



# 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 superannuation agreement with your former spouse
- and**
- separated, but are not divorced, from your former spouse.

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

#### 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 will 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 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 threshold can be obtained online from [www.ato.gov.au](http://www.ato.gov.au) or by contacting 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 the declaration is made, you should use the **Part B declaration**.

You do not need to complete both declarations—only complete the part 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 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.



