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## LawTalk Blog



# Do I need to formally register separation from my de facto?

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It is not necessary in South Australia to register any separation from a de facto relationship. There is also no facility in South Australia to register the existence of a de facto relationship.

The separation date is however, important in a de facto relationship for two reasons. First and foremost, from the date of separation you have two years to institute proceedings for de facto property settlement. After those two years, you will lose your right to bring a claim for property settlement and would be forced to seek an extension of time to do so. Whether the extension of time is granted is determined by a Court and you should not assume that it would be granted.

Secondly, your family lawyer will want to know the date of separation so that they can determine the assets, liabilities and financial resources as at the date of separation. This is important so that we can determine the property pool and assess what changes have occurred to the property pool since separation; for example, whether a party has wasted assets.

The only document relevant to separation is for parties who have entered into a Binding Financial Agreement. For a Binding Financial Agreement to take effect one of the parties must sign a "Separation Declaration". This is a prescribed form under the Family Law Act 1975 which states:

1. The parties lived in a de facto relationship;
2. The parties have separated and are living separately and apart at the declaration time; and
3. In the opinion of the party making the declaration, there is no reasonable likelihood of cohabitation being resumed.

This would therefore be relevant if the parties have entered into a Binding Financial Agreement before or during the de facto relationship. It will also be relevant if you choose to formalise your de facto property settlement by way of a Binding Financial Agreement.

You should also notify all relevant government agencies of the separation as this may have an effect on any government pension or assistance and child support.

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