

DOCUMENT & INFORMATION REQUIREMENTS TRANSFERS FROM SUPERANNUATION FUND TO MEMBER

MJHC LEGAL LAWYERS

Superannuation · Property · Wills · Commercial

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A. ADVISOR/PERSON ORDERING DEED:

Enquiries, documents, invoices will be directed to this person, unless otherwise stated

Person Ordering:

Firm Name:

Firm Address:

Telephone:

Fax:

Email:

Signature:

Correspondence to be sent: Direct to client: ☐ Via advisor/accountant: ☐
(copy will be sent to accountant/advisor)

B. REQUIRED DOCUMENTS:

- Certified copy signed & dated SMSF Deed and all amendments/appointments Enclosed: ☐
- Certified copy of Company Constitution for all companies Enclosed: ☐ Not applicable: ☐
- Copy Passport and Drivers Licence for all individuals Enclosed: ☐
- Copy most recent ASIC Annual Company Statement Enclosed: ☐ Not applicable: ☐

(required as part of verification of identity process)

Note: See information contained under 'Missing Documents' if not all SMSF deeds can be provided

- Copy of current member accumulation account/benefit statement showing value of member balance Enclosed: ☐
- Original Certificate(s) of Title Enclosed: ☐
- Original mortgage discharge or caveat withdrawal forms Enclosed: ☐ Not applicable: ☐
- Copy current Council Rates (not an instalment notice) Enclosed: ☐
- Copy current Water Rates Enclosed: ☐ Not applicable: ☐
- Copy current Land Tax Certificate Enclosed: ☐ Not applicable: ☐
- Copy current Owners Corporation Levy Notice Enclosed: ☐ Not applicable: ☐
- Copy Market appraisal/valuation. Enclosed: ☐
*Appraisal/valuation must provide a specific price as market value and **not** a price range and should not be more than 2 months old*
- Copy current Lease documents Enclosed: ☐ Not applicable: ☐
- If documents are to be signed by an attorney, provide original Power of Attorney or certified copy Enclosed: ☐ Not applicable: ☐

Note: Electronic scanned copies of certified documents are acceptable if received by email from your professional adviser (eg accountant, financial planner etc). Your professional adviser's email must confirm that they hold the original document which is attached to the email as an electronic copy.

C. THE PROPERTY:

Address of property:

Title Particulars (Volume & Folio details):

Who is in possession/control of the Title Certificate?

Brief description of the property and improvements:

(age, property condition, nature of building & improvements, made from timber/brick/brick veneer etc):

Since the Trustee became owner has the property been subdivided/consolidated?

Yes ☐

No ☐

D. THE SUPERANNUATION FUND:

Fund Name:

Fund ABN:

Provide details of current Trustee(s) of the Fund including name(s) and address(es). If Trustees are individuals, provide dates of birth. If Trustee is a company, provide names of all directors

E. THE MEMBER TRANSFEREE(S):

Name(s), address(es) and date(s) of birth of member/transferee receiving the property:

If there is more than one member transferee, the proportion and/or value of the property each beneficiary is receiving:

F. PROPERTY TRANSFER INFORMATION:

Effective date of transfer:

DD/MM/YYYY

The transfer date may have CGT and other implications. It is from this date that the member as new owner is entitled to receive the rent. To avoid rental apportionment, it would be convenient to make the transfer date on which rental is paid.

What proportion of the property is being transferred – whole or only part of it? If part only, what proportion?

Note: This might be applicable where the Superannuation Fund only holds part of the property

Name and address of property manager (if applicable)

☐ Not applicable

Address to which all future notices concerning the property are to be sent (you, your property manager or some other person if so desirable):

For Minutes of Meeting purposes, the date and address where and when the parties resolved to transfer the property

Date

DD/MM/YYYY

(leave blank if not yet known)

Address:

Has any person paid any amount to the Superannuation Fund Trustee or to any other person in respect of the transfer?

No ☐

Yes ☐

If Yes, provide details:

Is the transfer part of a sale or other arrangement under which there exists consideration or value given for the transfer?

No ☐

Yes ☐

If Yes, provide details:

Is the property to become Member's principal residence?

No ☐

Yes ☐

G. MORTGAGES, CHARGES AND CAVEATS:

Is there a registered charge on the Personal Property Securities Register?

No ☐

Yes ☐

If Yes, has the bank/lender agreed to the transfer to the Member Transferee(s)?

No ☐

Yes ☐

Is there a caveat affecting the property?

No ☐

Yes ☐

If Yes, has the caveator agreed to the transfer to the Member Transferee(s)?

No ☐

Yes ☐

Provide name, address and contact details for bank/lender or caveator

H. MEMBER ENTITLEMENTS:

Has the Fund Trustee held the property in any other capacity?

No ☐

Yes ☐

Date the property first became an asset of the Fund:

DDMMYYYY

Is the member transferee acting in their own capacity?

No ☐

Yes ☐

If no, provide details

I. ADDITIONAL INFORMATION:

If no lease but property is rented, provide details of leasing arrangements including details about tenant, rental amount, when rent adjusted and how, lease term and any special provisions

Have the parties sought advice from financial adviser and/or accountant concerning Capital Gains Tax and GST implications Associated with the property transfer?

No ☐

Yes ☐

If No, no steps should be taken by the parties to transfer the property until that advice has been sought and provided

J. DOCUMENT DELIVERY:

Prepared documents are to be sent by:

☐

email:

☐

mail:

☐

express post:

Additional Fee of \$13.00 applies

K. COMPLETED INSTRUCTIONS:

Please forward completed instructions to MJHC Legal:

email: mjhc@mjhclegal.com

mail: PO Box 412, Mount Waverley VIC 3149

Print and review your instructions before submitting and retain printed copy for your file. Adobe Reader will not allow you to save the data in this form.

The Email button will forward your completed Instruction Form to MJHC Legal, Solicitor.

The Reset button will clear all data in the form.

In submitting the completed Instruction Form, the person described in Part A authorises MJHC Legal to prepare the transfer documents and agrees to pay the Fees payable for those packages. You understand that typing/spelling errors or incorrect information given are your responsibility.

Print Form

Submit by Email

Reset

L. MISSING DOCUMENTS:

If you have checked a box that documents are 'not enclosed', you will need to provide copies in order for the property transfer documentation to be completed by MJHC Legal.

In assessing whether a transfer of property from the Fund to a Member is eligible for duty exemption, the State Revenue Office needs to sight copies of signed and dated Deeds of Establishment, Deeds of Amendment and any Deeds of Trustee Appointment. If there are any missing documents, it will be necessary for MJHC Legal to prepare additional supporting material and an additional fee will apply.

If there are missing SMSF deeds, the following is required:-

1. copies of Fund Financial Statements and Income Tax Returns for last 3 years showing whether the property was dealt with as an asset of the Fund,
2. copy of Contract of Sale for purchase of the property by the Fund (if applicable),
3. copies of Minutes of Meeting resolving that the Fund acquire the property,
4. copies of Minutes of Meeting of Trustees resolving to accept original appointment as Trustees of the Fund,
5. copies of any unsigned and undated SMSF deeds if available,
6. provide information on what steps have been taken to locate missing SMSF deeds and, if possible, explanation about why they cannot be located.

Liability limited by a scheme approved under Professional Standards Legislation