

If my partner transfers property to a trust or company, do I lose my claim to it? Not if the Court thinks the transfer defeats your claim under the Act. The property can't be transferred back out of the trust, but you can be paid compensation. An order can be made that a company must transfer property to you, or pay you compensation.

What happens to the home if my partner goes bankrupt? You have a protected interest in half the equity in the home etc. (the market value less the mortgages). You will receive the lesser of:

- > The value of the protected interest; or
- > What remains after you pay:
  - debts secured on the home
  - debts incurred jointly or to buy, repair or improve the home

What happens to the property if my partner dies?

If he's made a will you can either:

- > Inherit property under the will; or
- > Apply to the Family Court to have the property divided under the Act.

What do I do if I want to protect my property and don't want to share everything equally?

Enter into an agreement. You should make a will at the same time.

**I'm going flatting with my boyfriend. Will the Act affect me? – YES**

After three years your relationship property and relationship debts will be divided equally if you split up.

**I'll only have the furniture my parents are giving me. Will that be divided equally?**

Yes – if they give it to you. No – if they lend it to you.

If you require further information regarding relationship property you are invited to telephone one of the persons listed below

### Direct Lines

Tony Shaw	687 7397
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## > Married or Living Together?

How will your property be divided on death or separation?



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The Property (Relationships) Act 1976 deals with the division of property of people in relationships, whether they are married or de facto partners (including same sex relationships)

It applies on separation of the parties or the death of one of them.

When are you in a de facto relationship?  
When you live together as a couple and are both over 18.

What is considered in deciding whether you live together as a couple?

- > How long you've lived together
- > Whether you live together all or part of the time
- > Whether there is a sexual relationship
- > The degree of mixing of your finances
- > Whether one supports the other financially
- > Who owns your property, how you got it and use it
- > Whether you are both committed to a shared life
- > The care and support of children
- > How the housework is done and who does it
- > Whether other people see you as a couple

Could you have a de facto relationship and live in separate houses? Yes, but it would be extremely rare. There would probably need to be some financial sharing and you would need to be regarded as a couple.

What property is divided equally?

The "relationship property". This is:

- > The family home
- > The furniture, appliances, ornaments and tools
- > Vehicles, caravans, trailers, boats used mainly for family purposes
- > Property bought with money earned after the relationship began
- > Money earned and saved after the relationship began
- > Increase in value of life insurance after the relationship began
- > Increase in value of superannuation after the relationship began

What property is not shared?

The "separate property". That is:

- > Property owned before the relationship began (apart from home, furniture and car)
- > Businesses operated by one partner only
- > Heirlooms

Unless intermingled with relationship property:

- > Inheritances
- > Property given to you by a trust
- > A gift from a third person

What debts are shared?

Relationship debts, that is, those that are incurred:

- > Jointly
- > For a business you both work in
- > For improving or buying relationship property
- > For your household

What happens if we've lived together for more than 3 years?

**IF YOU'RE MARRIED** The home, family chattels and relationship property accumulated after the marriage will be divided equally. However, if the contribution of one spouse to the marriage has

been much greater than the other's, the property will be divided according to each person's contributions to the marriage.

**IF YOU'RE IN A DE FACTO RELATIONSHIP** and have lived together for less than 3 years, no order dividing your property can be made unless:

- > There is a child of the relationship; or
- > The person applying to the court made a substantial contribution to the relationship; and
- > Failure to make the order would cause serious injustice.

In these cases relationship property is divided according to your contributions to the relationship.

What is meant by contributions to the relationship?

- > Child care
- > Care of an aged or infirm relative
- > Housework
- > Earning income or otherwise bringing in money
- > Acquiring relationship property
- > Work or services in respect of property
- > Forgoing a higher standard of living
- > Assistance to acquire qualifications or carry on an occupation or business

If I earn less than my partner will I get more than half of the property by way of compensation?

Only if you earn less because of the "division of functions" in the relationship, e.g. you're caring for children and gave up your career or you've followed your partner overseas and gave up your career.

If my half share isn't enough to buy another house, will the new Act help me?

You can possibly keep all or part of your partner's half share for a time to prevent undue hardship.