

SOME FREQUENTLY ASKED QUESTIONS THAT MAY HELP YOU UNDERSTAND YOUR OPTIONS (CONTINUED)

Q Can the Family Court give me legal advice?

A Staff at the Family Court of Western Australia cannot give you legal advice, but they can help you with procedural advice on how to make an application. If you need legal advice, see the back of this brochure.

Q Do I have to seek legal advice at all?

A No, you don't. However, the Family Court recommends separating couples seek legal advice before making an application to the court. This does not mean you have to employ a lawyer. You can seek legal advice from a family lawyer, community legal centres or Legal Aid WA (see the back page of this brochure for contact details). Many of these services are low cost.

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- 3 This brochure has been prepared as a general guide. It is not a substitute for obtaining professional legal advice specific to your particular circumstances.

As at November 2002

further information

FURTHER INFORMATION

To seek legal advice:

Family Lawyers

See the Yellow Pages under 'Solicitors'

Specialist Family Lawyers

Law Society of WA 9322 4911

Legal Aid WA

Information Line 1300 650 579

Website: www.legalaid.wa.gov.au

Family Law Hotline 1800 050 321

Website: www.familylaw.gov.au

Family Law Arbitrators

www.familylawsection.org.au/arbitration/wa.htm

Community Legal Centres

For your nearest Community

Legal Centre contact the
Legal Aid Information Line 1300 650 579

Regional Law Hotline 1800 050 400
(For people living in regional and rural areas)

Mediation and Counselling Services:

Relationships Australia – Mediation 9489 6313

Relationships Australia – Counselling 1300 364 277

Centrecare 9440 0400

Kinway Relationship Services 9263 2050

Family Court of WA:

Family Court Call Centre 9224 8222

(Toll free outside metro area) 1800 199 228

or visit Justice Online at

www.justice.wa.gov.au

Department of Justice

141 St Georges Terrace Perth WA 6000

Telephone: (08) 9264 1372 or 13 12 17

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new rights for de facto couples

are you in a
de facto
relationship?

This brochure will help you understand new laws to assist you when a de facto relationship ends.

RECOGNISING DE FACTO RELATIONSHIPS

More than 110,000 Western Australians live in a de facto relationship. That's about 12 per cent of all couples.

In the past, family law in Western Australia failed to recognise de facto relationships.

This meant couples in de facto relationships were discriminated against when it came to resolving disputes over property and maintenance.

New laws, effective from December 1, 2002, introduce a fair go for de facto partners.

This brochure explains how the new laws work and whether they may affect your current situation.

In a nutshell, the Family Court Amendment Act recognises de facto couples in opposite and same sex relationships and provides them with the same property and maintenance rights as married couples.

In the past, de facto couples had no specific legal right to claim their fair share of property if the relationship ended (or if their partner passed away).

This meant de facto couples had to argue the legalities of their case before the Supreme Court, which was expensive, time-consuming, public and uncertain.

Effective from December 1, 2002, questions of the fair allocation of property and maintenance in de facto relationships will be determined by the Family Court.

The Family Court has the expertise, is much less expensive for those involved, is completely confidential and provides alternative dispute resolution processes.

In fact, 95 per cent of Family Court applications between separated couples are settled without going through the full court process.

SOME FREQUENTLY ASKED QUESTIONS THAT MAY HELP YOU UNDERSTAND YOUR OPTIONS

Q Why have these laws been introduced?

A There are more than 110,000 Western Australians in de facto relationships. If their relationship breaks down, or one of the partners passes away, there was no formal process for disputes over property and maintenance to be resolved.

Now, the Family Court will be able to decide these issues. This provides a better outcome for all as the Family Court has the expertise, is confidential and offers alternative dispute resolution processes.

This is simply a case of modernising the law to provide equity and access for all Western Australians.

Q What's the definition of a 'de facto relationship' under the new law?

A The new law applies to de facto couples, including same sex couples, who have been living together in a marriage-like relationship for at least two years. It will also take into account questions such as the degree of financial dependence, ownership of property and whether children are involved.

A relationship may be defined as de facto even if it did not last two years, such as when there is a child or a substantial contribution to property.

Q When do the laws take effect?

A The new laws are effective from December 1, 2002. Only de facto couples whose relationship has broken down after this date can apply to the Family Court to make orders about their maintenance and property.

If your relationship ended prior to this date, the new laws do not apply and you should seek legal advice about your position.

In WA, 95% of Family Court applications between separated couples are settled without going through the full court process.

Q What can I do to clarify the financial relationship between my partner and I?

A The new laws also allow de facto couples to enter into a financial agreement. Such agreements may be enforceable by the court.

Q What are my rights if my de facto partner passes away?

A The law now provides that a de facto partner can claim against the estate of the deceased partner (if they pass away after December 1). This addresses inequities where people in long-term relationships were disadvantaged on the death of their partner.

Q I have just separated from my de facto and I am worried about not getting a fair share of our property. What can I do?

A If possible, you should talk with your de facto about how the assets can be divided up.

There are many professional mediators and counsellors who can help separated couples reach an agreement over children, maintenance and property issues. Legal Aid WA runs alternative dispute resolution (ADR) conferences to help people reach agreement on property and children's issues.

If you can't agree on the value of property and you don't want to go to court, you can agree to have a private arbitrator decide the value for you.

For more information about this program and other legal, mediation, counselling and arbitration contacts, see the back page of this brochure.

Q What happens if I can't negotiate with my de facto over property and maintenance issues.

A The matter can be dealt with by the Family Court. If possible, you should obtain legal advice before making your application.