



Binding Death Benefit Nominations Explained

When it comes to superannuation, many people assume that their retirement savings will go to their loved ones when they pass away. Sadly, this isn't always the case. Unlike other assets that are covered by your will, your superannuation is handled separately, and if you want to ensure it goes to who you want, you need a binding death benefit nomination (BDBN).

What is a binding death benefit nomination?

A BDBN is a formal instruction you give to your superannuation fund, telling them who should receive your super when you die. The fund must follow your instructions if your nomination is valid. This gives you certainty that your money will go to who you want.

If you don't have a binding nomination, your super fund will decide who gets your money. This means your super could be distributed differently from what you intended. Without a valid nomination, your fund will usually follow set rules and laws about dependants.

The three-year expiry rule

A BDBN generally expires every three years. This means you need to renew it regularly to keep it valid. If your nomination expires and you haven't updated it, your super fund will decide who gets your money when you pass away.

To avoid this, many people set reminders to review their nomination every few years. Major life events such as marriage, divorce, or having children are also opportune times to review your BDBN.

Non-lapsing binding nominations

Some super funds offer non-lapsing binding nominations, which do not expire. Once you make a valid non-lapsing nomination, it remains in place unless you choose to change or cancel it.

However, not all super funds offer this option, and each fund has its own rules about how non-lapsing nominations work. It's important to check with your fund to see if you can make one and whether any conditions apply.

Binding nominations in SMSFs

If you have a self-managed super fund (SMSF), the rules around BDBNs can be different. Unlike large super funds, where trustee discretion is limited by the rules of the fund and superannuation laws, SMSFs can have more flexibility.

Some key differences include:

- » **No automatic expiry:** In many SMSFs, binding nominations do not expire unless the trust deed specifically states otherwise. This is different from retail and industry super funds, where nominations often expire after three years.

continued overleaf ➡

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- » **Customised rules:** The rules about binding nominations in an SMSF depend on the trust deed, which is the legal document that governs the fund. Many SMSFs allow non-lapsing nominations, while others may require regular updates. Also, some SMSFs allow cascading nominations ie, instructing the fund to pay a death benefit to a secondary beneficiary if the primary beneficiary predeceases the member.
- » **Trustee control:** Since SMSF trustees are usually fund members themselves, there can be potential conflicts of interest when deciding how to distribute super benefits. A well-structured binding nomination can help prevent disputes among family members.

If you have an SMSF, it's crucial to check your trust deed and ensure your nomination aligns with the fund's rules.

Who can you nominate?

When making a binding nomination, you can't just choose anyone – you must nominate one or more 'eligible beneficiaries'. These include your:

- » Spouse (including de facto and same sex partners)
- » Children (including adopted or stepchildren)
- » Financial dependants (such as someone who relies on you financially)

- » Interdependents – someone you share an interdependent relationship with (such as a person you live with, have a close bond with, and where one or both of you provide financial assistance, domestic support, and personal care)
- » Legal personal representative (your estate, so your super is distributed according to your will)

If you nominate someone who isn't eligible, your nomination will be considered invalid, and the super fund trustee will decide who receives your super.

How to make a valid binding nomination

To ensure your nomination is legally binding, follow these steps:

1. **Check your fund's rules:** Different funds have different requirements for binding nominations.
2. **Complete the required form:** Your super fund will have a specific binding nomination form you need to fill out.
3. **Nominate a dependant or legal personal representative.**
4. **Ensure the proportions add up to 100%.**
5. **Sign and date it in the presence of two independent witnesses** (over 18 and not beneficiaries).
6. **Submit the completed form to your super fund.**

Final thoughts

A BDBN is an essential tool for ensuring your superannuation is distributed according to your wishes. If you don't have one in place, or if yours has expired, your super fund may decide who gets your money – and it might not be who you intended.

Whether you choose a standard nomination with a three-year expiry, a non-lapsing nomination, or an SMSF-specific arrangement, keeping your nomination up to date is key. Take the time to review your super fund's rules and ensure your hard-earned super goes to the ones you love. 💰



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