

MAGISTRATES COURTS

PRACTICE DIRECTION

NO. 5 OF 1999

PROPERTY LAW ACT s 289

The purpose of this Practice Direction is to ensure compliance with the requirements of s 289 of the Act.

1. The applicant for a property adjustment order must serve on the other party, within 10 days after filing the application, a signed statement fully disclosing that party's financial circumstances and, in particular:
 - (i) details of all income earned in the 3 years immediately preceding the making of the application, including:
 - (a) the name of each employer;
 - (b) the period of employment with each employer;
 - (c) the capacity in which the party was employed by each employer;
 - (d) the party's taxable income during each of the last 3 tax years;
 - (ii) if the party is self employed – details of that party's nett income in the 3 years immediately preceding the application. (Financial statements establishing gross income and expenditure incurred in earning gross income must be available for immediate inspection at the other party's request);
 - (iii) particulars of any disability affecting that party's earning capacity;
 - (iv) details of any professional, trade, or other qualification relevant to that party's earning capacity;
 - (v) details of all interests in land owned or held by the party, including:
 - (a) the full real property description of the land or other description sufficient fully to identify the property;
 - (b) the value of each such interest and the basis of that valuation;

- (c) details of any mortgages or charges over that property, including the name of the holder of the mortgage or charge and the amount secured thereby;
 - (vi) details of all shares and other similar property held by the party including:
 - (a) a full description of the property sufficient to identify it;
 - (b) the value of each item of property and the basis of that valuation;
 - (vii) particulars of all sums of money held by the party either in cash or in accounts with banks or financial institutions including:
 - (a) the amount;
 - (b) name of bank or institution;
 - (c) the terms on which the money is held by that bank or institution;
 - (viii) details of any interest held by that party in any superannuation fund, trust or partnership;
 - (ix) full particulars of any other property of any description owned by the party whether within the jurisdiction or elsewhere, including its value and the basis of that valuation;
 - (x) particulars of all recurring outgoings or expenses of that party relevant to that party's financial circumstances.
2. As soon as practicable after receiving the applicant's statement complying with this direction, and in any event within 10 days of service of that statement the other party to the application must serve on the applicant a signed statement setting out that party's financial circumstances as detailed in paragraph 1 above.
 3. Nothing in this Practice Direction shall limit a party's obligation to disclose in full that party's financial circumstances relevant to the application.

(DM FINGLETON)
CHIEF STIPENDIARY MAGISTRATE

23 December 1999

