



# Separation declaration

## *Family Law Act 1975*

### Information about this declaration

#### Who should use this declaration?

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

- > you have entered into a super agreement with your former spouse
- and
- > you have separated from your former spouse.

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

For the purposes of superannuation splitting under the *Family Law Act 1975*, spouse means:

- > a party to a marriage
- or
- > a party to a de facto relationship.

#### Does my former spouse have to complete this as well?

No. Only you or your former spouse needs to sign the declaration to be effective. Only one of you has to sign the declaration but you can 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 super 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 super benefit (as determined under the Family Law Regulations) is greater than the superannuation lump sum payment threshold for the financial year in which you make the declaration.

You can find information about the superannuation lump sum payment thresholds at [www.ato.gov.au](http://www.ato.gov.au) or by calling the Australian Taxation Office on 13 10 20.

If the withdrawal value is less than the superannuation lump sum payment threshold for the financial year in which you make the declaration, you should use the Part B declaration.

You do not need to complete both declarations—only complete the one relevant to your situation.

#### What happens if I make a false declaration?

There are severe penalties for providing 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 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.



