



PROPERTY: CONSENT ORDERS

If you and your ex-partner agree how to divide your assets and liabilities following separation, it is a good idea to formalise this agreement.

Why should you get consent orders?

Getting consent orders for a property settlement is a good idea because it means:

- you have a legally binding and enforceable property agreement,
- it will be harder for your ex-partner to make a claim for your property in the future,
- you will be able to divide your superannuation,
- you will not have to pay the usual stamp duty costs if you are transferring a house or a car to your ex-partner, and
- you have certainty and finality.

How can you formalise a property agreement?

To formalise a property agreement, you and your ex-partner can make an application to the Family Court for consent orders. This makes your agreement legally binding and enforceable.

The Family Court must be satisfied your agreement with your ex-partner is fair before making orders in terms of your agreement.

Why can consent orders give you finality and certainty?

Getting consent orders from the Family Court finalises property matters between you and your ex-partner.

Even if you and your ex-partner agree how property will be divided, your ex-partner may still be able to start a court case in the future if you do not get consent orders.

Without consent orders, your ex-partner may be able to start a court case even if the time limit has passed.

Why can consent orders help enforce your property agreement?

Consent orders are legally binding which means you can ask the court to enforce the orders if someone does not do what the orders say they are required to do.

For example, if the orders require a person to list a house for sale or sign transfer papers but they fail to do this, you can ask the court to enforce the orders.

When can you apply for consent orders?

You can file an application for consent orders with the Family Court any time after separation.

If you were married, you do not need to wait until you are divorced to apply because an application for consent orders and an application for divorce are treated separately.

You must file an application for consent orders with the Family Court within the time limits for starting a court case about property.

If you were married, the time limit to start a court case about property is within 12 months of your divorce being made final. If you were in a de facto relationship, the time limit to start a court case about property is within 2 years of separation.

How can you apply for consent orders?

There are two forms you need to fill to apply for consent orders:

- Application – Consent Orders (Form 11), and
- Minute of Consent Orders.

Both these forms are available from the Family Court of Western Australia website www.familycourt.wa.gov.au

The Family Court of Western Australia website has [examples of property orders](#) which you can use to help write your consent orders.

What should you do before applying for consent orders?

It is important to get legal advice before signing any agreement or applying for consent orders.



How can Legal Aid WA help?

amica

[amica](#) is a secure online tool that helps separating couples reach amicable agreements about property. amica uses artificial intelligence and can provide a suggested split of assets.

[amica](#) can help you complete the forms you need to apply to the Family Court for consent orders for a property settlement. amica can suggest a Minute of Consent Orders and pre-fill an Application – Consent Orders (Form 11).

[amica^{one}](#) is a single-sided version of amica that you can use to find out how amica works and get an estimate of what your property settlement might look like, without involving your ex-partner.

Legal Aid WA Website

You can also find a range of information, videos and fact sheets about dividing property and finances on the Legal Aid WA website www.legalaid.wa.gov.au

© Legal Aid Western Australia. This factsheet contains information only. It is not legal advice. If you have a legal problem, you should speak to a lawyer. Legal Aid WA aims to provide accurate information but does not accept responsibility if it is not. You are welcome to copy, use and share the information from our website, including our resources and publications, if you are doing so for non-commercial or non-profit purposes. You must make it clear the content was created by Legal Aid WA.

CMS 4542456 | Last reviewed Wednesday, March 8, 2023