Amendments made by the Family Law Amendment Act 2024

The following ready reckoner summarizes changes to the *Family Law Act 1975* (Cth) that commence on 10 June 2025.

A summary of the changes are:

- Divorce – No appearance for sole applicant, whether or not there are children (as long as the respondent does not object).
- Marriages shorter than 2 years no longer require counselling.
- Changes to s 60I that permit a registrar to decide whether a s 60I(9) exemption exists (and such a decision is capable of review).
- Maintenance remains the same, save that family violence is now a consideration.
- Property – Section 79 (or 90SM) still has subsections (1) and (2) but there's a new (3) codifying *Stanford*. Contributions are still considered at subsection (4) (to which has been added the effect of family violence ('FV') (which now includes economic or financial abuse) on any contributions (ie. *Kennon*)).
- Section 79 no longer applies s 75(2) (via s 79(4)(e)). Instead, a new s 79(5) exists for considerations of "current and future circumstances", which is the same as s 75(2) except that FV now appears here too. The care of children now includes any need to house a child; and the effect of waste ('material wastage') and any liabilities are added too.
- New subsections s 79(6) and (7) regarding orders as to pets.
- Section 79 now ends at s 79(7). A new s 79AA includes the old ss 79(5) - (17).
- De facto cases follow the same changes as to s 90SM which goes up to (7) then goes to a new section (90SMA).
- The duty of disclosure is codified by a new s 71B (s 90RI for de facto cases and 90YJA for WA de factos). The duty of disclosure confirms the existing rules as to starting from pre-action and continuing until the case is finalised.
- Effect of death of a party and adjournments are now at s 79AA or s 90SMA.
- The exception to the rules of evidence applying in parenting matters (s 69ZT), can (either by consent or order) extend to property applications. The new sections are ss 102ND & 102NL.
- Costs are unchanged but will now be under s 114UB, not s 117. Costs of an ICL provided for by s 114UC.
- Further changes include regulation of children's contact services; confidential information and 'protected confidences'; arbitration; FCWA powers; appeals from Magistrates courts; and s 69GA (jurisdiction).

For ease of reference, the below table has been colour coded to group the changes into categories of relevance as follows:

i. Property/spousal maintenance orders for spouses = Black font

ii. Property/maintenance orders for de facto spouses = Light blue font

iii. Spousal or de facto maintenance = Purple font

iv. Family violence and/or protection of information as to health/family violence support = Red font

v. Evidence (both property and parenting proceedings) = Green font

vi. Disclosure = Maroon font

vii. Arbitration = Aqua font

viii. Contact services = Brown font

ix. Section 60I certificates/family dispute resolution = Pink font

x. Divorce = Grey font

xi. Costs = Dark blue font

Old section	*Change*	*What's changed?*
s 4 - definitions	Addition of 'companion animal'	The new definition of an animal kept by either spouse for the primary purpose of companionship. This reflects the new powers at ss 79(6) & 79(7) to make orders as to pets (below).
s 4 - definitions	Amended definition of 'family law arbitration'	The amendment is to accommodate the expanded list of cases that can be arbitrated by consent. See s 13E(1) below.
s 4 - definitions	Addition of definitions of 'CCS business' and 'CCS practitioner'	The amendment is to accommodate the new ss 10KB - 10KI in anticipation of Accreditation Rules commencing to regulate contact supervision businesses and practitioners (see below).

Old section	*Change*	*What's changed?*
s 4 - definitions	Addition of definitions of a 'protected confidence' from a 'protected confider'.	The amendment is to accommodate the new ss 102BB – 102BF that protect information of professional providers of health or family violence support (see below).
s 4AB - definitions	Repeal of s 4AB(2)(g) & (h) and replacement with new ss 4AB(g) & 4AB(2)	These definitions expand the existing examples of what constitutes family violence.
(New section)	Addition of ss 10KB – 10KD	The new sections refer to children's contact services being provided on a professional, commercial or charitable basis in circumstances where "members of the family may not be able to safely manage such contact".
(New section)	Addition of s 10KE	The new section restricts disclosure of safety information (being information relating to the risk of harm to a child or child member's family) unless there is consent to the disclosure or if disclosure is reasonably necessary to protect a child.
(New section)	Addition of s 10KF	The new section makes safety information provided to a contact centre inadmissible unless it is an admission by an adult as to abuse or a risk of abuse; or a disclosure by a child as to abuse or a risk of abuse.
(New sections)	Addition of ss 10KG – 10KI	The new sections apply penalties for non-compliance with Accreditation Rules.
s 10L(2)	This section is repealed and replaced to encompass broader	The amendment is to accommodate the expanded

Old section	*Change*	*What's changed?*
	matters that are considered a 'family law arbitration'.	list of cases that can be arbitrated by consent. See s 13E(1) below.
(New section)	Addition of s13C(1A)	The new subsection provides that once contact centre accreditation is implemented, the court can only order time at an accredited children's contact centre/practitioner.
ss 13E(1) & (1A)	This section expands a broader list of matters that can be arbitrated by consent.	The section now expressly includes all financial applications between married couples and de factos; third party orders; superannuation orders; WA superannuation orders; and ss 106A & 106B proceedings (ie. execution of deeds following orders and transactions to defeat claims).
s 13F	This section (as to the court's power to make orders in relation to family law arbitrations) is repealed and replaced.	The amendment includes power of the court to make orders it considers appropriate to facilitate the "effective conduct" of the arbitration, or that if a change of circumstances is such that arbitration is no longer appropriate, to terminate the arbitration.
s 13H(1)	This section is slightly reworded but retains the Court's power to register arbitral awards.	This change should not have an impact.
ss 44(1B) & (1C)	These subsections require a counselling certificate (or leave) to file a divorce application within 2 years of the date of marriage.	The subsections have been repealed.

Old section	*Change*	*What's changed?*
ss 60I(7) – (12)	These sections are slightly reworded to enable a Registrar to determine whether an exemption to filing a s 60I certificate exists.	The new sections also enable a review of a Registrar's decision as to an exemption.
(New section)	Addition of s 71B	This section codifies each party's duties of disclosure, compelling full and frank disclosure in respect of "issues in the proceeding that relate to financial or property matters of the marriage". The duty applies during the proceeding and if a party is preparing for proceedings. Legal practitioners are obliged to provide information as to disclosure and encourage compliance.
s 72(1)(a)	Slight change to the wording of a party's right to spousal maintenance.	The current act says a party to a marriage is liable to maintain the other party for reasons that include the other party having "care and control of a child of the marriage". This amendment deletes the words "and control" of a child.
(New section)	Addition of s 75(2)(aa)	The court is now legislatively required to consider the effect of any family violence (to which one party to the marriage subjected or exposed the other to) in the context of maintenance.
s 75(2)(c)	Repeal and adjustment of the existing s 75(2) consideration of a party having "care and control of a child of the marriage".	The consideration includes the extent to which either party has the care of a child of the marriage (under 18 years) including the need to provide appropriate housing for such a child.

Old section	*Change*	*What's changed?*
s 75(2)(o)	The existing s 75(2)(o) is moved to s 75(2)(r) and slightly reworded from "any fact or circumstance…" to "any other fact or circumstance…".	This change is primarily to the subsection number, not its content.
s 79(1)	An amendment to s 79(1) to refer to the new s 79(6) (as to companion animals).	Slight amendment to note companion animals must be considered under the new s 79(6).
s 79(1A)	The section previously stated that an order made in property settlement proceedings may be enforced by or against the estate of a deceased spouse.	The section has been moved to the new s 79AA (below).
s 79(1B)	The section previously empowered the court to adjourn property settlement proceedings for such period as considered appropriate to enable parties to consider the effects of an order upon the marriage or the children of the marriage.	The section has been moved to the new s 79AA (below).
s 79(1C)	The section previously enabled proceedings to be continued following an adjournment pursuant to s 79(1B) (above).	The section has been moved to the new s79AA (below).
s 79(2)	The existing requirement that the court "shall" not make a property adjustment order unless it is satisfied that it is just and equitable to do so, now says that the court "must" not make a property adjustment order unless it is satisfied that it is just and equitable to do so.	The amendment from "shall" to "must" is one and the same. With this section being a key plank in *Stanford* [2012] HCA 52, it is anticipated that the pathway endorsed by the High Court is unaffected by the amendments.
(New section)	Addition of s 79(3)	The court is now legislatively required to identify the existing legal and equitable rights and

Old section	*Change*	*What's changed?*
		interests in any property of the parties; liabilities of the parties' and then consider subsections s 79(4) (as to contributions) and s 79(5) (as to current and future circumstances).
ss 79(4)(a), 79(4)(b) & 79(4)(c)	An amendment that the Court is to consider each of s79(4)(a) (financial contributions); s 79(4)(b) (contributions other than financial contributions); and s79(4)(c) (family welfare contributions) "so far as they are relevant".	Whereas the existing Act mandates consideration of each of s 79(4) subsection, the amendment says that each s 79(4) subsection is to be considered "so far as they are relevant".
(New section)	Addition of s 79(4)(ca)	The court is now legislatively required to consider the effect of any family violence (to which one party to the marriage subjected or exposed the other to) on the ability of a party to make contributions.
s 79(4)(e)	Repealed and replaced with s 79(5)	The existing s79(4) requires the Court to consider s 75(2) factors at s 79(4)(e). The pathway for the court to consider what was s75(2) factors has changed, that pathway now being via s 79(3) (above) & s 79(5) (below).
s 79(4)(g)	The existing section says the Court is to consider child support that a party to a marriage has provided or might be liable to provide in the future in respect of a child of the marriage.	The amendment limits this consideration to child support already provided, where "future child support" to be considered via the new s 79(5) (below).
(New section)	s 79(5) - This is a new section to be considered in each property matter, which expands upon what previously was to be	New considerations include the effect of family violence on the current and future circumstances of a party; the

Old section	*Change*	*What's changed?*
	considered via s 75(2) of the Act.	effect of material wastage (caused intentionally or recklessly); and any liabilities incurred by either of the parties.
(New section)	Addition of s 79(6)	The court can now order one of three things (either on an interim or final basis) as to a companion animal: i) that only one party have ownership of the animal; ii) that the animal be transferred; iii) the animal be sold. There is no provision for "time" or "visitation" style orders.
(New section)	Addition of s 79(7)	This section sets out considerations as to companion animal orders, including acquisition arrangements, ownership, possession, family violence/cruelty, attachment (including attachment of a child) and demonstrated ability to care for the animal.
(New section)	Addition of s 79AA	This section accommodates the existing sections that were previously at: - ss 79(1A), (1B) & (1C) (see above); - ss 79(5) – (17). So the s 79 subsections as to the effect of an order after death, adjournments, bankruptcy, a mandatory conference, intervention by creditors and personal insolvency agreements have "moved to" s 79AA.

Old section	*Change*	*What's changed?*
(New section)	Addition of s 90RI	This section codifies each party's duties of disclosure, compelling full and frank disclosure in respect of "issues in the proceeding that relate to financial or property matters of the (de facto) relationship". The duty applies during the proceeding and also if a party is preparing for proceedings. Legal practitioners are obliged to provide information as to disclosure and encourage compliance.
s 90SF(1)(b)(i)	Slight change to the wording of a party's right of spousal maintenance.	The current act says a party to a marriage is liable to maintain the other party for reasons that include the other party having "care and control of a child of the marriage". This amendment deletes the words "and control" of a child.
(New section)	Addition of s 90SF(3)(aa)	The court is now legislatively required to consider the effect of any family violence (to which one party to the marriage subjected or exposed the other to) in the context of maintenance.
s 90SF(3)(c)	Repeal and adjustment of the existing s 90SF(3) consideration of a party having "care and control of a child of the marriage".	The consideration is the extent to which either party has the care of a child of the de facto relationship (under 18 years) including the need to provide appropriate housing for such a child.
s 90SF(3)(r)	The existing s 90SF(3)(r) is moved to s 90SF(3)(u) and slightly reworded from "any fact	This change is primarily to the subsection number, not its content.

Old section	*Change*	*What's changed?*
	or circumstance…" to "any other fact or circumstance…".	
s 90SM(1)	An amendment to s 90SM(1) to refer to the new s 90SM(6) (as to companion animals).	Slight amendment to note companion animals must be considered under the new s 90SM(6).
s 90SM(2)	The section previously stated that an order made in de facto property settlement proceedings may be enforced by or against the estate of a deceased spouse.	The section has been moved to the new s 90SMA(2) (below).
(New section)	Slight re-number of s 90SM	The amendment act moves what was s90SM(3) (that the Court must not make an order unless it is satisfied that it is just and equitable to do so) to s 90SM(2).
(New section)	Addition of s 90SM(3)	The court is now legislatively required to identify the existing legal and equitable rights and interests in any property of the parties; liabilities of the parties' and then consider subsections s 90SM(4) (as to contributions) and s 90SM(5) (as to current and future circumstances).
ss 90SF(4)(a), 90SF(4)(b) & 90SF(4)(c)	An amendment that the Court is to consider each of s90SM(4)(a) (financial contributions); s 90SM(4)(b) (contributions other than financial contributions); and s90SM(4)(c) (family welfare contributions) "so far as they are relevant".	Whereas the existing act mandates consideration of each of s 90SF(4) subsection, the amendment says that each s 90SF(4) subsection is to be considered "so far as they are relevant".
(New section)	Addition of s 90SF(4)(ca)	The court is now legislatively required to consider the effect of any family violence (to which one party to the marriage

Old section	*Change*	*What's changed?*
		subjected or exposed the other to) on the ability of a party to make contributions.
s 90SF(4)(e)	Repealed and replaced with s 90SM(4)	The existing s 90SM(4) requires the Court to consider s 90SF(3) factors at s 90SM(4)(e). The pathway for the court to consider what was s90SF(3) factors has changed, that pathway now being via s 90SM(3) (above) & s 90SM(5) (below).
(New section)	s 90SM(5) - This is a new section to be considered in each property matter, which expands upon what previously was to be considered via s 75(2) of the Act.	New considerations include the effect of family violence on the current and future circumstances of a party; the effect of material wastage (caused intentionally or recklessly); and any liabilities incurred by either of the parties.
(New section)	Addition of s 90SM(6)	The court can now order one of three things (either on an interim or final basis) as to a companion animal: i) that only one party have ownership of the animal; ii) that the animal be transferred; iii) the animal be sold. There is no provision for "time" or "visitation" style orders.
(New section)	Addition of s 90SM(7)	This section sets out considerations as to companion animal orders, including acquisition arrangements, ownership, possession, family violence/cruelty, attachment (including attachment of a child) and demonstrated ability to care for the animal.

Old section	*Change*	*What's changed?*
(New section)	Addition of s 90SMA	This section accommodates existing sections, that were previously at ss 90SM(5) – (20). So the s 90SM subsections as to the effect of an order after death, adjournments, bankruptcy, a mandatory conference, intervention by creditors and personal insolvency agreements have effectively "moved" and are now in s 90SMA.
(New section)	Addition of s 90YJA	This section codifies the duty of disclosure in respect of WA superannuation matters.
(New section)	s 90YZD(4)(ca) – New consideration has been added (in the context of super splitting orders).	The court is now legislatively required to consider the effect of any family violence (to which one party to the marriage subjected or exposed the other to) in the context of super splitting orders.
s 90YZD(4)(e)(iii)	Slight change to the consideration of care of a child under the age of 18 (in the context of super splitting orders).	The current act says a consideration is whether either party has "care and control of a child of the subject de facto relationship". This amendment adds either party's need to provide housing for such a child.
(New section)	s 90YZD(4)(e) – Two new considerations have been added (in the context of super splitting orders).	New considerations include the effect of family violence on the current and future circumstances of a party; the effect of material wastage (caused intentionally or recklessly); and any liabilities incurred by either of the parties.

Old section	*Change*	*What's changed?*
s 98A	Section 98A(1)(b) and 98A(2A) are amended.	The amendments facilitate undefended divorce applications to be heard in the absence of an appearance, irrespective of whether there are children.
(New section)	Addition of s 102BA as to a 'protected confidence'	The new section defines a 'protected confidence' as being a communication made to a profession person/service in circumstances where that person (the confidant) is under an obligation to not disclose the communication.
(New section)	Addition of s 102BB as to a 'professional service'	The new section defines a professional service as a health service, or specialist service in relation to sexual assault or family violence.
(New sections)	Addition of ss 102BC, 102BD & 102BE	These new sections enable applications to restrict evidence or disclosure of 'protected confidences' (see above). The court can also make an order of its own volition. The grounds for such an order are: i) that it is likely that harm would or might be caused to the confiding person or a child to whom the proceedings relate; and ii) the nature and extent of harm outweighs the desirability of adducing/disclosing the evidence.
(New section)	Addition of s 102BF	The new section says that the court is not to use its discretion as to not adducing evidence under ss 102BC or 102BD

Old section	*Change*	*What's changed?*
		(above) if the confiding person is over 18 and consents.
Division 12A (ss 69ZM – 69ZX)	The Division has been repealed. This division previously contained s 69ZN (Principles for conducting child-related proceedings); s 69ZR (Power to make determinations/findings at any stage of proceedings); and s 69ZT (Rules of evidence not to apply unless the court decides).	These powers are moved to Division 4 in Part XI of the Act – comprising of new ss 102ND – 102NN (below).
(New section)	Addition of s 102ND	The new section explains that the principles in s 102NE (below), duties of the court in s 102NH (below), powers of the court in s 102NJ (below) and matters relating to evidence in s 102NL (below) apply in all parenting matters; and in all parenting matters that include property proceedings, either if the parties consent or the Court orders the division to apply.
(New section)	Addition of s 102NE	The 5 principles in the existing s 69ZN are effectively "moved" to this section.
(New section)	Addition of s 102NF	Section 69ZO currently provides that the 5 principles apply to proceedings in chambers, which is "moved" to this new section.
(New section)	Addition of s 102NH	The general duties of the court in s 69ZQ are "moved" to this new section.
(New section)	Addition of s 102NJ	The power to make determinations, findings and orders at any stage of

Old section	*Change*	*What's changed?*
		proceedings at s 69ZR of the Act are "moved" to this new section.
(New section)	Addition of s 102NK	The power to appoint a family consultant in s 69ZS are "moved" to this new section.
(New section)	Addition of s 102NL	The exclusion of the rules of evidence (including as to examination in chief, documents, hearsay, opinion, credibility and admissions) are "moved" to this new section.
(New section)	Addition of s 102NM	The exception to hearsay evidence if a representation by a child in s 69ZV is "moved" to this new section.
(New section)	Addition of s 102NN	The Court's powers as to evidence to give effect to the 5 principles, currently in s 69ZX are "moved" to this new section.
(New part)	Repeal of ss117, 117AA and 117AC that are replaced with "Part XIVC – Costs"	The new Part retains that each party pay their own costs save for if, in the opinion of the court, there are circumstances that justify a costs order.
(New section)	Addition of s 114UB	The new section provides that each party pay their own costs and lists considerations for costs orders that largely reflect the existing s117(2A) factors.
(New section)	Addition of s114UC	The new section empowers the court to order that each party pay the costs of an independent children's lawyer or litigation guardian; but such an order is not to be made against a party in receipt of legal aid or would suffer

Old section	*Change*	*What's changed?*
		financial hardship. The section also limits costs orders against intervention officers or litigation guardians.
(New sections)	Addition of ss 114UD & 114UE	These sections limit costs in respect of overseas enforcement and interventional convention matters.

Review of changes - The Amendment Act requires a review of the amendments to commence in June 2028.

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