

## Family Law Splits in the Defined Benefit Scheme

The Family Law Act provides a mechanism for taking account of superannuation entitlements when negotiating property settlements, resulting from marriage breakdowns and for the 'splitting' of those entitlements between the two parties involved.

### The first step

The member, the member's spouse (including de facto spouses and same sex partners) and a representative of the Court have the right to obtain details of the member's superannuation entitlements. A member's prospective spouse also has the right to obtain those details.

The Family Law Act prohibits us from giving a member's address details to an applicant or from telling a member that an application for details has been made by their spouse or prospective spouse.

The Family Law Act requires that an application for these details (Valuation Request) must include a declaration in a form prescribed under the Regulations. A fee is also payable by the applicant (see overleaf). Attached is a Local Government Super Application for Information (form 6) that includes that declaration. Alternatively, a prescribed form may be used and an application made by letter.

Information is provided as at the date specified in the application. If the Local Government Super form is not used, the applicant will need to specify the relevant date at which the information provided is to apply. This could, for example, be the date of separation. If no date is specified, the relevant date is taken to be the date we receive the application.

### What happens next?

Upon receipt of a Valuation Request, we will provide the applicant with the value of the member's superannuation entitlements at the relevant date, together with various other pieces of information (which may be needed in order to establish a basis for apportioning those superannuation entitlements between the respective parties).

We will not, however, provide any advice as to what might be an equitable basis for apportioning those entitlements. That is a matter for the respective parties to reach agreement on or else have the Family Court do so. It must be kept in mind, though, that all or part of a superannuation entitlement might be subject to compulsory preservation and that there might also be taxation issues to consider. The information we provide will enable these issues to be taken into account.

Superannuation can be divided either by agreement of the parties or by Court Order.

For the Trustee to action any agreement, it needs to comply with Family Law requirements and be served on the Trustee. Alternatively, if the parties cannot agree on the way in which to split their assets, the Family Court can make Orders, which include a direction from the court as to splitting, and these would be served on the Trustee.

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The Trustee shall then 'notate' the member's records and shall comply with the procedures for 'splitting' set out in the Family Law Act. The 'base amount' adjusted for interest will be transferred to the rollover institution of the non-member spouse's choice in accordance with the terms of the Agreement or Order.

It is to be noted that if the member's benefit is less than \$5000, it cannot be 'split'.

When a Court Order or Agreement is made under Family Law Legislation, the defined benefit superannuation benefit is split into two components:

- 1) The non-member spouse entitlement, which is immediately rolled out to a complying institution at the direction of the non-member spouse**
- 2) The member's reduced benefit entitlement.**

### Non-member spouse entitlement

The non-member spouse entitlement is specified by the Court Order or Agreement as a dollar amount or as a percentage of the value of the accrued benefit.

The value of the accrued benefit is calculated at the operative time, using assumptions and methods specified or approved by the Australian Government Actuary. This involves calculation of the discounted present value of the member's likely superannuation benefits in respect of service and contributions to date:

- **Taking into account the specified probabilities of leaving service due to retirement, resignation, invalidity or death; and**
- **Using specified factors to value pension benefits where applicable; and**
- **Using approved methods of apportioning the total expected benefit between accrued service and future service.**

We are required to rollover the amount involved into a separate superannuation account in the name of the spouse. The only exception to this is where the total amount is not subject to compulsory preservation. In this case, the spouse can request direct payment of the total amount.

Where the member is in the Defined Benefit Scheme, separate spouse accounts cannot be maintained within that Scheme. The spouse can direct us to rollover the entitlement to another complying superannuation scheme or other approved rollover fund. The default arrangement in the absence of any direction is that the entitlement will be rolled over to 'Australia's Unclaimed Super Fund' (AUSfund), an eligible rollover fund.

The amounts paid to the non-member spouse will include the same proportions of the various preservation and taxation components as in the member's own account.

## Member's reduced benefits entitlement

The member's reduced benefit entitlement on eventual exit or payment of benefit is equal to the benefit had there been no payment to the non-member spouse, less a benefit reduction calculated in respect of service prior to the operative time using the non-member spouse percentage.

Firstly, the amount of each pension or lump sum component of the benefit payment, (had there been no payment to the non-member spouse) is apportioned between service prior to the operative time and service since that date. This is done using assumptions and methods approved by the Australian Government Actuary. Secondly, the proportion of the benefit accrued before the operative time is then multiplied by the non-member spouse percentage to obtain the reduction. No reduction is made to the proportion of benefit accrued after the operative time.

## Fees

The following fees are payable for the provision of Family Law information and for the actual 'splitting of the benefit'.

### Defined Benefit Scheme

Request for Family Law information* Current members	\$275 (incl. GST)
Request for Family Law information* Deferred members	\$110 (incl. GST)
Request for Family Law information* Pensioners	\$110 (incl. GST)
Benefit Split fee**	\$88 (incl. GST)

\* This fee is payable by the person requesting the information and should be in the form of a cheque or money order made payable to Local Government Super.

\*\* This fee is generally payable by the member and non-member spouse in equal parts (\$44 each). However, if the non-member spouse is entitled to the whole amount of a splittable payment, the entire amount is payable by the non-member spouse. The member's share of the fee (with the exception of Division D where a cheque/money order is payable to Local Government Super) is deducted from the member's account and the non-member spouse's share is deducted from the non-member spouse's splittable payment prior to the transfer of the payment.

Please note, separate cheques or money orders will be required if you are requesting information relating to more than one member account.

## Need further information?

If you would like further information, please visit our website at [www.lgsuper.com.au](http://www.lgsuper.com.au) or contact Member Services on 1300 369 901 between 8.30am and 5pm on any business day.

Issued by LGSS Pty Limited (ABN 68 078 003 497) (AFSL 383558), as Trustee for Local Government Superannuation Scheme – Pool A (ABN 74 925 979 278) and Pool B (ABN 28 901 371 321) – collectively known as Local Government Super. This document contains general information only and is not intended to be a substitute for advice. It does not take into account any individual's or organisation's investment objectives, financial situation or particular needs. Accordingly any individual or organisation should seek professional advice that takes account of investment objectives, financial situation, and particular needs before making a decision in relation to any of the matters covered in this document. Date issued: 16 May 2011.

# Defined Benefit Scheme

## Application for Information under the Family Law Act

Please complete in capital letters and in BLACK INK only

### 1. Your details

Title	<input type="text"/>			(e.g. Mr/Mrs/Ms/Miss/Dr)	
Family name	<input type="text"/>				
Given name(s)	<input type="text"/>				
Date of birth (dd/mm/yyyy)	<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>
<b>Contact Details (postal address, telephone, email)</b>					
No./Street/PO Box	<input type="text"/>				
Suburb/Town/City	<input type="text"/>				
State/Territory	<input type="text"/>	Postcode	<input type="text"/>	Country (if outside Australia)	<input type="text"/>
Phone: Home no. (inc. STD/ISD)	<input type="text"/>		Business no. (inc. STD/ISD)	<input type="text"/>	
Mobile no.	<input type="text"/>		Fax no. (inc. STD/ISD)	<input type="text"/>	
E-mail address	<input type="text"/>				
<b>Residential Address</b>					
<input type="checkbox"/>	Same as Postal Address above				
<input type="checkbox"/>	Different from Postal Address above – you MUST complete below				
No./Street	<input type="text"/>				
Suburb/Town/City	<input type="text"/>				
State/Territory	<input type="text"/>	Postcode	<input type="text"/>	Country (if outside Australia)	<input type="text"/>

### 2. Basis of application

I hereby apply for information, in accordance with the *Family Law Act 1975*, about the following superannuation interest(s) of the member below in Local Government Super.

Family name	<input type="text"/>											
Given name(s)	<input type="text"/>											
Member account no. #1 (if known)	<input type="text"/>	Date of birth (dd/mm/yyyy)	<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>					
Member account no. #2 (if known)	<input type="text"/>	Member account no. #3 (if known)	<input type="text"/>									
The information required is that effective as at: <b>(Please tick one only)</b>												
<input type="checkbox"/>	the date this application is received by the Trustee; or			<input type="checkbox"/>	an earlier date, being:			<input type="text"/>	/	<input type="text"/>	/	<input type="text"/>

## 2. Basis of application (cont'd)

In support of my application, I declare that: **(Please tick one only)**

I am the member referred to above.

I am the spouse of the member referred to above.

I am intending to enter into a superannuation agreement under Part VIIIB of the *Family Law Act 1975* with the member referred to above.

And I require the information to: **(Please tick one only)**

assist me to properly negotiate a superannuation agreement.

assist me in connection with the operation of Part VIIIB of the *Family Law Act 1975*.

## 3. Applicant declaration

I have fully read this form and the information completed is true and correct and I have enclosed the fee(s) payable for providing the information requested.

Signed

Date (dd/mm/yyyy)

 /  / 

**DO NOT FAX OR EMAIL THIS FORM AS YOUR ORIGINAL AUTHORISATION IS REQUIRED**

## IMPORTANT NOTES

You should read the Product Disclosure Statement (PDS) before completing this form. The PDS is available from Member Services and the website.

### FEES

The following fees are payable for the provision of Family Law information.

A separate fee is payable for each request for information:

Current members	\$275 (incl. GST)
Deferred members	\$110 (incl. GST)
Pensioners	\$110 (incl. GST)

Separate cheques or money orders will be required if you are requesting information relating to more than one member account and/or if requesting information relating to more than one date.

**Please provide a cheque/ money order payable to Local Govt Super Scheme Pool B. Fee(s) are payable by the person requesting the information.**

### PROTECTING YOUR PRIVACY

Some of the personal information you are requested to provide is required to establish and maintain your membership in Local Government Super while other information is required under Australia's Anti-Money Laundering and Counter-Terrorism Financing laws.

The Trustee is fully committed to comply with the National Privacy Principles in the way in which your personal information is stored and used. Full details of how this is achieved are contained in the Trustee's Privacy Policy, which is available from Member Services or the website at [www.lgsuper.com.au](http://www.lgsuper.com.au).

### TRUSTEE INFORMATION

Issued by LGSS Pty Limited (ABN 68 078 003 497) (AFSL 383558), as Trustee for Local Government Superannuation Scheme – Pool A (ABN 74 925 979 278) and Pool B (ABN 28 901 371 321) – collectively known as Local Government Super. This document contains general information only and is not intended to be a substitute for advice. It does not take into account any individual's or organisation's investment objectives, financial situation or particular needs. Accordingly any individual or organisation should seek professional advice that takes account of investment objectives, financial situation, and particular needs before making a decision in relation to any of the matters covered in this document.

## Where to send this form/enquiries

Local Government Super  
PO Box N835  
GROSVENOR PLACE NSW 1220  
website: [www.lgsuper.com.au](http://www.lgsuper.com.au)

Phone: 1300 369 901 (toll free)  
(8.30 am – 5.00 pm Mon – Fri)

enquiries: [info@lgsuper.com.au](mailto:info@lgsuper.com.au)

