](#footnote-ref-18)