

De Facto

Living in a De Facto Relationship

What is a de facto relationship?

A de facto relationship is a relationship where two people live together in a marriage-like relationship, but are not married. Since 2002 de facto relationships have been recognised by the Family Court of Western Australia.

What factors are taken into account to decide if there is a de facto relationship?

The following factors set out in s 13A of the Interpretation Act 1984 are used to determine whether a de facto relationship exists between two people, but not all factors are essential:

- The length of the relationship - in the Family Court it is usually at least two years
- Whether you have lived together and for how long
- Whether there is a sexual relationship
- The extent that each of you were financially dependent on the other person
- How you have chosen to own property and whether you own it together
- The amount that each of you is committed to a shared life
- Whether you care for or support children
- The public aspects of your relationship

In Western Australia are same-sex relationships considered to be de facto relationships?

Yes, under Western Australian law, de facto relationships include same-sex relationships.

Assets

Can de facto partners make an application in the Family Court in relation to division of their assets after they separate?

Since 1 December 2002, the Family Court of Western Australia can make decisions about property and partner maintenance for de facto couples, including same-sex couples if your relationship ended after 1 December 2002.

If you had separated before 1 December 2002, the Family Court of Western Australia cannot assist you to finalise property settlement.

Can I make an application for property settlement in the Family Court if I was in a de facto relationship of less than two years?

You may be able to if there is a child of the relationship or if you have made substantial financial contribution during the relationship and it will be unfair to deny you making an application in the Family Court for property settlement.

Children

Can the Family Court assist us to resolve issues in relation to children if our relationship ended before 1 December 2002?

Yes, the Family Court of Western Australia can assist you to resolve children's issues even if you had separated before 1 December 2002.