

PROPERTY SETTLEMENT TIME LIMITS – WHAT HAPPENS IF YOU MISS THE WINDOW?

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If you have separated it is important that you get Family Law advice about how to achieve a property settlement, as there are strict time limits that apply. If you miss them there can be real problems. So what are they?

There are time limits on when spouses file an application for property settlement in the court. These time limitations ensure that all parties, once separated or divorced, have some certainty that an ex-spouse will not come chasing money from them at some later point in time.

There are occasions however, where parties fail to finalise their property settlement within the allocated time, and have not received their entitlement following the breakdown of the relationship.

The Family Law Act provides that parties have **12 months from the date of a final divorce order** within which to file a court application for a property division. For de facto couples, the time limitation is **2 years from the date of separation**. If you have missed this time limitation you must first obtain the leave of the court to proceed out of time.

Alternatively, if you and your spouse have reached an agreement about property settlement matters, this could be documented in the form of a Financial Agreement. This document is not required to go through the court and therefore the time



an explanation for the delay. This can be a difficult test to establish.

It is important to keep track of the date of your divorce (if married) or the date of separation (if de facto) and to note the relevant time limitation that applies. If the time limitation is approaching and you have not finalised your property settlement, you should seek legal advice immediately.

If you require advice about property settlement, your entitlements, or time limitations, please make an appointment with one of our solicitors on (07) 3221 4300 for a fixed fee initial consultation.

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