Division 6.1.2—Duty of disclosure in specific types of proceedings

6.05 Duty of disclosure—parenting proceedings

(1) The duty of disclosure applies to a parenting proceeding.

(2) Documents that may contain information relevant to a parenting proceeding may include, among other documents:
  (a) criminal records of a party; and
  (b) documents filed in intervention order proceedings concerning a party; and
  (c) medical reports about a child or party; and
  (d) school reports.

6.06 Duty of disclosure—financial proceedings

(1) The duty of disclosure applies to a financial proceeding.

(2) Subrules (3) to (9) do not apply to a party to a property proceeding who is not a party to the marriage or de facto relationship to which the application relates, except to the extent that the party's financial circumstances are relevant to the issues in dispute.

(3) Without limiting subrule (1), a party to a financial proceeding must make full and frank disclosure of the party's financial circumstances, including the following:
  (a) the party's earnings, including income that is paid or assigned to another party, person or legal entity;
  (b) any vested or contingent interest in property;
  (c) any vested or contingent interest in property owned by a legal entity that is fully or partially owned or controlled by a party;
  (d) any income earned by a legal entity fully or partially owned or controlled by a party, including income that is paid or assigned to any other party, person or legal entity;
  (e) the party's other financial resources;
  (f) any trust:
    (i) of which the party is the appointor or trustee; or
    (ii) of which the party, the party's child, spouse or de facto spouse is an eligible beneficiary as to capital or income; or
    (iii) of which a corporation is an eligible beneficiary as to capital or income if the party, or the party's child, spouse or de facto spouse is a shareholder or director of the corporation; or
    (iv) over which the party has any direct or indirect power or control; or
    (v) of which the party has the direct or indirect power to remove or appoint a trustee; or
    (vi) of which the party has the power (whether subject to the concurrence of another person or not) to amend the terms; or
    (vii) of which the party has the power to disapprove a proposed amendment of the terms or the appointment or removal of a trustee; or

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(viii) over which a corporation has a power referred to in any of subparagraphs (iv) to (vii), if the party, the party's child, spouse or de facto spouse is a director or shareholder of the corporation;

(g) any disposal of property (whether by sale, transfer, assignment or gift) made by the party, a legal entity referred to in paragraph (c), a corporation or a trust referred to in paragraph (f) that may affect, defeat or deplete a claim:

(i) in the 12 months immediately before the separation of the parties; or

(ii) since the final separation of the parties;

(h) liabilities and contingent liabilities.

(4) Paragraph (3)(g) does not apply to a disposal of property made:

(a) with the consent or knowledge of the other party; or

(b) in the ordinary course of business.

(5) A party starting, or filing a response or reply to, a financial proceeding (other than by an Application for Consent Orders) must file, at the same time:

(a) a Financial Statement; and

(b) a financial questionnaire in the form approved by the Chief Executive Officer.

(6) If a party is aware that the completion of a Financial Statement will not fully discharge the duty to make full and frank disclosure, the party must also file an affidavit giving further particulars.

(7) If a party's financial circumstances have changed significantly from the information set out in the Financial Statement or an affidavit filed under subrule (6), the party must, within 21 days after the change of circumstances, file:

(a) a new Financial Statement; or

(b) if the changes can be set out clearly in 300 words or less—an affidavit containing details about the party's changed financial circumstances.

(8) Without limiting subrule (1), unless the court otherwise orders, a party (the ***first party***) who is required by this rule to file a Financial Statement (other than a respondent to an application for maintenance only) must, before the first court date, serve on each other party who has an address for service in the proceeding the following documents:

(a) a copy of the party's 3 most recent taxation returns;

(b) a copy of the party's 3 most recent taxation assessments;

(c) if the first party is a member of a superannuation plan:

(i) the completed superannuation information form for any superannuation interest of the party (unless it has already been filed or exchanged); and

(ii) for a self-managed superannuation fund—the trust deed and a copy of the 3 most recent financial statements for the fund;

(d) if the party has an Australian Business Number—a copy of the last 4 business activity statements lodged;

(e) if there is a partnership, trust or company (other than a public company) in which the party has an interest—a copy of the 3 most recent financial

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statements and the last 4 business activity statements lodged by the partnership, trust or company.

(9) Without limiting subrule (1), a respondent to an application for maintenance only must bring to the court on the first court date the following documents:

(a) a copy of the respondent's taxation return for the most recent financial year;

(b) a copy of the respondent's taxation assessment for the most recent financial year;

(c) copies of the respondent's bank records for the 12 months immediately before the date when the application was filed;

(d) the respondent's most recent pay slip;

(e) if the respondent has an Australian Business Number—a copy of the last 4 business activity statements lodged;

(f) any document in the respondent's possession, custody or control that may assist the court in determining the income, needs and financial resources of the respondent.

(10) This rule does not require a party to be served with a document that has already been provided to the party.

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