

Family Law Property Settlement Workbook – Summary Booklet

Property Settlement after Separation

1. This workbook can help if you have separated from your husband or partner and are:
 - Trying to come to an agreement (mediate) with your ex-partner to reach a property settlement; or
 - Preparing an application to a court for a property settlement
2. Regardless of whether you are married or in a de-facto relationship, you can still negotiate or apply to a court for a property settlement if you have separated from your husband or partner. De facto couples have the same rights as married couples in relation to the distribution of property, except that a claim must be made within two years of separation.
3. Even if you have earned little or no income during your relationship or marriage you may still be entitled to property. You can use this workbook to assist you to understand what you may be entitled to and to take this information to any discussions about your entitlements.
4. If you leave the family home when you separate, you do not lose your rights to a share of the home, or any other property. Many things are considered when deciding who gets what property after a relationship ends. The law does not look at who left the relationship. Regardless of whether you mediate or go to court, the law's focus is to make sure people reach a fair property settlement that meets everyone's future needs (including any children of the relationship).
5. If you think your ex-partner is disposing of (selling or hiding) property or money you should get legal help immediately. A lawyer can give advice on how the sale of a property might be stopped until after a property settlement agreement has been reached. If your home or any other real estate is only in your ex-partner's name you should get legal advice about how you can protect your rights in relation to a share of that property.
6. Property can include things you or your ex-partner had before the marriage or relationship started and also after it ended, not just at separation. Assets such as real estate, furniture, cars, business assets and superannuation, and liabilities such as personal loans, mortgages and credit card debt are all taken into account to work out what property you and your partner have when you start the process. It does not matter whose name is on a document (such as the title to the home) or who purchased an item or made a debt.
7. Before you leave a relationship try and find any documents which will support the information you need to provide during a property settlement, such as the identity of yourself and your children and the assets and liabilities (debts) of you and your partner.
8. Under the Family Law Act, you can seek maintenance (financial support) if you are unable to support yourself from your own resources and your partner has the capacity to pay maintenance to you. You should never agree to a property settlement just so that you at least get some money if you are in financial hardship and feel you have no other choice. You should seek legal and financial advice. If you are experiencing financial hardship, many organisations can offer assistance.
9. If you have a Binding Financial Agreement with your ex-partner the court may enforce the terms of the Agreement. However, the Agreement can be altered by the court if substantial or significant changes to either party's circumstances have happened between the signing of the Agreement and separation.



Family Violence

10. The law will protect you and your children if you are experiencing violence or harassment even if your partner owns the house you live in. Family violence means violent or threatening behaviour, as well as any other behaviour that coerces or controls a member of the person's family or causes the family member to be fearful. This may include: assault, sexual abuse, stalking, intentionally damaging property or hurting family pets. Examples of coercion or control may include if your partner won't give you any money to buy things you or your children need when you rely on him entirely for all money, or prevents you from keeping in touch with your family, friends or culture. You should contact the Police or your local community service to get protection from family violence. The Police can seek a court order to prevent a violent partner or ex-partner entering your family home or having any contact with you and your children.

Immigration

11. If your partner has sponsored you to live in Australia on a Temporary Partner visa and your relationship has ended or you want to leave your sponsoring partner before the visa expires, you must get legal and immigration advice. Your partner cannot cancel your visa. You may be granted a permanent residence visa without waiting the full two year waiting period if your relationship has ended and:

- your sponsoring partner has been violent, or
- you have children of the relationship, or
- your sponsor died.

Getting Legal Advice

12. If you need help with separating from your Partner there are many organisations throughout NSW that offer free advice, support, and assistance. Perhaps you need financial support, legal advice, immigration visa assistance, counselling or protection from violence? This workbook provides details of organisations which may be able to help you or you can call Law Access on 1300 888 529 for contacts for legal services in your local area.

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