

Our Guidelines: Part A

Guidelines for parties involved in family law proceedings where the court has made an order on the bank.

1. In the course of a family court proceeding, the court may make an order requiring the bank to relieve one of you from your obligations in respect of a joint debt. In making such an order the court will take into account the capacity of the person who will be responsible for the debt to repay it on his or her own, this will often mean that the court will seek information from the bank concerning the financial situation and repayment capacity of both spouses.
2. Generally a court will not transfer a joint debt into the name of one spouse if that person does not have the capacity to repay the debt on his or her own.
3. Upon receipt of a court order requiring us to relieve one of you from your obligations in respect of a joint debt, we will where appropriate and still offer the same or similar product for sale, 're-originate' the debt. This means that if for example you have a home loan in both of your names, that loan account may be closed, at which point the spouse who will be solely responsible for the debt will need to apply for a new replacement loan in his or her name only. In some circumstances the existing joint loan account may be able to be transferred into one of your names.
4. In processing the application for the replacement loan (discussed in (3) above) we will reassess the applicant's ability to repay the loan without suffering undue financial hardship.
5. If we feel that in making an order, the court has not taken our views into account or given adequate consideration to the capacity of the relevant spouse's to repay the debt, we may seek to be 'heard' by the court. This may result in us making an application to the court seeking an amendment to its order concerning the joint debt. We will let you know if we have made such an application, and will not complete processing your application for the new replacement loan (replacing the joint loan) until the court has heard our application.
6. In circumstances where a court does not make an order on us regarding a joint debt, and you want to transfer the joint debt into only one of your names, you will need our consent. You should familiarise yourself with [Part B](#) of these guidelines.

Things you should know

You should note that these guidelines are intended to be for general information and guidance. They are not intended to be legal or financial advice. If you are contemplating or are involved in family law proceedings or a family law agreement you should seek specialist legal and financial advice.