

Separation Declaration Family Law Act 1975 Section 90MP

Who should use this declaration?

You should use the appropriate declaration in either **Part A** or **Part B** if:

- you have entered into a superannuation agreement with your former spouse; and
- you have separated from your former spouse.

If you have divorced from your former spouse you should not complete this declaration. Instead, you should provide ComSuper with a certified copy of your decree absolute.

For the purposes of the *Family Law Act 1975* spouse means:

- a party to a marriage, or
- a party to a same sex or opposite sex de facto relationship.

Does my former spouse have to complete this as well?

No. The declaration only needs to be signed by either you or your former spouse to be effective. You may both sign the declaration if you wish.

What happens if neither of us completes this declaration?

If neither you nor your former spouse serves a properly completed declaration on the Trustee, your superannuation agreement may not be effective.

Should I complete the Part A declaration or the Part B declaration?

You should use the **Part A** declaration if the withdrawal value of the Member's superannuation benefit (as determined under the Family Law Regulations) is greater than the Superannuation Lump Sum Payment Threshold for the financial year in which the declaration is made.

Information about the Superannuation Lump Sum Payment thresholds can be obtained online from www.ato.gov.au or by contacting the Australian Taxation Office on **13 10 20**. ComSuper does not calculate withdrawal values for family law purposes.

If the withdrawal value is less than the Superannuation Lump Sum Payment Threshold for the financial year in which the declaration is made, you should use the Part B declaration.

You do not need to complete both parts—only complete the part relevant to your situation.

What happens if I make a false declaration?

There are severe penalties for making a false or misleading declaration. A person serving a false declaration on a Trustee may be subject to 12 months imprisonment.

Therefore, you should not complete the appropriate declaration if it could amount to a false declaration.

IMPORTANT NOTE:

The meaning of separated is defined under sections 48 and 90MP of the *Family Law Act 1975*. You should consider seeking professional advice if you are unsure whether you satisfy this definition. Neither the trustees nor ComSuper can provide you with that information.

Contacts

If you have any further questions about your benefit entitlements or investment options you can contact us in the following ways:

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