What the Law Says

Understanding your financial entitlements at separation

When a relationship ends, what each person is entitled to is decided by law — not by whoever argues hardest, or whose name is on what. In Australia, the Family Law Act 1975 sets out how property is divided, and from June 2025 that framework is codified directly in the Act. It applies whether a settlement is decided by a court or agreed privately. Knowing how it works is where a clear position starts.

> "The court must be satisfied that, in all the circumstances, it is just and equitable to make a property settlement order."

FAMILY LAW ACT 1975 (CTH) · GOVERNING LEGISLATION FOR PROPERTY SETTLEMENT IN AUSTRALIA, AS AMENDED FROM 10 JUNE 2025

THE LAW — NOT OPINION — DECIDES

Property settlement in Australia is governed by the Family Law Act 1975 (Cth) — federal legislation that applies to married couples and, in most circumstances, de facto couples. It is administered by the Federal Circuit and Family Court of Australia, and the same framework applies in every state and territory.

From 10 June 2025, the framework for determining property settlement is set out in the Act itself — codified in statute rather than drawn from past court decisions. The same steps apply in every case, and the same logic applies when a settlement is negotiated privately, because the standard you are negotiating toward is what a court would decide.

Understanding that a framework exists — written down, consistent, and independent of what either party claims — is an important starting point.

THE FOUR-STEP FRAMEWORK

The Family Law Act requires the court to work through four sequential steps. A family law solicitor follows this same process — and it applies equally when a settlement is reached by negotiation outside court.

Step 1 **Identify and value all assets and liabilities**

Everything owned and owed — by either party, individually or jointly — is included in the asset pool. This covers property, superannuation, investments, savings, business interests, and all debts. Both parties now have a legal duty, written directly into the Family Law Act, to make full and frank financial disclosure. The court has powers to enforce this.

Step 2 **Assess the contributions of each party**

Both financial and non-financial contributions are assessed — across the full duration of the relationship. This is broader than most people expect, and deliberately so. See below for what contributions are recognised.

Step 3 **Consider current and future circumstances**

The court looks at each party's age, health, income and earning capacity, care responsibilities, and the standard of living during the relationship. From 10 June 2025, the economic effect of any family violence — including financial or economic abuse — must also be considered where it is relevant. These factors can adjust the outcome significantly, particularly for women who have taken time away from the workforce.

Step 4 **Determine whether the outcome is just and equitable**

The court must be satisfied that the outcome is just and equitable in all the circumstances — not simply arithmetically equal, but fair in context.

WHAT COUNTS AS A CONTRIBUTION

This is one of the most important things to understand — and one of the most commonly misread. The law recognises far more than paid income.

FINANCIAL CONTRIBUTIONS	NON-FINANCIAL CONTRIBUTIONS
— Income earned during the relationship — Assets brought into the relationship — Inheritances received during the relationship — Gifts received from family — Investments and savings — Business income and assets	— Homemaking — managing the household — Raising children — Supporting a partner's career or business — Care of family members — Unpaid work in a family business — Renovating or improving property

The Family Law Act draws no distinction in principle between financial and non-financial contributions. A woman who spent years raising children and managing a household while her partner built a career has made contributions the law recognises and takes into account.

CURRENT AND FUTURE CIRCUMSTANCES — WHAT THE LAW ALSO CONSIDERS

In Step 3, the court looks forward as well as back. From June 2025, these factors are consolidated within the property settlement provisions of the Family Law Act. They include:

· Age and state of health of each party — health, capacity to work, and life expectancy are all relevant.

· Income, property, and financial resources — including earning capacity, not just current income.

· Whether either party has the care of children — including adult children or other dependants requiring ongoing care.

· Commitments necessary to support either party or any children.

· The standard of living enjoyed during the relationship.

· Each party's ability to become self-supporting — career interruptions, time out of the workforce, and reduced earning capacity are all relevant.

· **The economic effect of any family violence** — from June 2025, the court must consider this where it is relevant. This includes financial or economic abuse: controlling access to money, building debt in a partner's name, concealing assets, or sabotaging employment.

· Any other fact or circumstance the court considers relevant.

A note on family violence. If financial or economic abuse has been part of your relationship, it is worth raising with a family law solicitor. From June 2025 the law expressly recognises its economic effect — on contributions, on future circumstances, and on the outcome of a settlement.

COMMON MISUNDERSTANDINGS — AND WHAT THE LAW ACTUALLY SAYS

Opinions voiced when a relationship breaks down are not legal advice. The following are some of the most common, and what the Family Law Act provides.

WHAT IS SOMETIMES SAID	WHAT THE LAW SAYS
"You didn't earn it, so you're not entitled to it."	The Family Law Act explicitly recognises non-financial contributions — homemaking, child-raising, and supporting a partner's career. Income earned is one contribution among many that the law considers.
WHAT IS SOMETIMES SAID	**WHAT THE LAW SAYS**
"The house is in my name — it's mine."	Legal title does not determine entitlement under the Family Law Act. Assets held in one party's name are included in the asset pool and assessed as part of the overall settlement.
WHAT IS SOMETIMES SAID	**WHAT THE LAW SAYS**
"Super is mine — you can't touch it."	Superannuation is included in the property pool under the Family Law Act and can be subject to a superannuation splitting order. This is one of the most commonly misunderstood aspects of Australian family law — and often the largest asset after the family home.
WHAT IS SOMETIMES SAID	**WHAT THE LAW SAYS**
"You'll get nothing — I'll make sure of it."	Settlement is determined by the Family Law Act and, if needed, by the Federal Circuit and Family Court of Australia — not by either party. The court is required to produce a just and equitable outcome. Neither party alone determines what that is.
WHAT IS SOMETIMES SAID	**WHAT THE LAW SAYS**
"We agreed — so that's what you'll get."	Informal agreements are not legally binding. Until an agreement is formalised through consent orders or a binding financial agreement, it can be revisited by either party. Getting independent legal advice before agreeing to anything is important precisely for this reason.

THIS IS GENERAL INFORMATION — NOT LEGAL ADVICE

This document gives you a general understanding of the framework that applies in Australia. Every situation is different, and the outcome of any settlement depends on the specific facts and circumstances involved. A family law solicitor can give you advice specific to your situation — and that first conversation is confidential.

WHERE TO LEARN MORE — OFFICIAL SOURCES

These are authoritative, independent sources on family law and property settlement in Australia.

FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

Property & Financial Matters

The court's own guidance — including changes from June 2025. Plain-language and authoritative.

fcfcoa.gov.au

ATTORNEY-GENERAL'S DEPARTMENT

Family Law System

Overview of the family law system in Australia, including the June 2025 property changes and a fact sheet for separating couples.

ag.gov.au/families-and-marriage/families/family-law-system

LEGAL AID (YOUR STATE OR TERRITORY)

Property Settlement — Plain Language Guide

Clear, accessible guidance on property settlement rights. Free and independent. Available through Legal Aid in each state and territory.

Search "Legal Aid [your state] property settlement"

AUSTRALIAN GOVERNMENT

Family Law Help

A government-run resource covering property, superannuation splitting, and how to find legal help.

familylawhelp.gov.au

The law does not ask whose name is on the account, who earned more, or who wants more. It asks what is just and equitable — in all the circumstances. Understanding that a framework exists, that it is consistent and written down, and that it applies regardless of what either party says, is the ground you negotiate from.

A family law solicitor can tell you what that framework means for your specific situation. That first conversation is confidential, and it does not commit you to anything.

The information here is general in nature. It reflects common questions and considerations that arise during life transitions — it does not constitute legal, financial or professional advice, and it is not tailored to your individual circumstances. Where your situation is complex or the stakes are high, speaking with a qualified professional is likely to be worthwhile. But we also recognise that not every question requires a professional answer.

Use what is useful. Leave what isn't.