

# FAMILY COURT OF WESTERN AUSTRALIA



## CONSENT ORDERS KIT

### IMPORTANT INFORMATION FOR DE FACTOS

De facto partners can only make application for property orders or for partner maintenance if they separated on or after **1 December 2002**. There are also other requirements that must be satisfied before the Court can make orders.

To satisfy these requirements you must file an affidavit with your Application for Consent Orders (Form 11).

- 1 The affidavit must establish that at least one of the parties is residing in Western Australia on the day the application for orders is made.
- 2 The affidavit must also establish at least one of the following 3 things:
  - that you lived in a de facto relationship with the other party for at least two years, **or**
  - that you lived in a de facto relationship for less than 2 years but that there is a child of the relationship under the age of 18 years and failure to make the order sought would result in serious injustice to the party caring or responsible for the child; **or**
  - that you have lived in a de facto relationship for less than 2 years but that the partner applying for the order has made substantial financial, non-financial or homemaker/parent contributions and failure to make the order would result in serious injustice.
- 3 The affidavit must also establish at least one of the following 2 things:-
  - that both you and the other party resided in Western Australia for at least one third of the period of your de facto relationship; **or**
  - that substantial financial, non-financial or homemaker/parent contributions have been made by you or the other party while resident in Western Australia.
- 4 The affidavit must also advise whether you or the other party has a spouse. If either party has a spouse the affidavit should indicate that a sealed copy of the Form 11 will be served on that spouse.

The affidavit can be sworn by one or both of the parties. If the affidavit is sworn by only one party, a copy must be served on the other party.

Section 205ZB(1) of the Family Court Act 1997 requires an application seeking a property settlement (pursuant to Part 5A of that Act) be made within two (2) years after the relationship ended.

The affidavit form is available at the Court registry or on the Internet at [www.familycourt.wa.gov.au](http://www.familycourt.wa.gov.au). Customer Service Officers can provide further advice about procedural issues but are not permitted to give legal advice.