

PRACTICE NOTE
SUPREME AND DISTRICT COURTS
BRISBANE REGISTRY
CHAPTER 19 PROPERTY LAW ACT
PROPERTY (DE FACTO RELATIONSHIPS)
PROTOCOL

Under the Property Law Act persons in a de facto relationship can make agreements on financial matters arising out of the de facto relationship. The parties may enter into an agreement that sets out how property is to be dealt with either in contemplation of ending a de facto relationship; or after their de facto relationship has ended.

The Supreme Court has jurisdiction to hear applications under Chapter 19, the District Court and the Magistrates Court have similar powers limited to property if the value is within the monetary limits of those courts.

The Courts powers include the power to transfer property, order payment of lump sums etc. under Section 333 (1) (n) the Court may make orders on consent of the parties.

Pursuant to Rule 666 of the Uniform Civil Procedure Rules a Registrar may make orders on consent of the parties if the Registrar considers it appropriate.

This protocol sets out the procedure to be followed for the making of such order by consent. The following documents should be filed in the Registry.

- An originating application (Form 5) UCPR with the agreement made by the parties attached as an annexure.
- A notice of address for service by the respondent party.
- Consent pursuant to Rule 666 setting out the orders required.
- A consent order in duplicate Form 58 UCPR.

A Registrar will give consideration to the application and agreement and if applicable make the order requested in the consent.

Under Section 343 of the Property Law Act "A person may publish an account of a de facto proceedings only if the publication does not identify.

- (a) a party to the proceeding; or
- (b) a witness in the proceeding; or
- (c) another person who is, or is alleged to be, involved in a matter relevant to the proceeding; or
- (d) a person related to, or associated with, a person mentioned in paragraph (a), (b), or (c)."

In order that the identity of the parties etc to defacto proceeding is not published the Registry should take steps to affix to the registry file a label with the words to the effect that:

"Under Section 343 Property Law Act., the publication of an account of de facto proceedings should not identify parties or other persons involved in the proceedings; and under Section 344, it is an offence to publish an account of de facto proceedings other than under sections 342 or 343"

K.T.TOOGOOD
REGISTRAR
3/9/01