

The Family Law Act allows separating couples to split their super just like other assets when finalising their property settlements.

How to request information about your account

You or your spouse can ask for information about your super account, such as your account balance and contributions. The information will only be given to the person asking for it. The law doesn't allow the super fund to tell the person's spouse that a request for this information was made. You can also request to have your super valued if you're making a pre-nuptial agreement.

What you'll need

There are two ways you or your spouse can request information about your superannuation accounts:

- You can request the Family Court Registrar to obtain information from the Australian Taxation Office (ATO) about **all** your spouse's superannuation accounts. For further information please visit familycourt.gov.au.
- You can request specific information about a super account by sending each super fund a **Form 6 Declaration** and a **Superannuation Information Request** form. These can be downloaded from familycourt.gov.au. Simply search for the **Superannuation Information Kit**.

Fee information

Mine Super charges a standard fee of \$220 for family law cases, payable by electronic funds transfer (EFT). We'll send through the banking details once you've started your family law split.

If the fee isn't paid before the split, we'll charge the fee in accordance with the regulations. Generally, this means we'll deduct \$110 from both you and your former spouse's accounts.

If you're intending to send through a **Form 6 Declaration** and a **Superannuation Information Request** form you must pay the above fee before any account information can be released.

Sending in your fee and forms

Send your **Form 6 Declaration** and **Superannuation Information Request** forms to:

Email: help@mine.com.au

Mail: Mine Super Locked Bag 2020 Newcastle NSW 2300

Once we've received your forms and fee payment, you'll generally receive your account information within a fortnight.

When can you split your super?

You can enter into a superannuation agreement to split your super before, during or after the breakdown of a marriage or de facto relationship. However, your super won't be split until after you've separated from your spouse.

You don't have to split your super. You may choose to split your super if you're dividing your assets with your spouse and you agree to give them a portion of your super as part of the property settlement.

If you do split your super, it's important to remember that your split super will still be subject to normal super laws. For example, you generally won't be able to access it until you retire. A super account balance under \$5,000 can't be split.

Deciding how your super is split

There are two ways for your super to be split.

Option 1 - Getting a court order

If you and your spouse agree about how to split your super, you can apply for consent orders in the Family Court of Australia or the Federal Magistrates Court of Australia. This option will record the order.

The consent court order can be made in chambers without either of you attending court. If you or your spouse don't agree about the amount of the split, the court may decide the matter by court order without your or your spouse's consent.

Option 2 - Using a superannuation agreement

This is a formal written agreement. You and your spouse need to receive independent legal advice and your solicitor must sign a certificate stating they've provided independent legal advice about the agreement.

If you make an agreement you won't need to go to court. But because the agreement isn't registered in court, you need to keep your own copy.

If you can't agree about how to split your super you can have a court hearing. The court will decide how to split your super.

If you start proceedings you can still reach an agreement at any stage without needing a court hearing.

When will the split happen?

If you have a super agreement

Your split will be made on the fourth business day after we receive the required documents.

If you have a court order

We'll usually require the order to specify that the super split will be made on the fourth business day after we receive the stamped court orders.

Where will the split super be paid?

Unless the superannuation agreement or court orders state otherwise, the split super will be paid into a Mine Super account in the recipient's name.

If the receiving partner isn't already a Mine Super member (or hasn't provided details of their existing super fund), an account will be created in their name and they'll receive a welcome pack, including Product Disclosure Statement (PDS) with details about their new account.

The new super or pension account created for the receiving spouse will be invested in the same investment option held by their former spouse. The receiving spouse has 28 days to decide what to do with their new account and make a request to:

1. Keep their new Mine Super account.
2. Transfer the benefit to another super fund of their choice.
3. Make a withdrawal (if eligible; in some cases, when the recipient has met a condition of release, it's possible to get the benefit paid as a lump sum).

If they do not make a request for one of these options within 28 days, we'll confirm them as a member of the fund and they'll keep their account with us.

What's a payment flag?


A payment flag acknowledges that your super account may become the subject of a split and certain transactions may be restricted while the flag is on the account.

You may want to use a payment flag as part of a superannuation agreement, for example to defer the super split until your property settlement is finalised, or the flag may be imposed by a court.

The payment flag will remain in place until you make a flag lifting agreement or the court makes an order.

Seek advice

We strongly recommend you seek legal advice about family law and how it might affect your super.

 Family law can be complex. To find out more about splitting your super under family law, visit the Family Law Courts website at familycourt.gov.au

Need more information or advice?

If you have any questions or need help call us on 13 64 63, Monday to Friday, 8am to 6pm or email help@mine.com.au

If you need financial advice, we can put you in touch with Mine Super Financial Advice.

Mine Super | T 13 64 63 | F 02 4962 3469 | E help@mine.com.au | mine.com.au

This is general advice only and does not take into account your financial situation, needs or objectives. Before acting, consider if the information is right for your needs and circumstances and read the relevant Product Disclosure Statement (PDS). If there are any inconsistencies between this document and the PDS or Trust Deed the terms of the PDS or Trust Deed will prevail. This information is based on our understanding of current Australian laws and assumes they will remain unchanged. Issued by AUSCOAL Superannuation Pty Ltd ABN 70 003 566 989 AFS licence 246864 Trustee for the Mine Superannuation Fund ABN 16 457 520 308. Advice is provided by Mine Super Financial Advice a trading name of Mine Super Services Pty Ltd ABN 49 051 315 014 AFS licence 502700.