

Binding Financial Agreements

Anyone can talk to a lawyer for free at Tasmania Legal Aid.

To get free legal information call 1300 366 611, drop into an office (no appointment necessary) or use the Legal Talk chat function on our website. We are open Monday to Friday, 9am to 5pm.

A lawyer can listen to your story and help identify the next steps you can take.

Binding financial agreements detail how property or financial resources will be dealt with in the event that a relationship ends.

What is a 'Binding Financial Agreement'?

Some people make decisions about their finances and record them in a binding financial agreement. Such an agreement may have details of how property or financial resources will be dealt with in the event of a future breakdown. In particular, the agreement may cover who gets what when it comes to the property you have individually and as a couple, whether one of you should receive ongoing support from the other, and how your superannuation may be divided. You can make a binding financial agreement at any time – before, during or after a relationship has ended.

How can our Agreement be enforced?

To be binding or legally enforceable a financial agreement must be signed by both you and your partner, must have a statement that prior to signing each of you received independent legal advice and a certificate signed by the legal practitioner who gave that advice. In addition, there must be evidence that the agreement has not been terminated and has not been set aside by a Court.

Separated but didn't have a Binding Financial Agreement?

If after separation you and your ex don't have a binding financial agreement but can agree on how your joint assets and ongoing finances should be handled, you can apply to the Court for Consent Orders. This will require both you and your ex-partner completing an application form by providing financial information and a written agreement as to how you will divide your assets and debts. The Court will accept the settlement you have reached and make orders to reflect that agreement, provided that it is fair.

Where can I get help to agree on our finances?

Sorting through financial and property details with an ex can be hard. A lot of separating couples need skilled help by someone outside.

Mediation may be a useful way to help work out an agreement with your ex-partner. A mediator will not take anyone's side but help you and your ex-partner talk in a safe environment.

You can contact [Relationships Australia](https://tas.relationships.org.au) to find help with mediation.

Where can I find out more?

- Federal Circuit and Family Court of Australia <https://www.fcfcfa.gov.au/fl/fp/financial-agreements>
- Relationships Australia <https://tas.relationships.org.au/contact-us/>

This is written for people who live in or who are affected by the laws of Tasmania, Australia. The law changes all the time – this information is not legal advice. If you have a legal problem, you should talk to a lawyer before making a decision about what to do.