

Consent Orders | Empower Family Law & Mediation

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Details:

Services

Consent Orders

Reaching an agreement with your former partner about parenting arrangements or property division is an important step. However, a verbal agreement or informal arrangement will not provide the certainty or legal protection you need.

At Empower Family Law & Mediation, we can help you prepare and obtain consent orders.

What Are Consent Orders?

Consent orders are Orders made by the Federal Circuit and Family Court of Australia that record an agreement between you and your former partner. Once you've reached agreement, the orders are drafted and filed with the Court. Once made, they have the same force as orders made by a Judge and the Court can enforce them.

Why Obtain Consent Orders?

A verbal agreement, or even a signed document between the two of you, can't be enforced by the Court, and either person can change their mind. Consent orders give your agreement legal force.

Benefits include:

Orders the Court can enforce.

Greater certainty for both parties.

Reduced risk of future disputes.

Formal finalisation of property matters.

Possible stamp duty and capital gains tax relief on property transfers in some circumstances.

Avoiding the time, stress and expense of Court proceedings.

Consent Orders for Parenting Arrangements

Parenting orders can set out where your children will live, how they will spend time with each parent and other people such as grandparents, how they will communicate with a parent they don't live with, and how major decisions will be made.

The Court will only make orders it is satisfied are in the children's best interests, so it may ask questions or request changes. You'll also be asked about any family violence or safety concerns.

Consent Orders for Property Settlement

Property orders can deal with dividing assets and debts, transferring or selling property, refinancing a loan, splitting superannuation, and spousal maintenance. You'll need to give the Court details of your financial circumstances, and it must be satisfied that the orders are just and equitable.

Time limits apply for property settlements; 12 months from when a divorce takes effect for a married couple, or 2 years from the date of separation for a de facto couple.

What Is the Difference Between Consent Orders and a Binding Financial Agreement?

Consent orders are approved by the Court and are usually made after separation. A Binding Financial Agreement is a private contract that can be made before, during or after a relationship. It isn't reviewed by the Court, and each person must receive independent legal advice before signing. A Court can set it aside only in limited circumstances. A Financial Agreement deals only with financial matters and can't lock in parenting arrangements.

Each suits different situations, and we can advise you on which is right for you. Refer to our Binding Financial Agreements page for more information.

If you have reached agreement or are considering entering into Consent Orders, please contact us on (03) 7020 6542 for assistance.

Speak with us

Your first 30-minute consultation is free. Call (03) 7020 6542 or contact our team to discuss your circumstances and next steps.

Phone : (03) 7020 6542

Email : info@empowerfamilylaw.com.au

Let us be your voice in troubled times.

Contact Us

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What are consent orders and why are they used?

Consent orders are orders made by the Federal Circuit and Family Court of Australia after the parties submit an agreed set of terms. Once made, they have the same legal force as orders decided by a judge and can be enforced. They are commonly used to formalise parenting arrangements, property division or both without asking the Court to conduct a contested hearing. A verbal understanding or informal signed note may not provide the same certainty or enforceability. Carefully drafted orders can set out who must do what, when transfers or payments occur, how liabilities are handled and what arrangements apply to children. The Court still reviews the application: parenting orders must serve the child's best interests, while property orders must meet the applicable legal standard. Agreement between the parties does not guarantee that unclear or inappropriate proposed orders will be accepted unchanged.

What information is needed for property consent orders?

The application requires a reliable picture of the parties' financial circumstances, including assets, liabilities, superannuation, income and financial resources. The proposed orders should deal precisely with transfers, sales, refinancing, payments, superannuation splits and responsibility for debts. Full disclosure remains important because the Court must be able to assess the proposed outcome. Practical implementation matters as much as headline percentages. Orders should include workable timeframes, document-signing obligations, default mechanisms and any conditions for a sale or refinance. Tax, duty and superannuation consequences may require specialist input. Each party should obtain independent advice before filing so they understand both the economic result and the steps

required to carry it out. An incomplete or ambiguous agreement can create fresh disputes even after orders are made.

How are parenting consent orders assessed?

Parenting consent orders can address where a child lives, time and communication with parents or other significant people, decision-making, handovers, travel and other practical arrangements. The Court considers whether the proposed orders are in the child's best interests and asks about family violence, abuse and other safety concerns. Drafting should reflect the child's age, routines, schooling, health needs and the parents' capacity to communicate safely. Terms should be clear enough to follow but flexible enough to work as the child's ordinary life changes. Where risk is alleged, generic clauses may be inadequate and tailored safeguards may be necessary. A parenting plan can record an agreement but is not enforceable in the same way as consent orders, so the appropriate form depends on the family's circumstances and the level of certainty required.

How are consent orders different from a binding financial agreement?

Consent orders are approved by the Court and are commonly used after separation. A binding financial agreement is a private contract that can be made before, during or after a relationship and is not reviewed by the Court when signed. A financial agreement requires independent legal advice for each person and must satisfy strict statutory requirements. Only consent orders can formalise parenting arrangements. For financial matters, either pathway may be available, but the better option depends on the proposed outcome, disclosure, tax and implementation issues, the need for finality and the risks of later challenge. Consent orders and financial agreements also apply different legal tests. Obtain advice before choosing the document, because using the wrong form or copying unsuitable wording can leave part of the settlement ineffective.