

How long do Consent Orders take for family law property settlement?

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E&A Lawyers has made the decision to no longer provide family law services. While we no longer take on any new family law matters, we are happy to assist by referring you to lawyers specialising in this area. Please don't hesitate to contact us if you would like a referral.

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One of the more onerous and difficult tasks in family law cases is finalising property settlement. If you've been able to come to an amicable agreement with your former partner about how to divide your assets and liabilities, you've already done the hard part. Even though your agreement is amicable, it might now always be that way. Formalising your agreement regarding property settlement with Consent Orders, will ensure it is legally binding. The process for obtaining Consent Orders can be time-consuming, and this blog explores some of the reasons for delays.

What are Consent Orders?

Consent Orders are the legally binding document which formalises your financial and/or parenting arrangements that you and your former partner have mutually agreed upon. Consent Orders can also be used to vary or discharge existing Family Court Orders.

How do I apply for Consent Orders?

Once you and your former partner have agreed upon what arrangements you would like for parenting and/or property settlement, Consent Orders can be drafted. There are two relevant documents;

- An application for Consent Orders; and
- The drafted Consent Orders.

Once agreed upon and completed by both parties, both documents need to be signed by both parties and their lawyers (if lawyers were engaged). The documents are then lodged with the Federal Circuit and Family Court of Australia for review by a Registrar of the Court.

What happens when I take my informal property settlement agreement to a lawyer?

As lawyers, we are not trying to make things more complicated than they need to be (we know, sometimes it looks that way!). Through our years of training, legal education and experience, we can quickly identify when there are adjustments that need to be made to your agreement to ensure that it is legally binding.

You may come to an initial consultation with a lawyer with a piece of paper documenting how you and your former partner have agreed to divide the assets and liabilities that you both hold. You both agree that the agreement seems fair, and you want it made legally binding right now as you are struggling to deal with the emotional, financial and psychological stresses of separation.

Whilst we empathise with you, and we do wish to finalise your matter as quickly as possible, we need to ensure that your best interests are being looked after. We need time to assess the contents of your informal agreement to ensure it is 'just and equitable' in the eyes of the Court and that the agreement can be made legally binding on all parties.

Reasons your property settlement Consent Orders may be delayed

The process from negotiation to finalisation of Consent Orders can take months to complete, even if both parties are amicable and agree on the overall division of property.

Some reasons for delay can include:

1. Providing time to ensure that the other party can obtain legal advice if they desire (and it is strongly advised they do so);
2. Exchanging full and frank disclosure;
3. Preparation of a balance sheet (a detailed inventory of assets and liabilities);
4. Any family businesses, family trusts, or self-managed superannuation funds will add delays due to the complexity of the Orders which need to be drafted to sever the parties' joint interests and ensure any indemnity from future liabilities if applicable;
5. If there is a superannuation split, then obtaining consent from the Superannuation Trustee for the proposed Orders can cause delay;
6. If there are any third parties involved. For example, loans which need to be repaid;

7. Providing you with legal advice on whether the negotiated outcome is just and equitable and your rights and obligations under the *Family Law Act 1975*;
8. Delays associated with further negotiations;
9. Any Court delays when lodging the Consent Orders.

Get help from a family lawyer

If you've separated from your former partner and you need to finalise the division of property, whether or not you've been able to negotiate amicably, engaging a lawyer to help you finalise your property settlement will ensure a just and fair result.

At E&A Lawyers, we make sure we account for ALL assets, including hidden and unknown assets, to help you secure your financial future.

Contacting E&A Lawyers

For more information or to arrange a consultation with a lawyer, you can call or email us.

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