When your relationship breaks down, you may be able to resolve financial arrangements by agreement with your former partner. This might include the division of property and / or payment of spousal maintenance. Some parties, however, need help to reach agreement and may try mediation or arbitration. If you really can't agree, you may need to ask the Federal Circuit Court or Family Court to make a determination about how your financial arrangements are to be settled.

It’s important to remember that the *Family Law Act* imposes time limitations on when you can ask the courts to make a determination. For example:

1. For married couples, you have 12 months from the date that your divorce order takes effect (not the date the divorce order was made) to make an application for property settlement and / or spousal maintenance; and
2. If you were in a de facto relationship, you have 2 years from the date of separation to make an application for property settlement and / or spousal maintenance.

**WHAT IF I’M OUT OF TIME?**

If your time limit has expired, the court has discretion to grant leave to accept your application out of time.

In deciding whether to accept an application that is out of time, the court will consider:

1. Whether one of the parties or a child would experience hardship if leave were not granted. In determining whether leave should be granted, the court may consider why the applicant delayed in making the application, and whether granting leave will result in hardship or prejudice to the other party;
2. In the case of spousal maintenance applications, the circumstances of the applicant were such that the applicant would have been unable to support themselves without an income tested pension, allowance or benefit, at the time the time limitation took effect.

There is no guarantee that a court will grant leave to apply out of time - so keep these time limitations in mind, and act sooner rather than later.

**CAN I AGREE TO PROPERTY SETTLEMENT AND / OR**
SPOUSAL MAINTENANCE ARRANGEMENTS, EVEN IF I AM OUT OF TIME?

If you and your former partner reach agreement by consent, you may apply to the court for an order to give effect to your agreement, even if your time limit has expired. Alternatively, you can enter into a private agreement known as a financial agreement.

If you have not reached an agreement as to property settlement and/or spousal maintenance arrangements, and the other person files an Application out of time, you can still agree to the other person’s Application proceeding in the Court. This is if you wish for the Court to make Orders dividing your property and/or providing for spousal maintenance. If you do not wish for the Court to make such Orders, you can oppose the Application, and the Court will determine whether the Application can proceed.

Our highly skilled team can help you understand the effects of time limitations specific to your individual circumstances. If you need assistance in understanding your rights and obligations, we invite you to get in touch.

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