

Superannuation and Family Law matters



28 April 2022

Information for REI Super Issued by REI Superannuation Fund Pty Ltd
ABN 68 056 044 770

Changes to the Family Law Act mean 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 REI Super.

1. Getting information from the Fund

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 Form 6 Declaration – this declares that you are eligible to ask for information. You will find these forms in the Superannuation Information Kit on the Family Court website at www.familycourt.gov.au, alternatively speak to your lawyer.

You must also pay any fee imposed by the Trustee for providing the information. The fee must be paid at the same time as the Declaration and Application is sent to the Trustee.

What information will I get?

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

In the event that a Superannuation Information Request Form and Form 6 Declaration is received from someone other than the member of the Fund, the Trustee cannot tell the member that the Application has been received.

How do I 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. 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:

Family Law Officer
REI Super
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 the changes to the Family Law Act in your particular circumstances.

3. Fees payable to the Trustee

REI Super charges a one off fee of \$350.00 for Family Law information and for splitting a superannuation payment upon receipt of a splitting agreement or court order. This fee will be deducted equally (\$175.00 each) from both parties when the Family Law split has been processed.

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. For the purpose of this document, spouse includes individuals in a de facto relationship.

5. 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 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 the Fund, their membership number in the Fund.

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 legal conditions that allows their benefit to be paid in cash.
- The member’s benefit in the Fund 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 member 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.

Need help?

1300 13 44 33 | reisuper.com.au

✉ admin@reisuper.com.au

