

## **ANCILLARY RELIEF** **Information Sheet**



### • **Meaning**

'Ancillary Relief' refers to the resolution of the financial aspects of the marriage breakdown.

The various Orders which can be made by a Divorce County Court are as follows:-

1. Maintenance for one of the parties;
2. Maintenance for a child of the family who is not a 'qualifying child' for the purposes of the Child Support Agency;
3. Lump sum provision i.e. payment of a specified sum of money by one party to the other to resolve division of the matrimonial home or other capital assets such as savings;
4. Property adjustment e.g. outright transfer of the matrimonial home to one party.

In many cases, none or only some of the various forms of ancillary relief will apply.

The Court Order may be made by agreement or following dispute between the parties.

**No** lump sum or property adjustment Order can take effect until after Decree Absolute.

### • **Consent Order**

Where terms can be agreed between the parties, then these will be incorporated into a draft Consent Order prepared by the parties' solicitors and presented to the Court, together with the additional information required by the Court. The draft Order will then be checked by the District Judge and, if satisfactory from the Court's point of view, made into a Court Order.

It is certainly simpler, quicker and very much cheaper to deal with the ancillary relief by agreement. Reasonable compromise is therefore advisable if it will achieve this result.

### • **Dispute**

For various reasons, it may not be possible to reach agreement. Ancillary relief will then have to be resolved on a dispute basis.

The basic procedural steps in disputed proceedings are as follows:-

1. One party makes application for ancillary relief by filing Form A;
2. The Court will then set down a timetable of the further steps that both parties must take;
3. Both parties will have twenty eight days within which to complete, file and mutually exchange Form E setting out details of their finances;

4. Each party must then prepare, file and exchange further documents to include a Statement of Issues, Chronology, Questionnaire and Form G (Notice to the Court on how each party will proceed) to be filed fourteen days prior to the First Appointment.
5. Parties to attend Court (within twelve to sixteen weeks of filing Form A) for either a First Appointment or a Financial Dispute Resolution Hearing (FDR). If a First Appointment, the Court will make an order for further steps to be taken. If an FDR, the parties attempt to negotiate settlement and the Court will give a view. If settlement reached, a Consent Order is prepared. If not, the Court will fix a date for a final hearing when the Court will decide on financial settlement.

The procedure may, of course, vary from the above in individual cases depending upon the matters arising. The proceedings from start to finish can take several months.

It is quite possible and permissible to reach an agreement at any stage of the proceedings. The resulting Order will then be by consent.

In making his decision the District Judge has to have regard to various factors set out in the relevant Act of Parliament (Matrimonial Causes Act 1973). Subject to this, he has a very wide discretion as to the Order, which he can make. This wide discretion makes it difficult to predict beforehand the precise outcome. In other words, there is always a risk in ancillary relief proceedings that the decision may not turn out as desired.

It is not possible in this Sheet to set out the pros and cons involved in disputed ancillary relief proceedings. All will depend on the individual case and its facts. Specific advice should be sought.

## • Dismissal

The Court can make an Order dismissing all or some of the ancillary relief claims. For example, a spouse's rights to maintenance can be dismissed or further capital claims between the parties can be dismissed. The effect of a dismissal Order is to terminate once and for all the right to the particular ancillary relief. In the first example above, the spouse would not at any time in the future be able to make a maintenance claim.

It is not possible to set out in this Sheet the circumstances in which dismissal Orders can and cannot be made. Again, specific advice should be sought.

However, we take the view that the more 'loose ends' which can be tied up at the time of the divorce the better. This leaves less scope for friction between the parties in the future. Therefore whatever ancillary relief rights can be dismissed should be dismissed.