



How does the first home owner's grant affect my property settlement?

Date: Monday April 11, 2022

Whilst it is important to consider [how the Court determines property settlement](#), there are other [practical considerations to turn your mind to when separating from your partner](#) to ensure all financial ties are severed and property settlement finalised. One of those 'other considerations' includes any grants received during the relationship. This blog focuses on the first home owner's grant and how it is treated in family law property settlement.

Grants, including the first home owner's grant, are most relevant when real property is owned in joint names and grants are received in joint names tied to that real property.

What is the first home owner's grant?

The [first home owner grant](#) is a national scheme funded by each state and territory. It is a one-off payment to encourage and assist first home buyers to buy a home or build a new residential property for use as their principal place of residence.

The grant is available to first home owners who meet the eligibility criteria. Although there are some standard criteria, some criteria may vary depending on which state or territory the purchase is being made.

The key is that the property purchased or built is to be used as a principal place of residence. This is compared to purchases, for example, for investment purposes.

Only one grant is payable per eligible transaction. So, two people (such as a de facto couple or married couple) purchasing a house together can only receive one grant.

Crucial obligations when receiving a first home owner's

grant

It is important that you are aware of your obligations under the grant as there are a number of requirements to fulfil following receipt of the grant.

A primary consideration, as it relates to family law property settlement, is that you must occupy the home as your principal place of residence for a continuous period of at least six months commencing:

within 12 months of settlement if purchasing a home; or

within 12 months from the date of completion if building a home.

There are also other conditions of the grant that will not be discussed for the purpose of this blog.

What if we receive the grant but separate prior to occupying the property?

If you and your former partner receive a first home owner's grant but separate while the residency requirements are still in play, there are a number of options which may be suitable, depending on your individual circumstances:

Repaying the grant in full;

Coming to a payment arrangement to repay the grant;

Applying for a reduction in the residency requirements; and

Applying for an exemption from the residency requirements.

How does the first home owner's grant affect my property settlement?

It is important to consider the form and timing of any Court orders or agreement for property settlement. Things to consider include:

Who will retain the real property?

Are the real property and the grant held in the person's name who will ultimately retain the property, or is a transfer required?

Will the real property be sold? If so, will this trigger repayment of some or all of the grant?

When will any transfer or sale of real property take place?

Is such date subsequent or prior to the requirements of the grant being fulfilled?

Will I be eligible for the grant again, and if not, should I be compensated (in property settlement negotiations) for losing the benefit of access to the grant?

Get help from a family lawyer

Engaging an experienced family lawyer to negotiate your property settlement will ensure that [every detail is thoroughly taken into account](#) and that the asset distribution is fair and equitable.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.