

SUPER AND FAMILY LAW MATTERS

A few things to note

INFORMATION SHEET

1 JULY 2022

Married and de facto¹ couples have the option to split their super entitlements on divorce or separation. This document contains important information about family law matters and how they will be handled by us.

Getting information from NGS Super

Who can ask for information?

Under Family Law, the following people can ask for information about a member's super benefits:

- the member
- the member's spouse
- a person who intends to enter into a superannuation agreement with the member.

These people can ask for super information from the Commissioner by applying to the Registries.

How do you ask for information?

You will need to download and complete the **Superannuation Information Kit** available from the Federal Circuit and Family Court of Australia at fcfcoa.gov.au/fl — this includes a **Form 6 Declaration** and a **Superannuation Information Request form**.

Alternatively, you may hire a lawyer to help.

We do not charge any fees when you ask for information from us.

What information will you get?

We will only provide the information required by the legislation.

If the request is made by someone other than the member, we cannot tell the member about it.

How to contact us

To have your request processed as soon as possible, make sure you send your **Form 6 Declaration** and **Superannuation Information Request form** to the correct address. If sent to the wrong address, we may be unable to take action for you.

Send all family law documents to:

NGS Super
GPO Box 4303
MELBOURNE VIC 3001

Professional advice

We are not allowed to give you any advice about family law matters. If you have any questions, consider getting legal advice from a qualified person.

1. A de facto relationship is defined in Section 4AA of the Family Law Act 1975. The law requires that you and your former partner (of any sex or gender) had a relationship as a couple living together on a genuine domestic basis.

SPLITTING THE SUPER BENEFIT

How super can be split

The super benefit can be split as part of the property settlement either by:

- private agreement between the parties or
- Court Order.

A benefit can be **flagged** by a Flagging Agreement or Order, or **split** by a Splitting Agreement or Order.

Flagging means that the decision on how to split the benefit is deferred until a later date. If a benefit becomes payable to the member while a flag is in place, it cannot be paid and we must notify the parties or the Court. We must then wait for further instructions from the parties or the Court before paying the benefit.

Splitting means that a decision on how to split the benefit has been made and that a portion will be allocated to the non-member spouse.² When a Splitting Agreement or Order is made, we will check that it's valid and will then notify both parties that the Agreement or Order is in place. This notification will include the options available to the non-member spouse regarding their share of the member's benefit. It will also explain what the non-member spouse needs to do, by when, and what happens if we don't receive a reply.

When an Agreement or Order is made

When an Agreement or Order is made, a copy should be given to us along with any other required documents (your legal adviser will tell you what needs to be done).

If it is a **Flagging Agreement or Order**, the non-member spouse must also tell us their full name and postal address.

If it is a **Splitting Agreement or Order**, the non-member spouse must also advise their date of birth and their membership number (if also an NGS member).

Important notes

- The amount paid to the non-member spouse is not usually immediately available in cash. It must remain in the super system until the person meets one of the legal conditions that allows their benefit to be paid in cash. For more information about this, see our fact sheet **Gaining access to your super** at ngssuper.com.au/PDS
- The member's benefit in NGS Super will reduce by the amount paid to the non-member spouse. The reduction will be shown on the next member benefit statement.
- When paying the required amount to the non-member spouse, we must also split some of the tax components of the member's benefit. Legislation sets out how the components will be split.

Do you need more information?

This provides a brief summary of family law legislation as it applies to superannuation. It is not advice and should not be relied upon as advice. You should always seek professional advice for your specific circumstances.

2. The non-member spouse is the member's spouse or former spouse as referred to in the Agreement or Order.

More information?

Contact us

You can contact us at
ngssuper.com.au/contact-us
or call us on **1300 133 177**
Monday to Friday, 8am–8pm
(AEST/AEDT).

Phone number for callers outside
Australia **+61 3 8687 1818**

Fax: **(03) 9245 5827**

Postal address
GPO Box 4303
MELBOURNE VIC 3001

Important information

The information in this information sheet is general only and does not take into account your objectives, financial situation or needs. Before making a financial decision, please assess the appropriateness of the information to your individual circumstances and consider seeking independent advice from a licensed or appropriately authorised financial planner.

ngssuper.com.au
1300 133 177