

FAMILY LAW AND SUPER



The law requires that all superannuation assets, not just amounts built up during marriage, are included in the property settlement on divorce or separation.

This means that a percentage of the member's superannuation, plus interest, can be allocated to the non-member spouse. It is not compulsory to split the superannuation and it can still be offset against other property the couple holds if this would give the most equitable outcome.

Who is covered by the legislation?

The legislation applies to property order made after 28 December 2002 for legally married couples, and on/ or after 1 March 2009 for de facto or same-sex couples.

What does splitting super mean?

Under the law, couples now have the option to split super between them. The Family Court may also order a split. Splitting means allocating some of the member's super—either a specified dollar amount or percentage—to the spouse. The member's super is reduced by that amount. In most cases, the benefit will be split immediately, but it can be 'flagged' for a future split.

Flagging a benefit for a future split

An agreement or court order may flag the member record for a future payment split. Benefits are likely to be flagged when an accurate value of the superannuation cannot be determined at the date of the court hearing, or the member is close to satisfying a condition of release. A flagged benefit cannot be paid until the flag is lifted by either agreement of the parties or a court order.

The process

- Both the member and the non-member spouse may request information on the member's superannuation. Requests are to be submitted on a special form available from the Family Court website familycourt.gov.au. This form enables parties to collect and exchange information relating to the type of superannuation interest held by each party and its value.

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- The Aon Master Trust will provide details to the party requesting the information to enable them to determine the value of the account.
- The Aon Master Trust will not disclose to the other spouse that this information has been requested.
- The parties value the superannuation according to the methods set out in the family law regulations.
- The couple makes an agreement that identifies whether the superannuation is to be split on a percentage basis or dollar amount. If the couple cannot agree, the court will make an order.
- The agreement or court order for a payment split is sent to the Aon Master Trust. A copy of the decree absolute or a separation declaration must be sent with the agreement or order. The agreement must be signed by both parties and must confirm that each party received independent legal advice.
- The Aon Master Trust will notify both parties that the member's interest is subject to a payment split.

If the non-member spouse does not give instructions on where to transfer their part of the split once benefit paperwork is received, it will be sent to the Aon Master Trust Eligible Rollover Fund. If the spouse has no super fund membership, they can apply to join the Aon Master Trust by completing the membership application in the Personal Super Product Disclosure Statement (a minimum of \$1,500 is required to open an account). Membership of Personal Super offers a range of investment and insurance options that are not available in the Eligible Rollover Fund.

Aon Master Trust fees

Under family law legislation, an 'eligible person' may obtain certain information about a member's superannuation account. The administrator charges a fee of \$200 (GST inclusive) per family law valuation to the person who requests it at the time the request is made. The fee is not deducted from the member's account.

A fee of \$160 is payable for any family law split, and \$80 is charged to each party at the time of the split.

aonmastertrust.com.au

The information in this factsheet is general in nature. Your personal objectives, financial situation or needs were not taken into account when preparing this information. You may want to seek independent advice before making any decisions about your super.

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