FAMILY LAW - PROOF OF MEANS WORKSHEET

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

Victoria Legal Aid
Lawyers And Legal Services

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 does not have a 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 income[1] (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

2. Client has a Financially Associated Person (FAP)

- ☐ POM for FAP required as set out under 1 above.

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 in custody [2] 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

b) has a Financially Associated Person (FAP)

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

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,) => POM required
  - ☐ Receives employment income => 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.