

Dividing property and finances after separation

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into our Hobart or Launceston office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

The law prefers that couples work through all details of their separation without involving the court. However, a court to make a decision separated couples can't agree.

I've separated but we weren't married – does that matter?

Family law is generally the same regardless of whether you have been married or de facto. A de facto relationship is defined as a relationship where two people who are not married or related by family have been living together as a couple on a 'genuine domestic basis'.

Do I need to go to court?

The law prefers that separated couples work through all details of their separation without involving the court. However, if you and your ex can't agree on how your assets and finances should be dealt with, you may ask a court to make a decision for you.

If you need to go to court, the court will consider a number of factors relating to you and your ex, including:

- contributions to the relationship (both financial and non-financial)
- contributions as a homemaker and parent
- care arrangements for any children of the relationship
- financial resources
- any future financial needs of both you and your ex-partner
- the nature and length of the relationship, and
- whether domestic violence affected you or your ex-partner during the relationship.

If you go to court, the court will make an order that will decide what assets or debts you and your ex will each have.

What if we have children?

If you have children, you and your ex continue to have a responsibility to ensure they have what they need. The court calls this a parent's financial responsibility.

If your children live with you more than your ex, you should make an application to the [Child Support Agency](#). Child Support will look at your and your ex's circumstances and assess whether one parent should pay the other some money to help with providing for the child's needs. This process does not generally involve the Family Court.

Where can I get help to agree on our finances?

Sorting through financial and property details with an ex can be hard. A lot of separating couples need skilled help by someone outside.

Mediation may be a useful way to help work out an agreement with your ex-partner. A mediator will not take anyone's side but help you and your ex-partner talk in a safe environment.

You can contact [Relationships Australia](#) to find help with mediation.

What are Maintenance Orders?

In some cases, it might be necessary to apply to the court for a maintenance order. This is financial support paid by one person to their ex or ex in circumstances where their ex is unable to adequately support themselves.

The law says that in some situations a person has a responsibility to financially help their ex if that person cannot meet their own reasonable expenses. The amount of the support depends on what the other person can afford to pay.

Maintenance orders are usually made to be paid as a single lump sum as part of the whole property settlement, but they can also be made as periodic payments before the final property order is made.

When do I need to sort out my finances?

If you and your ex cannot agree on how to divide your assets and debts and you need a court to be involved in making a property and/or maintenance order you have to do so within:

- 2 years after the relationship ending, if you were de facto
- 1 year after the time of your divorce, if you were married.

In limited circumstances, the court may extend the time period.

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.