

Property Orders - A Fact Sheet

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.

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. Refer to our fact sheet on eLodgment of court documents for filing your application.

Are those the only documents required?

You need to file your marriage certificate, if you are married. If you are applying for transfer of property, you need to file the certificate of title of the property. If superannuation splitting orders are being applied for, you need to file the recent superannuation statement of the party who is splitting his/her superannuation.

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.

You need to complete Form 11 and provide a Minute of Consent order too and like married couples you need to provide the certificate of title if property is being transferred. Note that from 28th September

2022, de facto couples can do superannuation splitting orders through the Family Court of Western Australia.

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 download the Form 11 and sign both 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 need to follow the prompts — scan and upload the documents. Note that if you are married you should also scan a copy of your marriage certificate.

Is there a filing fee?

Yes, please refer to The Family Court of WA for current fees.

Need Advice? Call Citizens Advice Bureau on **(08) 9221 5711**, or visit **www.cabwa.com.au**



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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.

Refer to our fact sheet on eLodgment of court documents.

What do I put in the 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 relationship/marriage – financial, non-financial and care given to 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. You start your application by starting the online application process. Refer to our fact sheet on E-Filing of court documents.

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 to be 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, provide what you believe is the correct information.

Where can I get all the forms mentioned?

You can find them at the Family Court of WA's website and when you start the eLodgment process on the eCourts Portal.

Where can I find information on how to complete the forms?

- [Application for consent orders;](#)
- [Property Orders kit;](#)
- [Property Order kit - Respondent;](#)
- [Financial Statement Kit;](#)
- [Affidavit Instructions; and](#)
- [What to include in an Affidavit of Jurisdiction for de facto partners.](#)

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