

CRIMINAL LAW - PROOF OF MEANS WORKSHEET

(If in doubt call the Compliance Team on 9606 5355)

Financially Associated Person is any person:

- who usually provides the applicant with financial support or
- could reasonably be expected to financially assist the applicant.

Such persons would include the applicant's spouse / partner / children / other relatives / trust / corporation / group.

Whether the client and his / her partner actually share expenses, or are willing to assist is irrelevant. It is the nature of the relationship that imposes the requirement.

Dependant is any person:

- who relies on the applicant for financial support, including
 - A person who is under the age of 18, and living with the applicant.
 - A person over 18 years who has no income and/or assets, and is living with the applicant.
- **Inconsistencies:** If a client's lifestyle is inconsistent with financial information provided or his instructions vary from details provided in the application form you must follow up, clarify the situation and advise VLA (and obtain POM as appropriate).
- It is advisable to obtain the client's authority to enable you to get proof of benefits directly from Centrelink. Signed consent is required from a FAP to get POM from Centrelink
- Ensure financial information on file and the application form is consistent.
- The proof of means waiver is for documentary proofs only, it does NOT waive the means test.

1. Client NOT in custody and

a) No Financially Associated Person (FAP)

- ☐ solely on benefits & under \$865 in bank ⇒ proof of benefits required only
- ☐ solely on benefits & \$865 or more in bank ⇒ proof of benefits & 3 months of all bank statements
- ☐ employment income (casual/part-time/cash in hand &c) ⇒ proof of income & 3 months of all bank statements
variable income ⇒ see para 3 below
- ☐ working (self-employed) ⇒ proof of income = latest tax return, profit and loss statement and balance sheet and 3 months of all bank statements (business & personal)
- ☐ other income¹ (rent / royalties / insurance payments / annuity / interest etc) ⇒ proof of income and 3 Months of all bank statements
- ☐ other assets (shares / trusts etc) ⇒ proof of value of asset required

b) has a Financially Associated Person (FAP)

- ☐ in all other cases POM for Client & FAP required as set out under 1a)

2. Client in custody² and

a) No Financially Associated Person (FAP)

- ☐ If more than \$865 in the bank ⇒ 3 months of all bank statements are required.
- ☐ under \$865 in bank ⇒ All POM waived
- ☐ application relates to a bail application ⇒ All POM waived³
- ☐ matter will be heard and determined within 7 days of signed application ⇒ All POM waived⁴

b) has a Financially Associated Person (FAP)

- ☐ in all cases POM required for Client & FAP as set out under 1a)

3. Variable Income

To calculate average weekly salary, add the net weekly salary for the last 13 weeks and divide the total by 13 (or if employed for less than 13 weeks, divide the net total by the number of weeks employed).

4. Client is a child

- ☐ client is a child and matter is to be heard in Children's Court ⇒ POM waived
- ☐ client is a child and matter is to be heard in another Court ⇒ POM required

5. Dependents

- ☐ A dependent under the age of 18 years ⇒ POM not required
- ☐ A dependent over the age of 18 years may be considered a FAP if:
 - ☐ Has assets (interest in property, investments, shares) and/or employed ⇒ POM required

¹ If other income is child support or spousal maintenance in excess of \$130 per week, bank statements will be required

² If the client is released at any time during the proceedings, the waiver is no longer applicable and POM is required.

³ If the client is released on bail, the waiver will NOT apply to the subsequent matter

⁴ The relevant time period is the time between the date of signing the application / taking instructions and the final hearing date. If the matter is not finalised within 7 days or there has been a delay between taking instructions and submitting the application thus exceeding the 7 days the waiver does not apply and POM is required unless a different waiver applies.