



BRIESE LAWYERS FACTSHEET
Family Law



Superannuation & Property Settlements

Superannuation entitlements are now treated as property in relation to any Family Law property settlement matter

It is highly likely in your property settlement matter, that both you and your partner will have entitlements in a Superannuation Fund. Superannuation entitlements for both parties are treated as an asset for, and forms part of, the overall asset pool that will be the subject of the final property settlement.

In property settlement matters involving Superannuation, it is necessary to identify all Superannuation interests that both partners have, and then ascertain the value of that interest. Special formulae exist to value interests held in defined benefit accounts and pensions in the payment phase.

If you or your spouse has a Superannuation interest which is an accumulation interest or an allocated pension, mechanisms exist to enable that interest to be split and for you or your spouse to acquire an interest in that Fund, or to roll over that interest into your own Fund.

If you and your spouse are unable to reach an agreement, the Court can make Orders dividing Superannuation entitlements between you when determining your property settlement matter.

If you and your spouse reach an agreement as to division of property, you may enter into a 'Superannuation Agreement' to deal with the member spouse's Superannuation entitlements.

The treatment of Superannuation entitlements for Family Law matters can be complex and confusing. We strongly recommend that you engage a Solicitor if you wish to split Superannuation as part of your property settlement. There are onerous obligations pursuant to the relevant legislation that must be complied with to carry out the interest or payment split.

Here at Briese Lawyers, we are experienced in giving advice about all matters in relation to property settlements, including issues regarding Superannuation.

We will provide you with specific advice as to your property settlement entitlements and how your Superannuation entitlement will be considered.

We will also advise you of relevant tax implications and considerations when looking at whether an interest split or payment split of your Superannuation Fund is in your best interest.



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