



What are Consent Orders?

Consent Orders are simply orders that former partners ask the Family Court to make after reaching agreement. The orders can deal with any or all of parenting arrangements, property division and/or spousal maintenance.

To obtain Consent Orders, former partners must first reach agreement on how to resolve their issues then complete and file an Application for Consent Orders together with a document setting out the orders sought (called a Minute of Orders Sought) in the Family Court. Once made, Consent Orders have the same weight as orders made by a Judge or Magistrate after a hearing or trial. This means Consent Orders are legally binding and can be enforced by the Family Court.

Before making Consent Orders, the Family Court will assess the requested orders to make sure they are “just and equitable” (property settlement/financial matters) and/or “in the best interests of the child/children” (parenting matters). If so, the court will formally make the orders requested and provide a sealed copy of those orders to the parties.

Former partners can negotiate Consent Orders directly or with the help of mediators and/or lawyers. It is recommended that former partners get independent legal advice prior to finalising Consent Orders. This helps ensure that the orders are “just and equitable”, “in the best interests of the child/children” and take into account the parties’ circumstances and respective rights. If legal fees are a concern you can seek advice from Legal Aid or a Community Legal Centre (contact details are listed on our website).

Why use Consent Orders?

Consent Orders have a number of benefits including clarity, certainty and enforceability. Also, Consent Orders are cost effective and far cheaper and quicker than Family Court proceedings (even when using mediators and/or lawyers to help reach agreement).

As well as being cost effective to obtain, Consent Orders also provide stamp duty savings if it is necessary to adjust the interests of the parties in real estate or other dutiable transactions.

Consent Orders can be enforced by the Family Court if a party defaults on their obligations. This is often helpful in parenting matters as, even though agreement may have been reached and documented in a Parenting Plan, that type of agreement is not enforceable.

Finally, if you find yourself already in Family Court proceedings you can, if agreement can be reached, make Consent Orders at any time to bring those proceedings to an end.

Now Legal can help by advising you of your legal rights as well as negotiating and/or drafting Consent Orders for you. We do this for a low, fixed fee. Contact us now for a free consultation to discuss your matter.

The information in this article is general in nature and is not, and should not be relied upon as, legal advice. You should obtain advice specific to your circumstances from a lawyer, Legal Aid WA or a community legal centre.