

BINDING DEATH BENEFIT NOMINATION (BDBN)		Please complete all details in block letters
<i>This form is only for self managed superannuation funds (SMSF) that will have a recent version of the DBA Lawyers' SMSF governing rules (at least updated by DBA Lawyers within the past 5 years) in place at the time the BDBN is executed. If an updated deed is required, see the following link for further information: https://www.dbalawyers.com.au/smsf-deed-update/</i>		
Firm ordering (if applicable):		
Person ordering:		
Street address:		
Postal address (if different):		
Phone:	Email:	
Tick here <input type="checkbox"/> if we are to invoice the member personally (otherwise, our invoice will be made out to the person ordering)		
Documents will be delivered by email as PDF files	Tick here <input type="checkbox"/> for hardcopy delivery (fee applies)	

NAME OF FUND
Name of SMSF:
Please provide a copy of the current deed which is dated (dd/mm/yyyy):

COMPANY TRUSTEE			
Company name:			
ACN:			
Registered office:			
Full names of all directors			
T1		T2	
T3		T4	
T5		T6	

OR, INDIVIDUAL TRUSTEES	
T1	Full name:
	Street address:
T2	Full name:
	Street address:
T3	Full name:
	Street address:
T4	Full Name:
	Street address:

MEMBERS	
M1	Full name: T1? <input type="checkbox"/>
	Street address:
M2	Full name: T2? <input type="checkbox"/>
	Street address:
M3	Full name: T3? <input type="checkbox"/>
	Street address:
M4	Full name: T4? <input type="checkbox"/>
	Street address:
M5	Full name: T5? <input type="checkbox"/>
	Street address:
M6	Full name: T6? <input type="checkbox"/>
	Street address:

Note that a person in receipt of a pension from an SMSF must be a member of the fund under s 10(3) of the *Superannuation Industry (Supervision) Act 1993* (Cth) (**SISA**). Therefore, if the member's instructions involve an automatically reversionary pension being paid to their spouse and that spouse is not a trustee/director or a member of the fund, consideration will need to be given to this issue, eg, in relation to appointing the spouse as a trustee/director and admitting them as a member of the Fund. We strongly recommend that advice is obtained if this scenario is likely to arise as there is a risk of the fund ceasing to meet the definition of an SMSF in s 17A of the SISA if the issue is not handled appropriately.

DETAILS OF THE FUND MEMBER MAKING THE BDBN	
Full name:	Date of birth:
Other names member is known by (or before marriage/deed poll):	
Home address:	

ELIGIBLE BENEFICIARIES UNDER A BDBN
<p>A member's superannuation death benefits can generally only be paid to one or more of the member's 'dependants' and/or the member's legal personal representative (LPR) (ie, the executor(s) of the member's will). If the member wishes to direct the fund's trustee to pay their death benefits to a nominated dependant, it is recommended that the member gives consideration to what is to happen if the dependant predeceases the member. For instance, the member may wish to nominate alternate dependant(s) and/or their LPR.</p> <p>The BDBN documentation prepared by DBA Lawyers allows the member to specify a cascading direction using a first tier and second tier structure.</p> <p>For example, some wish to nominate their spouse as the 'first tier' beneficiary (eg, for 100% of the death benefits), with the member's LPR nominated in the second tier in the event that the member's spouse predeceases them.</p> <p>Please note that if the member wishes to nominate their children as alternate second tier beneficiaries (eg, in the event that a nominated dependant in the first tier predeceases), there is a risk that the child may also predecease the member leaving children of their own (ie, the member's grandchildren). This can create difficulties where it is intended that the grandchildren receive the share that was intended for the parent (ie, the member's child), particularly if multiple children are involved in relation to the second tier directions.</p> <p>Thus, to ensure equality overall, it is usually preferable for the member to nominate their LPR in the event that a nominated dependant in the first tier predeceases, subject of course to the member's will being appropriately drafted to cater for the superannuation death benefits being paid to the deceased member's estate.</p> <p><i>* Please complete the following tables as applicable and refer to the notes below before completing this section.</i></p>

SHARE OF THE MEMBER'S BENEFIT

This order form allows for a percentage share of the Member's death benefit to be specified for each dependant and/or LPR nominated in both the first tier and second tier directions below.

Please contact us if the Member wishes to have their BDBN cover payment of specific fund assets, or certain superannuation interests, such as a particular pension interest.

The above type of directions involve additional complexity and this drafting is outside the scope of our standard BDBN service. We invite you to contact our firm to discuss what is required and we can then provide an estimate in respect of the requested BDBN once we have a suitable brief, ie, as part of our premium BDBN service.

STEP 1: SPECIFY THE MEMBER'S FIRST TIER DIRECTIONS

The Member's death benefits should be paid as follows:

TO THE FOLLOWING DEPENDANTS:

Full name of each nominated dependant	Relationship to the Member	Share of Benefit (%)

AND:

The Member's LPR (ie, to the Member's estate)	
TOTAL (must equal 100%):	

STEP 2: SPECIFY THE MEMBER'S SECOND TIER DIRECTIONS

To the extent that the Member's directions in the first tier do not deal with 100% of the benefit (including by reason of one or more dependants predeceasing them or due to entitlements under the BDBN being disclaimed), the Member's death benefits should be paid as follows:

TO THE FOLLOWING DEPENDANTS:

Full name of each nominated dependant	Relationship to the Member	Share of Benefit (%)

AND:

The Member's LPR (ie, to the Member's estate)	
TOTAL (must equal 100%):	

STEP 3: AUTOMATICALLY REVERSIONARY PENSION(S) TO THE MEMBER'S SPOUSE

OPTIONAL — Please tick the box below, if the Member wishes to direct the trustee to pay automatically reversionary pension(s) to the Member's spouse (ie, to the extent that the spouse benefits under the BDBN) in relation to any account-based pension (ABP) and/or transition to retirement income stream (TRIS) the member is receiving at the time of their death.

- ☐ Prepare the BDBN so that each of the Member's ABPs and/or TRISs are paid as automatically reversionary pensions to the Member's spouse.

Please contact us if the Member wishes to have their BDBN cover:

- different types of pensions (eg, legacy pensions such as complying lifetime pensions or market linked pensions);
- paying a pension to a child of the Member, eg, a child under age 18 (subject to the special transfer balance cap rules); or
- something different than the above in relation to a direction to pay death benefit pension(s), such as paying a fresh pension to a dependant or attempting to 'revert' part of a pension.

The above type of directions involve additional complexity and this drafting is outside the scope of our standard BDBN service. We invite you to contact our firm to discuss what is required and we can then provide an estimate in respect of the requested BDBN once we have a suitable brief, ie, as part of our premium BDBN service.

STEP 4: SPECIFY WHAT IS TO HAPPEN IF THERE IS ANY RESIDUAL BENEFIT

To the extent that the Member's first tier and second tier directions do not deal with 100% of the Member's interest (including by reason of one or more dependants predeceasing them or due to entitlements under the BDBN being disclaimed), the Member's death benefits should be paid as follows:

- ☐ treat the Member's death benefit as being payable **at the discretion of the trustee**, in accordance with the fund's governing rules whilst taking into consideration to whom the Member wished to benefit as expressed in the Member's BDBN.

OR

- ☐ pay to the Member's LPR (ie, to the Member's estate).

If you have not chosen either of the above options, the first option will be used as a default.

(Please tick **one** of the boxes)

IMPORTANT NOTES

Notes:

- 1 A superannuation lump sum death benefit can generally only be paid to a dependant and/or LPR. A dependant as defined under the SISA and the *Superannuation Industry (Supervision) Regulations 1994* (Cth) includes a spouse, child (including an adult child) or someone who is financially dependent on the deceased member or someone who was in an interdependency relationship with the deceased member.
- 2 A 'de facto' spouse is defined in the SISA as a person who lives with another person on a genuine domestic basis as the spouse of the person.
- 3 A person is in an 'interdependency relationship' with a member if they live with the member as part of a close personal relationship with the member, and one or both of them provides the other with personal care and financial and domestic support. Alternatively, a person can also be in an interdependency relationship with the member if they are in a close personal relationship with the member, but do not satisfy the other criteria as either one or both of them suffer from a physical, intellectual or psychological disability.
- 4 A death benefit may only be paid to a child of the deceased as a pension where the child is less than 18 years of age, the child is 18 or more years of age and is financially dependent on the member at the time of death and is less than 25 years of age or is permanently disabled.

SPECIAL INSTRUCTIONS

Note that DBA is not licensed to provide financial product advice under the *Corporations Act 2001* (Cth).