



## Family Law

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, their 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 an Energy Industries Superannuation Scheme (EISS) Application for Information (form 6) under the Family Law Act which 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 EISS 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 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.

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 \$5,000, it cannot be 'split'.

When a Court Order or Agreement is made under Family Law legislation, the Retirement Scheme benefit is split into two components:

- 1) The non-member spouse entitlement, which is transferred to the non-member spouse immediately.
- 2) The member's reduced benefit entitlement.



## Non-member spouse entitlement

The Agreement or Order will define the non-member spouse's share of the member's superannuation entitlements. This 'base amount' will be provided as either a set amount or a percentage of those entitlements. In either case, 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.

In the Retirement 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 into a spouse's account will include the same proportions of the various preservation and taxation components as in the member's own account.

## Member's reduced benefit entitlement

The member's reduced benefit entitlement is calculated at the operative time using the non-member spouse percentage. At the operative time, the non-member spouse percentage is calculated as the base amount divided by the actuarially determined family law value of the member's benefit entitlement. This non-member spouse percentage is then applied to all components of the benefit entitlement including the contributor financed benefit, the employer financed benefit and the basic benefit.

### Current members of the Retirement Scheme

Please note that the employer financed benefit is based on the number of benefit points accrued and actuarial formulae are then applied to calculate the benefit entitlement at exit. To reflect the family law reduction there will be a permanent reduction in the maximum number of benefit points that can be accrued.

The reduction of benefit points reflects the prepayment of the employer financed benefit portion of the benefit entitlement to the non-member spouse carried out in accordance with Superannuation Law.

Following the reduction of the member's account for the family law payment split at the operative time, the member's benefit entitlement will then accrue normally subject to the permanent reduction of the maximum benefit point entitlement.

### Deferred members of the Retirement Scheme

The deferred benefit payable either on retirement/death or by taking a cash withdrawal prior to reaching retirement age is reduced by the non-member spouse percentage at the operative time. Following the reduction, both entitlements will continue to be adjusted with investment earnings until the member's exit from the Scheme.

The member will be notified of the effect of the family law payment split in their next periodic statement.

## Fees

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

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)

### Pool B (including Divisions B, C & D)

\* 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 the Scheme.

\*\* 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 is deducted from the member's account and the non-member spouse's splittable payment 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 or the address of your local branch, please visit our website at [www.eisuper.com.au](http://www.eisuper.com.au) or contact Member Services on 1300 369 901 between 9am and 5pm on any business day.

Please note that the information contained in this document is of a general nature only and is not for personal advice and has not taken into account your personal objectives, financial situation or needs. Any advice in this document is provided by FuturePlus Financial Services Pty Ltd (ABN 90 080 972 630) as an Australian Financial Services Licensee (AFSL 238445) on behalf of the Trustee of the Energy Industries Superannuation Scheme, Energy Industries Superannuation Scheme Pty Ltd (ABN 72 077 947 285). Energy Industries Superannuation Scheme Pty Ltd is an APRA Registrable Superannuation Entity Licensee (ABN Pool A - 22 277 243 559 and ABN Pool B - 64 322 090 181).

Members should not rely solely on this information and should consider their own personal objectives, financial situation and needs before acting on this information. Prior to making any decision you should obtain and consider the relevant Product Disclosure Statement (PDS) pertaining to your Scheme membership. Date issued: 2 June 2010.

# Retirement Scheme

## Application for Information under the Family Law Act

Please complete in capital letters and in BLACK INK only

### 1. Your details

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

### 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 the Energy Industries Superannuation Scheme.

Family name				
Given name(s)				
Member account no. #1 (if known)		Date of birth (dd/mm/yyyy)		
Member account no. #2 (if known)		Member account no. #3 (if known)		

The information required is that effective as at: **(Please tick one only)**

the date this application is received by the Trustee; or
  an earlier date, being:
 
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  /



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

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

I am the member referred to on page 1.

I am the spouse of the member referred to on page 1.

I am intending to enter into a superannuation agreement under Part VIII B 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 VIII B 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)

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**DO NOT FAX 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 Scheme's 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 Energy Ind 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 the Energy Industries Superannuation Scheme while other information is required under Australian Government Anti-Money Laundering and Counter-Terrorism Financing measures.

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 Scheme's website at [www.eisuper.com.au](http://www.eisuper.com.au).

### TRUSTEE INFORMATION

Please note that the information contained in this document is of a general nature only and is not for personal advice and has not taken into account your personal objectives, financial situation or needs. Any advice in this document is provided by FuturePlus Financial Services Pty Ltd (ABN 90 080 972 630) as an Australian Financial Services Licensee (AFSL 238445) on behalf of the Trustee of the Energy Industries Superannuation Scheme, Energy Industries Superannuation Scheme Pty Ltd (ABN 72 077 947 285). Energy Industries Superannuation Scheme Pty Ltd is an APRA Registrable Superannuation Entity Licensee (RSEL: L0001373). Energy Industries Superannuation Scheme – Pool B (ABN 64 322 090 181) is a Registered Superannuation Entity (RSE: R1004878).

Members should not rely solely on this information and should consider their own personal objectives, financial situation and needs before acting on this information. Prior to making any decision you should obtain and consider the relevant Product Disclosure Statement (PDS) pertaining to your Scheme membership.

## Where to send this form/enquiries

Energy Industries Superannuation Scheme  
PO Box N835  
GROSVENOR PLACE NSW 1220  
website: [www.eisuper.com.au](http://www.eisuper.com.au)

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

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

