

Property Agreements

There are two different ways that agreements for property arrangements can be recorded.

Consent order

The most common type of agreement for separated couples is a Consent Order. A Consent order is an order made by a Court without either of the parties attending.

It is an administrative process, but has the same effect of an order made by a Judge or a Magistrate after a trial. The Court must approve the order and be satisfied, on the paperwork provided, that the order is “just & equitable” in the circumstances.

Once the Court approves the proposed order, it will “seal” (stamp) the order and a copy will be provided to each party.

While independent legal advice is not strictly necessary, both parties must be aware of their right to obtain independent legal advice, and must have considered the relevant parts of the *Family Law Act*.

Arrangements about child support put in Consent order *cannot* be effective or binding. This will have to be recorded separately in a *Child Support Agreement*.

For the process in obtaining a consent order, see over the page.

Financial Agreements

Financial Agreements can be entered into before, during, or after a Marriage or de-facto relationship. To be binding, a financial agreement must:

- Be in writing
- Signed by the parties
- Expressed pursuant to relevant sections of the *Family Law Act*
- Be signed after receiving independent legal advice
- Have statements attached to the agreement recording that the legal advice was provided
- Be enforceable as if it was a contract (that is, there cannot be any undue influence, fraud etc.)

While financial agreements provide more flexibility than consent orders, the requirements are very strict.

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What are the steps to obtain a Consent Order?

