

# Property Relationships

August 08

Steps for proceedings under the Property (Relationships) Act 1976

## Step 1(a): Pre-proceedings: Investigation and Negotiation

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Pre-proceedings	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>• Taking instructions, attending client</li><li>• Identifying legal and factual issues</li><li>• Preparing application for legal aid</li><li>• Disclosure, discovery, asset valuations</li><li>• Negotiating between parties</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
s21 Agreement	up to <b>2</b> hours	For drafting and certifying s21 agreement – If agreement is reached at this stage

### Documentation Requirements

- Application for Family Legal Aid (*LSA Form 6*) [s12 Legal Services Act 2000].
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings.

### Granting Notes

Granting Notes, which should be read in conjunction with the application of this step to a grant, are set out on pages 5-6 for:

- Additional factors
- Interpreter

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## Step 1(b): Pre-proceedings: Make or Defend Application

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Relationship Property order(s) (Applicant/Respondent)	up to <b>7</b> hours	For <ul style="list-style-type: none"><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Drafting/filing application for/defence to, relationship property orders</li><li>• Drafting/filing applicant/respondent P(R) 1, narrative affidavit</li><li>• Serving of documents</li><li>• Attending Registrar's List/Chambers List hearings</li><li>• Preparing interlocutory application(s), pre-trial conference memorandum</li><li>• Receiving Court review and directions</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Interlocutory hearing(s)	up to <b>3</b> hours	For preparing submissions for interlocutory hearing(s) (Hearing time expected to be minimal)

### Documentation Requirements

- Family Legal Aid Amendment to Grant (*LSA Form 9*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated.
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings.

### Granting Notes

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- Interpreter

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## Step 2: Pre-hearing Matters

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Settlement Conference</b> (Judge led)	up to <b>2.0 times</b> anticipated conference time (hrs) <b>Actual</b> hours	For preparing submissions for settlement conference, including memorandum of issues  For attending settlement conference
<b>Consent Memorandum</b>	up to <b>2</b> hours	For preparing consent memorandum – if agreement reached in settlement conference
<b>Discovery</b>	up to <b>6</b> hours	For <ul style="list-style-type: none"><li>• Undertaking further round of discovery – updated accounting reports, asset valuations, debt levels</li><li>• Preparing interlocutory application(s), pre-trial conference memorandum</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
<b>Interlocutory hearing(s)</b>	up to <b>2</b> hours	For preparing submissions for interlocutory hearing(s) (Hearing time expected to be minimal)
<b>Interrogatories</b>	up to <b>4</b> hours	For obtaining information requested from other party to clarify/support the matter
<b>Document preparation</b>	up to <b>9</b> hours	For preparing pre-hearing documents– lists of issues, authorities, 'bundle' of documents (affidavits, statements of evidence)

### Documentation Requirements

- Family Legal Aid Amendment to Grant (*LSA Form 9*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated.
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings.

### Granting Notes

Granting Notes, which should be read in conjunction with the application of this step to a grant, are set out on pages 5-6 for:

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## Step 3: Hearing

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
Preparation for hearing	up to <b>1.5 times</b> anticipated hearing time (hrs)	For <ul style="list-style-type: none"><li>• Reviewing file</li><li>• Preparing amendment to legal aid grant (if expecting to exceed the guideline hours for this step)</li><li>• Preparing for hearing – cross examination, briefing witnesses, submissions</li><li>• Undertaking research, if necessary</li><li>• Reporting to client</li><li>• Reporting to and invoicing LSA</li></ul>
Hearing	<b>Actual</b> hours	For attending hearing
Review of judgement	up to <b>5</b> hours	For <ul style="list-style-type: none"><li>• Receiving and considering judgement</li><li>• Sealing judgement (if appropriate)</li><li>• Advising client on implementation of judgement – re-financing, re-occupation, debt management, allocations of funds</li></ul>

### Documentation Requirements

- Family Legal Aid Amendment to Grant (*LSA Form 9*) [s24 Legal Services Act 2000] – if the time required for the step is expected to exceed the guideline hours stated.
- Family Legal Aid Tax Invoice (*LSA Form 10*) – including a report on progress with the proceedings.

### Granting Notes

Granting Notes, which should be read in conjunction with the application of this step to a grant, are set out on pages 5-6 for:

- Interpreter

## Granting Notes

### Consideration of Additional Factors - Proceedings Step 1

Guideline hours have been allocated to each activity within the steps for a proceedings on the basis that they are a reasonable estimate of the time required to perform that activity, in at least 80% of matters.

However, the circumstances surrounding a matter may make it necessary to consider guideline hours for 'additional factors'. The 'additional factors' may arise from a variety of circumstances, for example:

- Some of the parties might not be represented, resulting in the lawyer having to explain the proceedings to, and prepare documentation for, person(s) other than the legally aided person, or perhaps having to deal with a difficult litigant in person.
- A party who suffers from an intellectual disability or mental illness, language or reading difficulties – but not necessitating a separate interpreter - requiring more time in taking instructions or prolonging proceedings. An additional allowance for the use of interpreters is available if required.

There is no complete 'checklist' of circumstances - each matter should be considered on a case by case basis.

The guideline hours for 'additional factors' in the proceedings step(s) are:

Activity	Guideline Hours	Tasks normally covered by Guideline Hours
<b>Additional factors</b>	up to <b>2</b> hours	For additional factors which are likely to impact on the pre-proceedings.

The guideline hours for 'additional factors' may be applied to the grant, providing:

- the guideline hours for the activity(s) forming part of the maximum grant in this step have been exceeded; and
- the 'additional factors' can be clearly identified and justified.

### Use of Interpreters - Proceedings Steps 1, 2, 3

It may be necessary for a provider to engage an interpreter to assist in communicating with the legally aided person.

Guideline hours are available, through a 'loading on hours granted', to recognise the time incurred in informing, briefing and seeking instructions from the legally aided person through an interpreter.

**Granting Notes****Use of Interpreters - Proceedings Steps 1, 2, 3 continued**

The guideline hours for the 'use of interpreters' in the proceedings step(s) are:

<b>Activity</b>	<b>Guideline Hours</b>	<b>Tasks normally covered by Guideline Hours</b>
<b>Interpreter</b>	<b>30% loading on hours granted</b>	For the additional time necessary to inform, brief and seek instructions from the client when an interpreter is engaged.

The 'loading on hours granted' may be applied to the grant at the proceedings step(s), providing:

- the 'loading on hours granted' has been applied to the activity(s) relating to the 'preparation' of a matter – as opposed to hearings;
- the guideline hours for the activity(s) relating to the 'preparation' of a matter, have been exceeded; and
- the fees for the interpreter will be claimed as a special disbursement.