

Relationship Property Factsheet

This factsheet sets out the limited circumstances in which members can make a withdrawal from their mysuper account to give effect to relationship property rights under the Property (Relationships) Act 1976 (“PRA”). The Trustee does not have any discretion to approve a withdrawal on any other grounds.

Relationship Property Principles

A Member’s funds in mysuper are personal to that Member and cannot be transferred or assigned to another person except in very limited circumstances.

The PRA prescribes an equal sharing regime for relationship property. On separation, spouses or partners are generally entitled to a half share each of the relationship property pool.

The PRA recognises that funds in mysuper, attributable to the marriage, civil union or de facto relationship as relationship property. As a general rule, the spouse or partner of a Member will be entitled to half the value of those entitlements upon separation.

Unlocked Account Balances

Members’ with unlocked accounts balances cannot withdraw their unlocked account balances in the case of a relationship separation.

This is because the mysuper trust deed makes it clear that Members’ still employed by ACC or Fairway Resolutions Services cannot access their funds until they leave their employer or reach the retirement age (currently 65).

While Members’ with unlocked account balances may obtain a Family Court Order under section 31 of the PRA to assign the Member’s unlocked account balances to another person (ie a spouse or partner) the Family Court cannot require the Trustee of mysuper to pay the Members’ unlocked account balance earlier than allowed by the trust deed.

If a Member does obtain a Family Court order those funds determined as relationship property by the Family Court and will be vested for that Members’ spouse or partner and held on trust within mysuper until the Member is eligible to make a withdrawal

(ie leave their employer or reach the retirement age) at which point the funds will be paid.

Solicitor and court costs will apply to obtain a Family Court Order that you will need to pay directly to your solicitor.

Withdrawal from Locked-in Accounts

Members’ with locked-in account balances may be able to withdraw only their locked-in account balances in the case of a relationship separation.

Locked-in accounts balances are different from unlocked account balances because they adhere to the KiwiSaver Act 2006, which sets out different rules for locked-in accounts balances. A special provision for their withdrawal has been made, under this Act when a Family Court Order under section 31 of the PRA has been obtained.

Therefore, Members’ can obtain a Family Court Order under section 31 of the PRA requiring the Trustee to make withdraw of your locked-in account balances before a withdrawal can be made.

You will need to contact your solicitor who can assist you on the process of obtaining a Family Court Order under section 31 of the PRA.

Solicitor and court costs will apply to obtain a Family Court Order that you will need to pay directly to your solicitor. Once a Family Court Order is obtained, please have your solicitor email the:

- Family Court Order; and
- Encoded bank deposit slip of the solicitor’s trust account (we cannot pay directly to your bank account), to **hello@mysuper.co.nz** Once received, we will make payment within 10 working days.

Member queries relating to Relationship Property should be emailed to **hello@mysuper.co.nz**