

SUPERANNUATION AND FAMILY LAW



Information for the ANZ Australian Staff Superannuation Scheme

Family Law means that married and de facto* 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 the ANZ Australian Staff Superannuation Scheme ("ANZ Staff Super").

**Restrictions apply where a de facto relationship has been in existence for less than 2 years.*

1. Getting information from ANZ Staff 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 I ask for information?

You must complete a *Superannuation information request* form and submit it to the Trustee. You must also complete a Form 6 Declaration as set down in the legislation - this declaration confirms that you are eligible to ask for information. You will find the *Superannuation information request* form and Form 6 Declaration on the Family Court website www.fcftoa.gov.au; alternatively, speak to your lawyer.

You must also pay any fee imposed by the Trustee for providing information. Any fee must be paid at the same time as the Declaration and Application for information is sent to the Trustee. Currently the Trustee of ANZ Staff Super does not impose a fee for providing this information.

What information will I get?

The Trustee will only provide the information required by the legislation.

If an Application for information is received from someone other than the member of ANZ Staff Super, the Trustee cannot tell the member that an Application for information has been received.

How do I contact the Trustee?

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. The Trustee 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:

The Family Law Officer
ANZ Australian Staff Superannuation Scheme
GPO Box 4303
MELBOURNE VIC 3001

2. 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 interests to speak to a licensed financial adviser about the impact of Family Law matters in your particular circumstances.

3. Fees payable to the Trustee

The Trustee of ANZ Staff Super does not charge fees for requests for information under the Family Law Act or to give effect to splitting or flagging orders or agreements.

4. 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 the Trustee must notify the parties or the Court. The Trustee 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, the Trustee 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 the Trustee does not receive a reply.

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

5. When an Agreement or Order is made

When an Agreement or Order is made, an original certified copy must 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 the Trustee:

- 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
- if the non-member spouse is already a member of ANZ Staff Super, their membership number in ANZ Staff Super.

6. Important notes

- The amount allocated to the non-member spouse will be adjusted to take account of any fees that may apply (refer to item 3 on page 1 for fee details).
- The amount allocated to the non-member spouse is not usually immediately available in cash. It must remain in the superannuation system until age 65 in most cases, or until the person meets one of the conditions of release that allows his or her benefit to be paid in cash.
- The member's benefit in ANZ Staff 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 1. The reduction in the benefit will be shown on the next benefit statement.
- When allocating the required amount to the non-member spouse, the Trustee 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 the Trustee as set out on page 1 are subject to review from time to time.

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

March 2023