

# INFORM

**MARCH 2015**

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## SUPERANNUATION AND DIVORCE

**Divorce can be a confusing time when it comes to finances, especially superannuation. Here we discuss the options open to divorcees.**

During a divorce typical ownership issues involve property, children, pets, bank accounts and vehicles. Less likely to be negotiated is superannuation, despite the fact that it is usually a couple's second most valuable investment after their house.

The years following a divorce tend to be financially stressful thanks to the simple fact that living together is considerably cheaper than living apart. To ensure as comfortable a future as possible for both partners, it is important to ensure the superannuation is split fairly.

What options are there? The Attorney-General's Department<sup>1</sup> of the Australian Government says that in the eyes of the law, superannuation is treated just like any other property except for the fact that it is held in a trust. Superannuation splitting laws have been developed to help married and divorcing couples divide their superannuation. There are two main options.

### Superannuation agreement

This is a financial agreement reached by both members of the couple. It not only takes into account superannuation accumulated during the marriage itself, but could also include superannuation earned before the marriage and since the split.

There are various ways to make this superannuation split happen, including the non-member spouse having an 'interest', or a co-account if you like, created within the member spouse's fund. As a result the non-member will have their own superannuation amount available to them when they become eligible for super.



### Court order

If the couple cannot agree on a superannuation split then a court can impose one. Superannuation can be split between a couple by an order of the Family Court or the Federal Magistrate Court. The court has the power to make decisions regarding the superannuation interests of spouses and can decide the way a payment split should be put into effect.

### Other options

The couple may simply take the future value of the superannuation into account, leave the super to the account owner and balance it out by giving the other partner a greater percentage of other investments such as the house.

They may also decide to flag the issue but deal with it at a later date, perhaps when they are closer to retirement, so the asset can be valued then dealt with by the fund's trustee in a manner agreed by the couple.

As with any other aspect of divorce, it pays to seek professional advice. There are many options but it is important that superannuation is not ignored.

<sup>1</sup> <http://www.ag.gov.au/FamiliesAndMarriage/Families/SuperSplitting/Pages/default.aspx>

## SPEAK TO US FOR MORE INFORMATION

Speak to us if you would like to understand more about how this information might impact your financial situation.

### IMPORTANT INFORMATION

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