

Financial Information
Required in Family Law property and Maintenance Cases

There is probably no other type of Court Case which has such strict Rules requiring that specific financial information be provided as does litigation seeking financial and/or property Orders under the *Family Law Act 1975*.

It is therefore highly likely that clients will in the first instance seek the assistance of their accountants when required to comply with the Family Court Rules.

This article is therefore intended to provide a checklist of the requirements of the Family Law Rules.

FINANCIAL STATEMENT

The Family Law Rules require that the filing of all applications seeking Orders adjusting interests in property must be accompanied by a completed financial statement in the form provided by the Rules, and every Respondent to an Application who opposes the Orders sought must also file such a completed form with their Response.

Further, one of the standard directions made by the Family Court when setting cases for Hearing is for all parties to file and serve an updated statement in the same form. (The Family Court works on a Case Management System which should see applications heard about 12 months after they are filed. The Financial Statements initially filed are therefore about 12 months old at the time of a Defended Final Hearing and need updating as the Court must make its decision on the financial circumstances and valuations of property at the time of the Hearing.)

(Applications for maintenance by Wives (or Husbands) require completion of a form which is very similar to the financial statement required in property cases).

The Financial Statement requires detailed information to be provided as to:-

- A. Weekly income (and its source)
- B. Benefits from employment or business
- C. Expenses paid by others
- D. Other members of the clients' household, their gross income and contributions to the household expenses.
- E. Expenses under 13 defined categories (plus "other" for those not specified) including current taxation payments.
- F. Other persons receiving the benefit of the client's expenses and the value of such benefit.
- G. Items of property under 8 categories including details identifying real estate, bank accounts, life insurance policies, shares, motor vehicles, interests in businesses, household contents and "other personal property."
- H. Liabilities under 9 categories and "other"
- I. Superannuation entitlements.
- J. Financial resources, past and future including:-
 - i. Interest in any deceased estate.
 - ii. Interest in any trust.

FINANCIAL QUESTIONNAIRE and BALANCE SHEET

The Parties to the proceedings (and their legal representatives) are required to attend a conciliation conference conducted by a Registrar of the Court where they must make a bona fide attempt to settle the matter unless the Court rules that there are special circumstances why such conference not be held.

Prior to this conference the parties are usually each required to complete a financial questionnaire in which they must list (among other items):-

1. The property, superannuation, financial resources and/or liabilities which they and their former partner had when they commenced cohabitation.

2. In dot point form the contributions (-financial, non-financial and to the welfare of the family-) which they allege they have made.

3. In dot point form the factors under sections 75(2) of the *Family Law Act 1975* relevant to their claim. (There are 19 subsections to section 75(2), and they include provisions as to the income, property and financial resources of each party; the eligibility of either party for a pension; the effect of the orders sought on the ability of a creditor of either party to recover its debt; and the financial circumstances of either party's cohabitation with another person.)

The parties are also usually required to collaboratively prepare a Balance Sheet in which each of them lists the values they allege for both parties' interests in assets, liabilities, superannuation and financial resources and provide any relevant notes about such values.