

SUPER AND FAMILY LAW MATTERS

A few things to note

FACT SHEET

UPDATED OCTOBER 2016

Changes to the Family Law Act mean that married and de facto¹ couples have the option of splitting 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?

The law allows the following people to ask for information about a member's benefits in a super fund:

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

How do you ask for information?

You must complete an Application for Information and Declaration as set down in the legislation — this declares that you are eligible to ask for information.

You will find the Application form and Declaration on the Family Court website at www.familycourt.gov.au, alternatively speak to your lawyer.

You must also pay a fee to the Trustee for providing the information. The fee must be paid at the same time as the Declaration and Application are sent to us.

What information will you get?

We will only provide the information required by the legislation.

In the event that an Application for Information is received from someone other than the member of the Fund, the Trustee cannot tell the member that the Application has been received.

How to contact the Trustee?

In order to ensure prompt action by the Trustee in relation to **all** Family Law matters it is important that applications for information and other documents dealing with super are sent to the correct address. We may be unable to take action on a Family Law matter if the documents are not sent to the correct address.

All documents relating to Family Law matters should be sent to:

NGS Super
GPO Box 4303
Melbourne VIC 3001

¹ Restrictions apply where a de facto relationship has been in existence for less than 2 years. Restrictions also apply in respect of de facto couples living in Western Australia as currently the Commonwealth laws in relations to de facto couples do not apply to this state.

SPLITTING THE SUPER BENEFIT

Professional advice

The Trustee is not permitted to provide you with any advice in relation to Family Law matters. If you have any queries it is recommended that you seek legal advice from an appropriately qualified person.

It may also be in your best interest to speak to a licensed financial adviser about the impact of the changes to the Family Law Act in your particular circumstances.

Fees payable to NGS Super

The fees currently payable to NGS Super in relation to Family Law matters are as follows:

Family Law matter	Fee payable
Processing and responding to an Application for Information ²	\$100 for member (\$110 for non-members)
Splitting a benefit under a Splitting Agreement or Order ³	\$100
Flagging a benefit under a Flagging Agreement or Order	Nil – not applicable
Removing a flag under a Flag Lifting Agreement or Court Order	Nil – not applicable

² Payable by the applicant and must accompany the Declaration and Application for Information as outlined above. Cheques must be made payable to NGS Super.

³ This fee is generally split equally between the parties and deducted from the entitlement of each party.

How super can be split

The superannuation benefit can be split as part of the property settlement either by private agreement between the parties, or by 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, the benefit cannot be paid and NGS Super 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 is to be allocated to the non-member spouse*. When a Splitting Agreement or Order is made, we will check that the Agreement or Order is valid and will then notify both parties that the Agreement or Order is in place. This notification will also include details of the options available to the non-member spouse in respect of their share of the member’s benefit. It will also set out what action needs to be taken by the non-member spouse, by when and the implications if we don’t receive a reply.

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

When an Agreement or Order is made

When an Agreement or Order is made, a copy should be provided to the Trustee 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 provide the following information to us:

- the non-member spouse's full name; and
- the non-member spouse's postal address.

If it is a Splitting Agreement or Order, the non-member spouse must also advise:

- the non-member spouse's date of birth; and
- their membership number if the non-member spouse is already a member of NGS Super.

Important Notes

- The amount allocated to the non-member spouse will be adjusted to take account of any fees that may apply (refer to 'Fees payable to NGS Super page 2 for fee details).
- The amount allocated 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 relating to this, please view the *Gaining access to your super* fact sheet available at ngssuper.com.au/PDS.
- The member's benefit in NGS Super will be reduced to reflect the amount allocated to the non-member spouse, plus any fees payable by the member as outlined on page 2. The reduction in the benefit will be shown on the next member benefit statement.
- When allocating the required amount to the non-member spouse, we must also split some of the tax components of the member's benefit. The components to be split, and the method by which they are to be divided between the parties, are set down in the legislation.
- The fees payable to NGS Super as set out on page 2 are subject to review from time to time.

Do you need more information?

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

More information?

Contact us

Our website is your one-stop shop for information about NGS Super.

You can also contact us at www.ngssuper.com.au/contact-us or call our Customer Service Team on **1300 133 177** between 8.00am and 8.00pm (AEST or AEDT), Monday to Friday.

Important information

The information in this fact sheet is general information 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.

www.ngssuper.com.au
1300 133 177