



legal chat

with Solicitor

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FAMILY LAW PROPERTY SETTLEMENTS BY ARBITRATION

As of the 16th April this year, amidst all the confusion with Covid-19, the Family Court and the Federal Circuit Court established a new National Arbitration List to deal with Family Law property settlements. While the Courts have advocated for a long time the requirement for parties to consider alternative dispute resolution (ADR) rather than having matters dealt with by the Courts, by full hearings of matters, ADR can be seen as a quicker and more affordable option for parties in dispute. While up to 95% of matters settle before the Court itself has to determine matters the introduction of the Arbitration List will significantly speed up disputes meaning a cost saving to the parties concerned. Parties to a dispute with Family Law property matters can opt themselves, at an early time to apply for Arbitration before even going to the Court but otherwise the Court can refer parties to Arbitration to settle property matters. Family Law Judges have been appointed to manage the new list and it is anticipated that matters referred to the new Arbitration List will have dates set down very early in the process, with parties entitled to agree on suitable dates and locations for the Arbitration, with results possible in a matter of months. Compare this to matters which go right through the Court system being lucky to reach a Hearing and a Judgement decision within a couple of years. The process avoids delays usually encountered by the Courts being interrupted by other urgent matters which often lead to ongoing delays and changes of scheduled dates. Arbitration can be conducted a number of ways, such as 'off the papers' with all evidence being in written form, involves parties meeting together and having a chance to have a say. They can also include cross

examination if requested, or short hearings and submissions as required and can even be limited to certain issues. An Arbitration Appeals system has been established and interim orders sought to facilitate the arbitration, by arbitrators or parties, will be dealt with by the relevant National Arbitration Judge electronically. Following the Arbitration the result or award can be registered with the Court to gain the final orders often required to enable transfers of property, superannuation and assets. The new Arbitration List is a real option to judicial determination where a Judge makes the decision, often after lengthy Court hearings and a large amount of legal costs. Arbitration often leaves parties feeling they have been 'heard' and respected.

Johnston Tobin Solicitors have experienced solicitors to help you with all your Family Law needs.



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