

Australian Journal of Family Law

Volume 37 Part 3

(*Articles and Current Developments included in this part are linked to the LexisNexis platform*)

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Articles

[The desirability of legislative guidelines about children's best interests: Lessons from amendments to the *Family Law Act 1975* \(Cth\)](#)

— *Richard Chisholm AM*

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Before the amendments of 2023, the Family Law Act 1975 (Cth) had indicated various guidelines about the outcomes considered most likely to benefit children after their parents have separated. To do so, it relied on a variety of techniques, described in this paper as presumptions, principles, differential weightings and nudges. These provisions had become confusing, complex and arguably incoherent. Mainly for those reasons, they were swept away by the amending Act of 2023, which was rightly seen as simplifying the law. Rather than rephrase or modify the guidelines, the 2023 Act largely removed all legislative guidelines about what outcomes were likely to be in children's best interests.

This article reviews the previous guidelines and the 'minimalist' approach introduced in 2023. It suggests that if guidelines are to be re-inserted into the Act, they should be expressed by legislative techniques that are simpler and more transparent than those used in the pre-2023 law.

[The *Family Law Amendment Act 2024*: Have the changes to property settlement law missed the mark?](#)

— *Miranda Kaye, Lisa Young and Michelle Fernando*

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This article outlines the recent changes made to the property adjustment regime in Pt VIII (for married couples) and corresponding Pt VIIIAB (for de facto couples) of the Family Law Act 1975 (Cth). It focuses on the main changes affecting the court's decision-making process when adjusting the property of separated parties: the 'clarification' of the decision-making pathway, new definitions of economic and financial abuse, express requirements to consider the effect of any family violence, and the inclusion of new 'current and future circumstances' of material wastage, liabilities and housing of children.

In each of these areas we ask whether the aims of the amending legislation to codify and clarify the common law and to ensure the economic effects of family violence are considered have been achieved. Particularly, we consider whether and how the application of the legislation may differ from the approach developed by case law, and the potential impacts of this. We acknowledge the improvements these changes will likely make in post-separation decision-making, but we also consider whether the new property regime represents a missed opportunity to effectively clarify decision-making processes, appropriately acknowledge the economic impacts of family violence, and make the legislation easier for self-represented litigants and people negotiating in the shadow of the law to navigate.

Should every pet-owning couple have a 'pet-nup' for their property (pet)?

— *Esther Erlings*

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Today, 'pets are the new kids', and pet-owning couples whose relationship ends may wish to obtain a form of shared care arrangement for their pet. Such arrangements are not available under Australian family law, as pets are deemed property. Recent reform of the Family Law Act 1975 (Cth) has led to codification of considerations for the award of the pet/property, but the reformed legislation also expressly stipulates that only one party can obtain ownership of the animal. Married or de facto couples in Australia can nonetheless oust the jurisdiction of the family court if they have a binding financial agreement, informally known as a pre- or post-nup, or in the case of pets a 'pet-nup'. Pet-nups include pet care arrangements expressed in property terms. This paper considers their use for the Australian jurisdiction, where they could present a helpful means for 'pet-parents' to accommodate an ongoing relationship with their pet.

Current Developments

Is this the death of addbacks? A review of *Shinohara & Shinohara*

— *Lisa Young and Amy Thomasson*

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