

Property Orders

This fact sheet provides information on the correct forms to use to apply for property settlement in the Family Court of Western Australia.

I have separated from my spouse/de facto partner, and I want to finalise property settlement. What is the first thing I should do?

Both you and your spouse/partner have the obligation to disclose all your financial details to each other so that you can come to an agreement about how your assets and liabilities are going to be divided.

What do we do if we have reached an agreement?

You can apply for consent orders in the Family Court of Western Australia.

How do we go about doing this?

You complete a Form 11 providing the Court all the required information. Then you need a Minute of Consent Orders (Minute). In the Minute you set out the orders you want the Court to make.

Are those the only documents required?

Yes, if you are married.

If you have been in a de facto relationship, either you or your partner must provide an affidavit in which you state that you had lived in "a marriage-like state" i.e. lived together, slept together as a couple, shared financial resources, purchased property/ assets together, had children together (if such was the case).

This affidavit is referred to as an Affidavit of Jurisdiction.

Do we need to complete every section of Form 11?

If you are applying for property orders only, you need to complete Parts A, B, C, D, G, H, I and K.

What if we do not have one of the assets set out in the form?

You must write "NIL" in the relevant space if you do not have the asset listed in the Form 11.

Once all the necessary documents are completed, what do we do then?

You and your spouse/de facto partner have to sign the Form 11 and the Minute before a Justice of the Peace (JP). If you were in a de facto relationship, the person who has done the Affidavit of Jurisdiction must sign it before the JP.

Do we both sign all the documents at the same time?

Both of you can sign the documents before the same JP at the same time or before different JPs at different times. Even if you sign the forms at different times, the same form must be used by both parties.

What do we do next?

You make two copies of the Form 11 and five copies of the Minute. Make two copies of the Affidavit of Jurisdiction, if this is required.

Then what do we do?

You can either post all the documents to the Court, or hand them into the Court in person. Note that if you are married you should also include a copy of your marriage certificate.

Is there a filing fee?

Yes, please refer to http://www.familycourt.wa.gov.au/F/fees_and_forms.aspx?uid=9339-7089-1873-0177 for current fees.

What if we cannot reach an agreement about how to divide our assets?

Then you can try mediation. Organisations offering mediation services include Citizens Advice Bureau, Centrecare, Anglicare and Relationships Australia. If you come to an agreement after mediation, you can apply for consent orders.

What if we cannot come to an agreement or my spouse/de facto partner refuses to attend mediation?

The next step is to commence court proceedings. Before doing that it is advisable to write to your spouse/de facto partner, outlining your respective financial situations as well as your proposal to finalise property settlement. Ask for a response or a counter-proposal from your spouse/de facto partner. Provide your spouse/de facto partner with a time frame in which to reply. State that you will make an application in the Family Court of Western Australia if no response is received within the given time frame.

What if no response is received?

If no response is received within the given time frame, you can commence proceedings by filing Forms 1, 13 and an affidavit.

Need Legal Advice?

Contact Citizens Advice Bureau to make a low-cost appointment at our Perth office, or for details of how to make an appointment at your nearest branch or by telephone.

(08) 9221 5711 (Lines open Mon-Fri 9:30am-4:00pm)

Level 1, 25 Barrack Street, Perth WA 6000



What do I put in these forms?

In Form 1 you tell the court what interim and final orders you want the court to make. In the Form 13 you provide financial details of yourself.

What do I put in the affidavit?

The affidavit is a story of your marriage/relationship. In it you explain:

what both of you brought into the relationship/marriage;

the contributions each of you made during the marriage/ relationship – financial, non-financial and primary care-giver of your children;

your current financial situation; and

your future needs.

What if I have been served with all the abovementioned forms by my spouse/de facto partner?

You need to file a response. The forms you need to file in response to the application filed by the other party are Form 1A, Form 13 and an affidavit.

What do I put in these forms?

In Form 1A you state which orders in the form that the other party has filed you agree with. If you do not agree with the orders applied for, state what orders you want made instead.

In Form 13 you provide your financial details.

In your affidavit you state which of the paragraphs in your spouse's/ de facto partner's affidavit you agree with. If you do not agree with the statement made by the other party, state what you believe is the correct version of events.

Where can I get all the forms mentioned?

The hyperlinks for obtaining the relevant forms are listed below.

Form 11

<http://www.familycourt.wa.gov.au/files/Forms/Form%2011/F11-Consent-Orders-App-Jun-2012.pdf>

Form 1

http://www.familycourt.wa.gov.au/files/June2012/Form1_Web_July2012.pdf

Form 13

<http://www.familycourt.wa.gov.au/files/Form13.pdf>

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Form 1A

http://www.familycourt.wa.gov.au/files/June2012/Form1A_Web_July2012.pdf

Affidavit

<http://www.familycourt.wa.gov.au/files/Affidavit.pdf>

Are there kits explaining how the forms can be completed?

Yes, the hyperlinks for the kits are listed below.

Application for consent order kit

<http://www.familycourt.wa.gov.au/files/Kits/FCWA-Consent-Orders-Kit-Jun-2012.pdf>

Property order kit

http://www.familycourt.wa.gov.au/files/Property_Orders_Kit_7May2012.pdf

Property order kit (Responding)

http://www.familycourt.wa.gov.au/files/Property_Orders_Kit_Resp_7May2012.pdf

Financial Statement Kit

<http://www.familycourt.wa.gov.au/files/FinancialKit.pdf>

Affidavit instructions

http://www.familycourt.wa.gov.au/files/Affidavit_Instructions_7May2012.pdf

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