

# Family Law

Assessment Criteria 2023



## Specialist Accreditation

*Distinction in law*



## TABLE OF CONTENTS

<b>1. INTRODUCTION .....</b>	<b>3</b>
<b>2. CONTACT DETAILS .....</b>	<b>3</b>
<b>3. ASSESSMENT PROGRAM.....</b>	<b>3</b>
<b>4. CORE AREAS OF KNOWLEDGE .....</b>	<b>7</b>
4.1 <i>DIVORCE</i> .....	10
4.2 <i>NULLITY</i> .....	11
4.3 <i>CHILDREN</i> .....	11
4.4 <i>SPOUSAL MAINTENANCE</i> .....	23
4.5 <i>CHILD MAINTENANCE AND SUPPORT</i> .....	25
4.6 <i>FINANCIAL AGREEMENTS</i> .....	27
4.7 <i>DE FACTO RELATIONSHIPS</i> .....	30
4.8 <i>PROPERTY</i> .....	31
4.9 <i>INJUNCTIONS</i> .....	40
4.10 <i>EVIDENCE</i> .....	43
4.11 <i>ENFORCEMENT</i> .....	44
4.12 <i>COSTS</i> .....	44
4.13 <i>REVIEWS/APPEALS/TRANSFERS</i> .....	46
4.14 <i>INHERENT, ASSOCIATED AND ACCRUED JURISDICTION</i> .....	48

4.15	<i>FAMILY VIOLENCE</i> .....	49
4.16	<i>INDIVIDUAL STATE JURISDICTIONS</i> .....	50
4.17	<i>COURT PROCESSES</i> .....	50
<b>5.</b>	<b>RELATED LEGISLATION &amp; OTHER MATERIALS .....</b>	<b>51</b>
5.1	<i>COMMONWEALTH LEGISLATION</i> .....	52
5.2	<i>RELATED PROCEDURES FAMILY COURT</i> .....	53
5.3	<i>NSW LEGISLATION .....</i>	54
5.4	<i>QUEENSLAND LEGISLATION</i> .....	54
5.5	<i>SOUTH AUSTRALIAN LEGISLATION .....</i>	54
5.6	<i>VICTORIAN LEGISLATION .....</i>	55
5.7	<i>WESTERN AUSTRALIAN LEGISLATION .....</i>	55
5.8	<i>RELATED GUIDELINES .....</i>	56

## **1. INTRODUCTION**

The 2023 Family Law Specialist Accreditation Assessment Criteria is designed to assist practitioners to understand, prepare for and undertake the assessment specific to this area of accreditation. This document is to be read in conjunction with the Specialist Accreditation Scheme Candidate Handbook which contains the policies and procedures relevant to all areas of accreditation.

## **2. CONTACT DETAILS**

Please address all enquiries regarding specialist accreditation in family law to the QLS Specialist Accreditation team at [spec@qls.com.au](mailto:spec@qls.com.au).

## **3. ASSESSMENT PROGRAM**

Performance Outcomes:

Specialist Accreditation is a structured assessment process which requires the Candidate to draw on their existing knowledge and skills to demonstrate their competency and expertise in their chosen area of law. Candidates must successfully complete the prescribed assessment program set out in this section to be awarded specialist accreditation in this area of accreditation. Practitioners wishing to be accredited should be able to:

- a. perform at a high standard which is expected of practitioners wishing to hold themselves out as specialists in the area, and
- b. display a high standard of knowledge of the law and procedure which underpins the performance of tasks in this area of practice.

Specific assessment criteria and performance outcomes are listed under the details of individual assessments that follow. The assessment program for specialist accreditation in Family Law is comprised of three assessments.

- 1. Take Home Assignment**
- 2. Written Examination**
- 3. Simulated Client Interview**

To gain accreditation, candidates must meet the standard of accreditation in each of the three assessments of the assessment program. Candidates will be advised of what constitutes the standard of accreditation in the assessment instructions. Candidates will be assessed on the law as it stands on the date of the assessment.

**IMPORTANT NOTICE:** QLS and the Advisory Committee reserve the right to alter or modify any of the exam conditions, as required, and with advance notice to candidates.

### 3.1. Take Home Assignment (Online via Canvas)

<b>Assessment Release Date: June</b>	TBA by the Specialist Accreditation Team via Canvas
<b>Assessment Due Date: June</b>	TBA by the Specialist Accreditation Team via Canvas

Candidates may be required to prepare an advice for a client in the form of a letter and prepare appropriate court documents with respect to the various issues raised. This is likely to include an initiating application and relevant supporting Affidavit(s) but may also or alternatively require the drafting of an agreement such as a Binding Child Support Agreement, Financial Agreement or Parenting Plan.

The examiners will assess communication skills as well as legal knowledge.

#### *Take Home Assignment Conditions*

- Candidates may use the resources of their offices in completing this exercise. **Candidates will face automatic disqualification from the accreditation program if any assessment material is referred to counsel or any other person for opinion or assistance.**
- Submissions received after the due date will not be assessed. Candidates should refer to the appropriate section of the Specialist Accreditation Scheme Candidate Handbook if they experience a problem completing the assessment by the due date.
- No reference or marks which may identify the candidate or their firm should appear anywhere in the candidate's work.

#### *Assessment Criteria*

Candidates will be assessed on their:

- ability to identify relevant issues from the materials provided
- depth of knowledge of the law and skill in applying that knowledge to the given fact situation
- ability to provide practical, clear and accurate written advice
- skills in interpreting and drafting documents

### 3.2. Written Examination (Online via Canvas)

<b>Examination Date:</b>	Saturday, 29 July 2023
<b>Conduct / Delivery:</b>	This assessment will be conducted via QLS online Learning Management System – Canvas. Further update will be provided by the Specialist Accreditation Team via Canvas.

#### ***Conduct / Delivery of Exam***

The Written Exam will be conducted via our Learning Management System – Canvas.

The QLS Specialist Accreditation Team will inform candidates about the conduct / delivery of the Written Exam in advance of the assessment date.

#### ***Examination conditions***

- The duration will be 3 hours and 30 minutes.
- Further guidance will be provided in advance of the examination, as to the written and/or electronic reference material which candidates may access during the examination.
- Answers must be typed out using the allocated text box on Canvas
- The exam will be invigilated by QLS invigilators, and candidates will need to consent to all invigilation instructions in order to sit the exam online.

**Note:** Queensland Law Society will take no responsibility for any issues experienced on electronic devices during the written examination. Malfunctioning of electronic devices during the written examination will not constitute grounds for a special consideration application.

#### ***Assessment Criteria***

Candidates will be assessed on their:

- ability to identify relevant issues from a given fact situation
- depth of knowledge of the law and skill in applying that knowledge to the given fact situation
- knowledge of procedural rules and practices
- ability to provide practical, clear and accurate advice

### 3.3. Simulated Client Interview (Online via Microsoft Teams)

<b>Date:</b>	Sunday, 30 July 2023
<b>Time:</b>	Individual appointments will be allocated by the Specialist Accreditation Team.

The candidate will conduct a simulated first interview with a person acting in the role of a client. The exercise will take up to 60 minutes and will be recorded for the purposes of assessment.

This simulated interview is intended to assess a wide range of performance standards, including those relating to interaction between the solicitor and client, taking instructions and giving advice, terms of engagement, assessing facts and legal options, canvassing the options with the client and developing the initial plan.

The candidate may (but is not required to) bring written material to the interview including instruction sheets or notes. Any file note prepared as part of the simulated interview will not form part of the final assessment for this examination component.

The candidate is expected to demonstrate a clear ability to take and receive instructions, deliver preliminary advice and provide information to the "client" in a manner which satisfies the assessment criteria, core knowledge and the performance standards.

### *Assessment Criteria*

Candidates will be assessed on the following performance standards:

- gathering facts and assessing instructions
- advising
- rapport, empathy, attitude
- communicating clearly and appropriately.

A sound knowledge of the relevant law, rules and procedures will also be required.

## **4. CORE AREAS OF KNOWLEDGE**

Candidates will be expected to display a high standard of knowledge of:

- (a) the Family Law Act 1975;
- (b) the *Federal Circuit and Family Court of Australia Act 2021*;
- (c) the Federal Circuit and Family Court of Australia (Family Law) Rules 2021;
- (d) the Central Practice Direction and subject specific practice directions issued by the Chief Justice of the Federal Circuit and Family Court of Australia as at 28 November 2022;<sup>1</sup>
- (e) the *Child Support (Assessment) Act 1989*;
- (f) the *Child Support (Registration and Collection) Act 1988*;
- (g) other relevant legislation and case law, including:
  - (i) the core knowledge areas set out in the FLSA Assessment Criteria 2023;



- (ii) state legislation relating to:
  - (A) domestic and family violence;
  - (B) children and child protection;
  - (C) special medical procedures;
  - (D) professional responsibilities; and
  - (E) the intersection between state and federal legislation.

The contents of this section (updated as at December 2022) should not be taken to be exhaustive but rather indicative of the range of matters which could be expected to be assessed in as part of the assessment program.

Candidates will be assessed on the law as it stands on the date of assessment. It will be presumed that Candidates will have kept abreast of any proposed legislative or practice changes that may have come into effect prior to the due date of the first item of assessment.

Candidates will be expected to be able to:

- (a) address complex issues that might arise in any of the core knowledge areas;
- (b) identify relevant issues and problems from the fact scenarios provided;
- (c) provide practical, clear, and accurate advice both orally and in writing;
- (d) draft documents in accordance with relevant procedural rules, principles, and practice directions, and
- (e) demonstrate adherence to the ethical and professional 'best practice' of family law.

#### **Important Note**

**The case law and legislative provisions contained in the Assessment Criteria for 2023 are provided by way of *guideline assistance only*.**

**In the event that:**

- 1. any new legislative provisions or practice directions of the Court become effective before the date of assessment; or**
- 2. new cases are delivered;**

**Candidates will be required to be aware of the changes to the law resulting from new legislative provisions or cases.**

Legislative references or rules are references to the *Family Law Act 1975* or the *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* unless otherwise stated.

TOPIC AREA	CORE KNOWLEDGE TO BE ASSESSED
<b>4.1 DIVORCE</b>	
<b>Jurisdiction</b>	
<b>Ground</b>	<ul style="list-style-type: none"> <li>▪ section 48</li> <li>▪ meaning of separation (including separation under one roof): section 49 <ul style="list-style-type: none"> <li>- <i>Hedley &amp; Hedley</i> [2009] FamCAFC 179; FLC 93-413</li> <li>- <i>Stanford &amp; Stanford</i> (2012) 247 CLR 108</li> </ul> </li> <li>▪ effect of resumption of cohabitation: section 50</li> <li>▪ requirements where marriage less than two years: section 44 (1B)</li> <li>▪ capacity to separate <ul style="list-style-type: none"> <li>- <i>Price and Underwood</i> (2008) FamLR 614</li> <li>- <i>Price and Underwood (Divorce Appeal)</i> FC decision</li> </ul> </li> </ul>
<b>Declarations</b>	<ul style="list-style-type: none"> <li>▪ Children: section 55A</li> </ul>
<b>Effect on Testamentary Instruments and Powers of Attorney</b>	<ul style="list-style-type: none"> <li>▪ <i>Succession Act 1981</i> (Qld) <ul style="list-style-type: none"> <li>- <i>Sections 14 and 14A</i></li> <li>- <i>Sections 15 to 15B</i></li> </ul> </li> <li>▪ <i>Powers of Attorney Act 1998</i> (Qld) <ul style="list-style-type: none"> <li>- <i>Sections 52 to 53A</i></li> </ul> </li> </ul>
<b>Time limits for property and maintenance applications</b>	<ul style="list-style-type: none"> <li>▪ Section 44(3) <ul style="list-style-type: none"> <li>- <i>Anderson &amp; McIntosh</i> [2013] FamCAFC 200</li> </ul> </li> </ul>
<b>Applications for leave to institute proceedings out of time</b>	<ul style="list-style-type: none"> <li>▪ Section 44(3B)</li> <li>▪ Section 44(6) <ul style="list-style-type: none"> <li>- <i>In the Marriage of Whitford</i> (1979) 24 FLC 90-162</li> <li>- <i>Hedley</i> (2009). (Note: section 44(2) now repealed – <i>Hedley</i> still relevant in relation to conduct of s44(3) proceedings).</li> </ul> </li> </ul>
<b>Effect of fraud</b>	<ul style="list-style-type: none"> <li>▪ <i>Walton &amp; Esposito</i> [2016] FamCA 336</li> </ul>
<b>FCFCoA Practice Direction</b>	<ul style="list-style-type: none"> <li>▪ Divorce Proceedings (FAM-DIVORCE) issued 7 September 2022</li> </ul>

## 4.2 NULLITY

Grounds for nullity and consequences of nullity decrees

- *Nagri v Chapal* [2012] FamCA 464
- *Attorney-General (Cth) v Kevin and Jennifer* [2003] FamCA 94
- *Thang & Lua* [2019] FamCA 195

FCFCoA Practice Direction

- Nullity and Validity of Marriage Proceedings (FAM-NULLITY) issued 1 September 2021

## 4.3 CHILDREN

### 4.3.1 Dispute Resolution

Confidentiality re counselling and family dispute resolution

- Sections 10D and 10H
  - *Unitingcare – Unifam Counselling & Mediation & Harkiss & Anor* [2011] FamCAFC 159; (2011) 46 Fam LR 12
  - *Smith & Duke* [2015] FamCA 990
  - *In the Marriage of Lace* (1981) FLC 91-080
  - *Choat & Grendel* [2018] FamCA 579

Admissibility of statement made in counselling and family dispute resolution

- Sections 10E and 10J
  - *Unitingcare – Unifam Counselling & Mediation & Harkiss & Anor* [2011] FamCAFC 159; (2011) 46 Fam LR 12
  - *N and G* [2008] FCWA 61 at [23]

Definition of “family dispute resolution”

- Section 10F

Definition of “family dispute resolution practitioner”

- Section 10G

Regulations relating to Family Dispute Resolution Practitioners

- *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (Cth): regulation 25(2)

Role of Family Relationship Centres

- [www.familyrelationships.gov.au/talk-someone/centres](http://www.familyrelationships.gov.au/talk-someone/centres)

Advisor’s obligations

- Section 63DA
- Section 60D

Pre-filing dispute resolution requirements and exceptions

- section 60I
- Central Practice Direction as at 28 November 2022

	<ul style="list-style-type: none"> <li>Pre-action Procedures - Schedule 1 FCFCoA Rules <ul style="list-style-type: none"> <li><i>Palmer &amp; Styles</i> [2015] FamCA 58</li> <li><i>Valack &amp; Valack</i> [2020] FCCA1354</li> <li><i>Ellwood &amp; Ravenhill</i> [2019] FamCAFC 153</li> <li><i>Conlon</i> [2019] FCCA 2195</li> </ul> </li> </ul>
<b>Family dispute resolution not attended because of child abuse or family violence</b>	<ul style="list-style-type: none"> <li>section 60J <ul style="list-style-type: none"> <li><i>KMA &amp; SAN &amp; Anor</i> [2008] FamCA 1211;</li> <li><i>Colson &amp; Olds</i> [2007] FamCA 668;</li> <li><i>McDougall v McDougall</i> [2017] FCCA 2907</li> </ul> </li> </ul>
<b>Arbitration</b>	<ul style="list-style-type: none"> <li>Sections 10L to 10P</li> <li>Sections 13E to 13K</li> </ul>
<b>4.3.2 Jurisdictional requirements and discretion to exercise jurisdiction</b>	
<b>Standing</b>	<ul style="list-style-type: none"> <li>Who may apply for a parenting order: section 65C <ul style="list-style-type: none"> <li><i>Aldridge &amp; Keaton</i> [2009] FamCAFC 229 at [54]; (2009) FLC 93-421;</li> <li><i>Bemert &amp; Swallow</i> [2009] FamCA 5 at [219]-[220] and on appeal <i>Bemert &amp; Swallow</i> [2010] FamCAFC 100; (2010) FLC 93-441;</li> <li><i>Mankiewicz &amp; Anor &amp; Swallow &amp; Anor</i> [2016] FamCAFC 153;</li> <li><i>KAM &amp; MJR &amp; Anor</i> [1998] FamCA 1896; [1999] FLC 82-847;</li> <li><i>Wilson and Anor &amp; Roberts and Anor (No. 2)</i> [2010] FamCA 734</li> </ul> </li> <li>Who may institute proceedings: section 69C <ul style="list-style-type: none"> <li><i>Tomas and Anor &amp; Murray</i> [2011] FamCA 641</li> <li><i>Murray &amp; Tomas and Anor</i> [2011] FamCA 433</li> <li><i>Beck and Anor &amp; Whitby and Anor</i> [2012] FamCA 120</li> <li><i>Burton v Churchin</i> [2013] FamCAFC 180;</li> </ul> </li> </ul>
<b>Limits as to jurisdiction</b>	<ul style="list-style-type: none"> <li><i>Re F; ex parte F</i> (1986) 161 CLR 376 (judgment of Mason and Deane JJ)</li> </ul>
<b>Jurisdiction for parenting orders over child in foreign country</b>	<ul style="list-style-type: none"> <li><i>Mendelson &amp; Kerner</i> [2018] FCCA 3344</li> <li><i>Chandra &amp; Chandra</i> [2017] FCCA 451</li> </ul>
<b>Forum Non Conveniens in Children's matters</b>	<ul style="list-style-type: none"> <li><i>ZP v PS</i> [1994] HCA 29</li> <li><i>Voth v Manildra Flour Mills Pty Ltd</i> [1990] HCA 55</li> <li><i>Henry v Henry</i> [1996] HCA 51</li> <li><i>B &amp; B (Re Jurisdiction)</i> [2003] FamCA 105;</li> <li><i>Clayton v Bant</i> [2020] HCA 44</li> </ul>

<b>Definition of “parent”</b>	<ul style="list-style-type: none"> <li>▪ Sections 60H, 60HA, and 60HB <ul style="list-style-type: none"> <li>- <i>Aldridge &amp; Keaton</i> [2009] FamCAFC 229 at [54]; (2009) FLC 93-421</li> <li>- <i>Re Mark: an Application Relating to Parental Responsibilities</i> [2003] FamCA 822; (2003) FLC 93-173;</li> <li>- <i>Masson &amp; Parsons</i> [2019] HCA 21</li> </ul> </li> </ul>
<b>Court’s power to make parenting order</b>	<ul style="list-style-type: none"> <li>▪ Section 65D(1) <ul style="list-style-type: none"> <li>- <i>Doherty &amp; Doherty</i> [2016] FamCAFC 182</li> <li>- <i>Corelli &amp; Gunther</i> [2015] FamCA 81</li> </ul> </li> </ul>
<b>Court’s approach to making of parenting orders</b>	<ul style="list-style-type: none"> <li>▪ <i>MRR v GR</i> (2010) 240 CLR 461; [2010] FLC 93-424;</li> <li>▪ <i>Wing v Choi</i> [2013] FamCA 323</li> <li>▪ <i>Maldera &amp; Orbel</i> (2014) FLC 93-602</li> <li>▪</li> </ul>
<b>Meaning of “parenting order” and matters parenting orders can deal with</b>	<ul style="list-style-type: none"> <li>▪ Section 64B <ul style="list-style-type: none"> <li>- <i>Kay &amp; Jasper and Ors</i> [2007] FamCA 1646;</li> </ul> </li> </ul>
<b>Whom parenting orders may be made in favour of</b>	<ul style="list-style-type: none"> <li>▪ section 64C</li> </ul>
<b>Types of children parenting orders can deal with</b>	<ul style="list-style-type: none"> <li>▪ section 65H</li> </ul>
<b>Parenting orders may be subject to later parenting plans</b>	<ul style="list-style-type: none"> <li>▪ Section 64D <ul style="list-style-type: none"> <li>- <i>Banks &amp; Banks</i> [2012] FamCA 158</li> </ul> </li> </ul>
<b>Effect of death on parenting orders</b>	<ul style="list-style-type: none"> <li>▪ section 65K <ul style="list-style-type: none"> <li>- <i>Feranti &amp; Connor</i> [2010] FamCA 71</li> <li>- <i>Leicester &amp; Blackett and Anor</i> [2016] FamCA 228</li> <li>- <i>B- and B- (Re Jurisdiction)</i> [2003] FamCA 105; (2003) FLC 93-136</li> <li>- <i>EJK v TSL</i> [2006] FamCA 730; (2006) FLC 93-287</li> </ul> </li> </ul>
<b>Whether Family Court of WA lacks jurisdiction and power to determine claim involving third party and make a declaration pursuant to Part VIIIAA of <i>Family Law Act 1975</i>; Whether FCWA has accrued jurisdiction.</b>	<ul style="list-style-type: none"> <li>▪ <i>Camden Pty Ltd &amp; Laue and Ors</i> [2018] FamCAFC 91</li> </ul>

#### 4.3.3 Parental Responsibility – Part VII, Division 2

<b>Meaning</b>	<ul style="list-style-type: none"> <li>▪ Section 61B</li> <li>▪ Section 61C</li> <li>▪ Section 61D</li> <li>▪ Section 61DA</li> <li>▪ Section 61E</li> </ul>
<b>Effect of parenting order that provides for shared parental responsibility</b>	<ul style="list-style-type: none"> <li>▪ Section 65DAC</li> </ul>
<b>How to approach the task of drafting orders for parental responsibility</b>	<ul style="list-style-type: none"> <li>▪ <i>Pavli v Beffa</i> [2013] FamCA 144;</li> </ul>
<b>A parent to have no parental responsibility</b>	<ul style="list-style-type: none"> <li>▪ <i>Modlin v Anstead</i> [2013] FamCA 955;</li> </ul>
<b>Difference between obligations regarding day-to-day issues and “major long-term issues”</b>	<ul style="list-style-type: none"> <li>▪ Section 65DAE <ul style="list-style-type: none"> <li>- <i>VR &amp; RR</i> [2016] FamCA 793</li> </ul> </li> </ul>
<b>Definition of “major long-term issues”</b>	<ul style="list-style-type: none"> <li>▪ Section 4 <ul style="list-style-type: none"> <li>- <i>Chappell</i> [2008] FamCAFC 143</li> <li>- <i>Withers &amp; Russell and Anor</i> [2016] FamCA 793</li> </ul> </li> </ul>
<b>Different consultation requirements for day-to-day issues and major long-term issues</b>	<ul style="list-style-type: none"> <li>▪ Section 65DAE <ul style="list-style-type: none"> <li>- <i>VR &amp; RR</i> [2002] FamCA 320</li> <li>- <i>B v B</i> (1997) FLC 92-755</li> <li>- <i>Goode &amp; Goode</i> [2006] FamCA 1346</li> <li>- <i>Goode v Goode</i> (2006) FLC 93-286</li> <li>- <i>Masson and Parsons</i> [2019] HCA 21</li> </ul> </li> </ul>
<b>Shared parental responsibility despite presumption not applying</b>	<ul style="list-style-type: none"> <li>▪ <i>Goode (No. 2)</i> [2007] FamCA 315</li> <li>▪ <i>Bookhurst</i> [2009] FamCA 6</li> <li>▪ <i>Pilcher &amp; Schneider</i> [2007] FMCAfam 1163</li> <li>▪ <i>Muldoon &amp; Carlyle</i> (2012) FLC ¶93-513;</li> </ul>

#### 4.3.4 Parenting orders: general principles – Part VII, Div 5

<b>Pre-action procedures and exceptions</b>	<ul style="list-style-type: none"> <li>▪ Rule 4.01</li> <li>▪ Schedule 1 of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth)</li> </ul>
---	--

<b>Considerations for interim and final orders</b>	<ul style="list-style-type: none"> <li>▪ <i>Goode &amp; Goode</i> [2006] FamCA 1346; [2006] FLC 93-286</li> <li>▪ <i>C &amp; B</i> [2007] FMCAfam 855</li> </ul>
<b>Best interests of children as paramount consideration</b>	<ul style="list-style-type: none"> <li>▪ Section 60B</li> <li>▪ Section 60CA</li> <li>▪ Section 60CC</li> <li>▪ Section 61DA</li> <li>▪ Section 65AA</li> <li>▪ Section 65DAA <ul style="list-style-type: none"> <li>- <i>Taylor and Taylor</i> (1996) FLC 92-661;</li> <li>- <i>T &amp; S</i> [2001] FamCA 1147; (2001) FLC 93-086</li> <li>- <i>AMS v AIF</i> [1999] 199 CLR 160</li> </ul> </li> </ul>
<b>Relationship between section 60B and section 60CC</b>	<ul style="list-style-type: none"> <li>▪ <i>Goode and Goode</i> [2006] FamCA 1346; [2006] FLC 93-286.</li> </ul>
<b>Objects and principles</b>	<ul style="list-style-type: none"> <li>▪ Section 60B</li> </ul>
<b>Relevant best interest factors</b>	<ul style="list-style-type: none"> <li>▪ Section 60CC - primary and additional considerations <ul style="list-style-type: none"> <li>- <i>Aldridge v Keaton</i> (2009) FLC 93-421</li> <li>- <i>Slater &amp; Light</i> [2011] FamCAFC 1.</li> </ul> </li> </ul>
<b>How the court must apply the primary considerations</b>	<ul style="list-style-type: none"> <li>▪ Section 60CC(2A)</li> </ul>
<b>Presumption of equal shared parental responsibility</b>	<ul style="list-style-type: none"> <li>▪ Section 61DA; <ul style="list-style-type: none"> <li>- <i>Goode (No. 2)</i> (above).</li> </ul> </li> </ul>
<b>Approach of court to these sections and obligation for court to work through primary and additional considerations in section 60CC, prior to considering whether section 61DA presumption applies, does not apply or is rebutted</b>	<ul style="list-style-type: none"> <li>▪ <i>Goode and Goode</i> (supra);</li> <li>▪ <i>Taylor &amp; Barker</i> [2007] FamCA 1246, [2007] FLC 93-345</li> <li>▪ <i>In the Marriage of: Dennis Owen Brown Appellant/Husband and Leanne Faye Pedersen Respondant/Wife</i> [1991] FamCA 84; (1992) FLC ¶92-271;</li> <li>▪ <i>Dundas &amp; Blake</i> [2013] FamCAFC 133; [2013] FLC 93-552.</li> </ul>
<b>Discussion of “meaningful relationship”</b>	<ul style="list-style-type: none"> <li>▪ <i>G &amp; C</i> [2006] FamCA 994;</li> <li>▪ <i>Mazorski &amp; Albright</i> [2007] FamCA 520; (2007) 37 Fam LR 518;</li> <li>▪ <i>McCall &amp; Clark</i> [2009] FamCAFC 92; [2009] FLC 93-405;</li> <li>▪ <i>McCall &amp; Clark (No 3)</i> [2010] FMCAfam 1443;</li> <li>▪ <i>M &amp; L (Aboriginal Culture)</i> [2007] FamCA 396; [2007] 93-320;</li> </ul>



	<ul style="list-style-type: none"> <li>▪ <i>Marsden and Winch (No.3) [2007] FamCA 1364;</i></li> <li>▪ <i>Loddington &amp; Deringford (No. 2) [2008] FamCA 925.</i></li> </ul>	
<b>Where presumption applies, court's obligation to consider equal time and substantial and significant time</b>	<ul style="list-style-type: none"> <li>▪ Section 65DAA - what Court considers to determine whether appropriate;</li> <li>▪ Section 65DAA(3) and (5);</li> <li>▪ <i>Wainder &amp; Wainder [2011] FamCAFC 155; [2011] FLC ¶93-473.</i></li> </ul>	
<b>Interpretation of section 65DAA</b>	<ul style="list-style-type: none"> <li>▪ Steps for court to work through <ul style="list-style-type: none"> <li>- <i>MRR v GR (2010) 240 CLR 461</i></li> </ul> </li> </ul>	
<b>What is "substantial and significant time"</b>	<ul style="list-style-type: none"> <li>▪ Section 65DAA(3) <ul style="list-style-type: none"> <li>- <i>KML &amp; Rae [2006] FMCAfam 528</i></li> <li>- <i>Eddington (No. 2) [2007] FamCA 1299</i></li> <li>- <i>Ulster &amp; Viney [2016] FamCAFC 133</i></li> <li>- <i>Tibb &amp; Sheean [2018] FamCAFC 142</i></li> <li>- <i>Wendland &amp; Wendland (2017) FLC 93-808</i></li> </ul> </li> </ul>	
<b>Meaning of "reasonably practicable"</b>	<ul style="list-style-type: none"> <li>▪ <i>Gladstone &amp; Gladstone [2014] FamCAFC 185; (2014) FLC ¶93-608 at [52]-[65]</i></li> </ul>	
<b>Example of where presumption rebutted</b>	<ul style="list-style-type: none"> <li>▪ <i>H &amp; H [2007] FMCAfam 27</i></li> <li>▪ <i>Treloar &amp; Nepean [2009] FamCAFC 206; (2009) FLC 93-407</i></li> <li>▪ <i>Snell &amp; Bagley [2011] FMCAfam 526</i></li> <li>▪ <i>Gainforth &amp; Gainforth [2012] FamCAFC 24</i></li> <li>▪ <i>Luu &amp; Xia [2013] FMCAfam 35</i></li> <li>▪ <i>Marvel (No. 2) [2010] FamCAFC 101</i></li> <li>▪ <i>Nawaqaliva and Marshall (2006) FLC ¶93-296</i></li> </ul>	
<b>Court's power to make an order outside of what parties applied for</b>	<ul style="list-style-type: none"> <li>▪ <i>U v U (2002) 211 CLR 238; (2002) FLC ¶93-112</i></li> <li>▪ <i>Bolitho v Cohen (2005) FLC ¶93-224</i></li> </ul>	
<b>Principles in child-related proceedings</b>	<ul style="list-style-type: none"> <li>▪ Section 69ZN</li> <li>▪ Section 69ZQ</li> </ul>	
<b>Other issues concerning Parenting Orders – stay of proceedings pending appeal</b>	<ul style="list-style-type: none"> <li>▪ <i>Lockley &amp; Bardot [2016] FamCAFC 185</i></li> <li>▪ <i>Sarti and Anor &amp; Sarti (No. 2) (2020) FLC ¶93-993</i></li> </ul>	
<b>Section 60CC(3)(a) and children's views</b>	<ul style="list-style-type: none"> <li>▪ <i>Bondelmonte v Bondelmonte [2017] HCA 8; (2016) 259 CLR 662;</i></li> <li>▪ <i>R v R: Children's Wishes [2000] FamCA 43</i></li> <li>▪ <i>Re In the Marriage of R (Children's Wishes) [2002] FamCA 383;</i></li> </ul>	



	<ul style="list-style-type: none"> <li>▪ <i>Re: G: Children's schooling</i> [2000] FamCA 462;</li> <li>▪ <i>Sagilde &amp; Magee</i> [2018] FamCAFC 143.</li> </ul>
<b>Ways in which views can be put before the court</b>	<ul style="list-style-type: none"> <li>▪ Section 60CD</li> <li>▪ Section 60CE</li> </ul>
<b>Admissibility of statements by children</b>	<ul style="list-style-type: none"> <li>▪ See for understanding of case law context only Family Law Rules 2004 (Cth), see otherwise Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth) rule 8.10,</li> <li>▪ section 100B;</li> <li>▪ <i>Duarte and Anor &amp; Morse</i> (2019) FLC ¶93-902</li> </ul>
<b>How children's views should be considered and weighed:</b>	<ul style="list-style-type: none"> <li>▪ <i>H v W</i> [1995] FamCA 30; (1995) FLC ¶92-598;</li> <li>▪ <i>DT &amp; JT</i> [1999] FamCA 473</li> </ul>
<b>Section 65DAA</b>	<ul style="list-style-type: none"> <li>▪ Requirements for the Court to consider child spending equal time or substantial and significant time with each parent in certain circumstances</li> <li>▪ <i>Goldrick v. Goldrick</i> [2007] FamCA 1260</li> <li>▪ <i>Gallimore and Gallimore</i> [2018] FamCA 249</li> </ul>
<b>Family Reports and Child Expert Reports</b>	<ul style="list-style-type: none"> <li>▪ Section 62G <ul style="list-style-type: none"> <li>- <i>In the Marriage of Hall</i> (1979) 5 Fam LR 609;</li> <li>- <i>Gaines &amp; Gaines</i> [2013] FMCAfam 108;</li> <li>- <i>Makita (Australia) Pty Ltd v Sprowles</i> [2001] NSWCA 305</li> </ul> </li> </ul>
<b>Independent Children's Lawyer (ICL)</b>  <b>Instances in which an order for an ICL can be made and criteria for appointment</b>	<ul style="list-style-type: none"> <li>▪ Part VII, Division 10, sections 68L and 68LA</li> <li>▪ Criteria for appointment, power to removal ICL by the Court; and whether to do so</li> <li>▪ <i>Re K</i> (1994) FLC ¶92-461</li> <li>▪ <i>RCB v. Forrest</i> (2012) 48 Fam LR 236; [2012] HCA 47</li> <li>▪ <i>T v. L</i> (2000) FLC ¶93-056</li> </ul>
<b>Child abuse</b>	<ul style="list-style-type: none"> <li>▪ Definition of "abuse" <ul style="list-style-type: none"> <li>- section 4(1)</li> </ul> </li> <li>▪ Section 60CC(2)(b)</li> <li>▪ Section 67Z</li> <li>▪ Section 67ZA</li> <li>▪ Section 67ZBB</li> <li>▪ Definition of "interested person" <ul style="list-style-type: none"> <li>- section 67ZK</li> </ul> </li> <li>▪ Unfounded allegations</li> </ul>

	<ul style="list-style-type: none"> <li>- <i>L &amp; T [1999] FamCA 1699</i></li> <li>▪ Allegations of child abuse <ul style="list-style-type: none"> <li>- Part VII Division 8, subdivision D</li> </ul> </li> <li>▪ Unacceptable Risk Test <ul style="list-style-type: none"> <li>- <i>M v M (1988) 166 CLR 69</i>;</li> <li>- <i>N &amp; S and the Separate Representative [1995] FamCA 139</i></li> <li>- <i>Banks &amp; Banks [2015] FamCAFC 36</i></li> </ul> </li> <li>▪ Standard of proof <ul style="list-style-type: none"> <li>- <i>Sharwin &amp; Weldee [2012] FamCA 1081</i></li> <li>- <i>Re W (Sex Abuse: Standard of Proof) [2004] FamCA 768</i></li> <li>- <i>W and W (Abuse Allegations: unacceptable risk) (2005) FLC 93-235</i></li> <li>- <i>N and S (1996) FLC 92-665</i></li> <li>- Section 140 <i>Evidence Act 1995 (Cth)</i></li> </ul> </li> </ul>	
<b>Family Violence</b>	<ul style="list-style-type: none"> <li>▪ Definition of "family violence" <ul style="list-style-type: none"> <li>- Section 4AB(1)(3)</li> </ul> </li> <li>▪ Part VII Division 2 <ul style="list-style-type: none"> <li>- Section 60B(1)(b)</li> <li>- Section 60CC(2)(b)</li> <li>- Section 60CC(2A)</li> <li>- Section 60CC(3)(j) and (k);</li> <li>- section 67ZBA</li> <li>- section 67ZBB</li> <li>- <i>Hallett &amp; Malcolm &amp; Anor [2020] FCCA 835</i></li> <li>- <i>Rodelgo &amp; Blaine [2019] FamCAFC 73</i></li> <li>- <i>Sahrawi &amp; Hadrami [2018] FamCAFC 170</i></li> <li>- <i>Wilson &amp; Carter [2022] FedCFamC1F 216</i></li> <li>- <i>Carter &amp; Wilson [2023] FedCFamC1A 9</i></li> </ul> </li> <li>▪ Obligations of the Court making an order or granting an injunction inconsistent with an existing family violence order <ul style="list-style-type: none"> <li>- Section 68P</li> <li>- <i>Schieffer &amp; Schieffer [2013] FamCA 168</i></li> </ul> </li> <li>▪ Notice of abuse <ul style="list-style-type: none"> <li>- <i>In the Marriage of JG v BG (1994) FLC 92-515</i>;</li> <li>- <i>T v N [2003] FamCA 1129</i></li> </ul> </li> <li>▪ Obligation of practitioner to exercise their forensic judgment in making allegations of abuse in accordance with client's instructions</li> </ul>	

	- <i>Legal Services Commissioner v Cooper</i> [2016] QCAT 122	
<b>Long term Supervision Orders</b>	<ul style="list-style-type: none"> <li>▪ <i>Aitken &amp; Gladstone</i> [2020] FCCA 966</li> <li>▪ <i>Robins &amp; Ruddock</i> [2010] FamCA 35</li> <li>▪ <i>Napier &amp; Hepburn</i> [2006] FamCA 1316</li> <li>▪ <i>Champness &amp; Hansen</i> [2009] FamCAFC 96</li> <li>▪ <i>Malburon &amp; Waldlow</i> [2013] FamCAFC 191</li> <li>▪ <i>Slater &amp; Light</i> [2013] FamCAFC</li> <li>▪ <i>Gorman &amp; Huffman and Anor</i> [2016] FamCAFC 174</li> </ul>	
<b>Other issues</b>	<ul style="list-style-type: none"> <li>▪ Occupancy of home</li> <li>▪ Sexual orientation</li> <li>▪ Religion</li> <li>▪ Indigenous Cultural Identification and Connection</li> <li>▪ Splitting of siblings</li> <li>▪ “maternal factor”</li> <li>▪ “parental factor”</li> <li>▪ Surrogacy <ul style="list-style-type: none"> <li>- <i>Farnell &amp; Chanbua</i> [2016] FCWA 17 <ul style="list-style-type: none"> <li>▪ <i>What happened in the Baby Gammy surrogacy case?</i> <i>Michael Nicholls QC</i> (2016) 6 Fam L Rev 209 <a href="https://icl.gov.au/wp-content/uploads/2017/04/Nicholls-2016-6-Fam-L-Rev-209.pdf">https://icl.gov.au/wp-content/uploads/2017/04/Nicholls-2016-6-Fam-L-Rev-209.pdf</a></li> </ul> </li> <li>- <i>Ellison and Anor &amp; Karnchanit</i> [2012] FamCA 602</li> <li>- <i>Mason &amp; Mason and Anor</i> [2013] FamCA 424</li> <li>- <i>Shaw &amp; Lamb and Ors</i> [2018] FamCAFC 42</li> <li>- <i>Bernieres and Anor &amp; Dhopal and Anor</i> [2017] FamCAFC 180</li> </ul> </li> <li>▪ Families and sperm donor fathers <ul style="list-style-type: none"> <li>- <i>Groth and Banks</i> [2013] FCA 340;</li> <li>- <i>Masson and Parsons</i> [2019] HCA 21</li> </ul> </li> <li>▪ Schooling</li> <li>▪ Change of name <ul style="list-style-type: none"> <li>- <i>Darley &amp; Darley</i> [2016] FamCAFC 10</li> </ul> </li> <li>▪ Use and admissibility of academic opinion <ul style="list-style-type: none"> <li>- <i>McGregor &amp; McGregor</i> [2012] FamCAFC 69</li> </ul> </li> <li>▪ Family violence – intersection between different jurisdictions</li> <li>▪ Child’s passport <ul style="list-style-type: none"> <li>- <i>Re: child’s passport application</i> [2008] FMCAfam 1031;</li> </ul> </li> <li>▪ Related to the child or not <ul style="list-style-type: none"> <li>- <i>Maldera and Orbel</i> [2014] FamCAFC 135</li> </ul> </li> <li>▪ Vexatious proceedings</li> </ul>	

	<ul style="list-style-type: none"> <li>- Section 102QB</li> <li>- <i>Mankiewicz and Anor &amp; Swallow and Anor</i> [2016] FamCAFC 153</li> <li>▪ Stay of proceedings pending appeal <ul style="list-style-type: none"> <li>- <i>Lockley &amp; Bardot</i> (2016) FamCAFC 185</li> </ul> </li> </ul>
<b>4.3.5 Relocation</b>	
<b>Definition of “major long-term issues”</b>	<ul style="list-style-type: none"> <li>▪ <i>Section 4</i> <ul style="list-style-type: none"> <li>- <i>A v A: Relocation Approach</i> [2000] FamCA 751</li> <li>- <i>Hendy &amp; Penningh</i> [2018] FamCAFC 257</li> <li>- <i>Oswald &amp; Karrington</i> [2016] FamCAFC 152</li> <li>- <i>Styles &amp; Palmer</i> [2014] FamCA 383</li> <li>- <i>U v U</i> (2002) 211 CLR 238</li> <li>- <i>M &amp; S</i> [2006] FamCA 1408</li> <li>- <i>Hepburn &amp; Noble</i> [2010] FamCAFC 111</li> <li>- <i>Collu &amp; Rinaldo</i> [2010] FamCAFC 53</li> <li>- <i>MRR v GR</i> (2010) 240 CLR 461</li> <li>- <i>McCall &amp; Clark</i> [2009] FamCAFC 92</li> <li>- <i>Starr &amp; Duggan</i> [2009] FamCAFC 115</li> <li>- <i>Sealey &amp; Archer</i> [2008] FamCAFC 142</li> <li>- <i>Taylor &amp; Barker</i> [2007] FamCA 1246</li> <li>- <i>Sayer &amp; Radcliffe and Anor</i> [2012] FamCAFC 209</li> <li>- <i>Jurchenko &amp; Foster</i> [2014] FamCAFC 127</li> <li>- <i>Wendland &amp; Wendland</i> [2017] FamCAFC 244</li> <li>- <i>Grella &amp; Jamieson</i> [2017] FamCAFC 21</li> <li>- <i>Boyle &amp; Zahur and Anor (No. 2)</i> [2017] FamCAFC 263</li> <li>- <i>Lambton &amp; Lambton (No. 2)</i> [2017] FamCAFC 230</li> </ul> </li> </ul>
<b>4.3.6 Family Violence</b>	
<b>Final bias and interim hearings</b>	<ul style="list-style-type: none"> <li>▪ Presumption of equal shared parental responsibility when making parenting orders <ul style="list-style-type: none"> <li>- Section 61DA</li> </ul> </li> <li>▪ Court to consider risk of family violence when making orders <ul style="list-style-type: none"> <li>- Section 60CG</li> <li>- <i>SS v AH</i> [2010] FamCAFC 13</li> <li>- <i>Marvel &amp; Marvel</i> [2010] FamCAFC 101</li> <li>- <i>Eaby &amp; Speelman</i> [2015] FamCAFC 104</li> <li>- <i>Salah &amp; Salah</i> [2016] FamCAFC100</li> <li>- <i>Searle &amp; Mellor</i> [2017] FamCAFC 46</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- <i>Cimorelli &amp; Wenlack [2020] FamCAFC 58</i></li> <li>- <i>Hurley &amp; Melton (No.2) [2020] FamCA 917</i></li> <li>- <i>Owen &amp; Owen [2020] FamCA 90</i></li> <li>- <i>Hills &amp; Caldwell [2020] FamCA 574</i></li> </ul>
<b>4.3.7 Parenting Plans and Orders (Particular Issues)</b>	
<b>Part VII, Divisions 4 to 6</b>	<ul style="list-style-type: none"> <li>▪ Encouragement of parents to reach agreement and to take responsibility for parenting arrangements <ul style="list-style-type: none"> <li>- Section 63B</li> </ul> </li> <li>▪ Meaning of and what may be included in a Parenting Plan <ul style="list-style-type: none"> <li>- Sections 63C and 63CAA</li> </ul> </li> </ul>
<b>4.3.8 Contravention of parenting orders</b>	
<b>The parenting compliance provisions</b>	<ul style="list-style-type: none"> <li>▪ Part VII, Division 13A <ul style="list-style-type: none"> <li>- <i>Stapleton &amp; Hayes [2016] FamCAFC 171</i></li> </ul> </li> </ul>
<b>4.3.9 Alteration of Parenting Orders: section 65D (2)</b>	
<b>The precondition of changed circumstances; undisclosed material facts</b>	
<b>The precondition as a preliminary issue</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Rice and Asplund (1979) 6 Fam LR 570</i></li> <li>▪ <i>Biggs &amp; Hurst [2014] FamCA 217</i></li> </ul>
<b>The rule is Rice &amp; Asplund is not an immutable rule</b>	<ul style="list-style-type: none"> <li>▪ <i>Phillips &amp; Hansford [2019] FamCAFC 165</i></li> <li>▪ <i>SPS &amp; PLS (2008) FLC ¶93-363; [2008] FamCAFC 16 :</i></li> <li>▪ <i>Searson &amp; Searson [2017] FamCAFC 119</i></li> </ul>
<b>When parenting order terminates</b>	<ul style="list-style-type: none"> <li>▪ Sections 65H</li> <li>▪ Section 65J</li> <li>▪ Section 65K</li> </ul>
<b>4.3.10 Abduction of Children – Within Australia and Overseas</b>	
<b>Registration of state, territory and overseas orders</b>	<ul style="list-style-type: none"> <li>▪ Part VII, Division 13</li> </ul>
	<ul style="list-style-type: none"> <li>▪ <i>Family Law (Child Abduction Convention) Regulations 1986</i></li> </ul>
<b>Location and Recovery of Children:</b>	<ul style="list-style-type: none"> <li>▪ Part VII, Division 8 – Subdivision C</li> <li>▪ 1980 Hague Convention on the Civil Aspects of International Child Abduction</li> </ul>

	<p><i>Note: there is likely to be legislation in Federal Parliament in relation to the impact of family violence on applications for return and the application of the Regulations which candidates may be required to consider</i></p> <ul style="list-style-type: none"> <li>▪ <i>Garning &amp; Dept of Communities, Child Safety and Disability Services [2013] FamCAFC 28</i></li> </ul>
<b>4.3.11 Child protection convention</b>	
	<ul style="list-style-type: none"> <li>▪ Division 4 of Part XIII AA</li> <li>▪ Family Law (Child Protection Convention) Regulation 2003 (Cth)</li> <li>▪ Commonwealth Child Protection Measure, s. 111CD <ul style="list-style-type: none"> <li>- <i>Bunyon &amp; Lewis (No 3) [2013] FamCA 888</i></li> </ul> </li> </ul>
<b>4.3.12 Paternity</b>	
	<ul style="list-style-type: none"> <li>▪ Part VII, Division 12 – subdivisions D and E <ul style="list-style-type: none"> <li>- <i>Clarence &amp; Crisp [2016] FamCAFC 157</i></li> </ul> </li> </ul>
<b>4.3.13 Reaching Agreement</b>	
	<ul style="list-style-type: none"> <li>▪ Parenting plans and consent orders</li> <li>▪ Section 63C</li> </ul>
<b>4.3.14 Court sanction of medical procedures</b>	
<b>Authorisation of "special medical procedures" in certain instances</b>	<ul style="list-style-type: none"> <li>▪ Section 67ZC (1). <ul style="list-style-type: none"> <li>- <i>Gillick v West Norfolk and Wisbech Area Health Authority [1985] UKHL 7; [1986] AC 112</i></li> <li>- <i>Re: Marion (1992) 175 CLR 218.</i></li> <li>- <i>Re: Alex (2004) 31 Fam LR 503; (2004) FLC ¶93-175</i></li> <li>- <i>Re: Kelvin [2017] Fam CAFC 258</i></li> <li>- <i>Re: Matthew [2018] FamCA 161</i></li> <li>- <i>Re: Imogen (No.6) [2020] FamCA 761</i></li> </ul> </li> <li>▪</li> </ul>
<b>4.3.15 Children in immigration detention</b>	
<b>Orders relating to the welfare of children - jurisdiction under s67ZC limited by other provisions</b>	<ul style="list-style-type: none"> <li>▪ Section 67ZC (1) <ul style="list-style-type: none"> <li>- <i>Minister for Immigration and Multicultural and Indigenous Affairs v B (2004) 219 CLR 365</i></li> </ul> </li> </ul>

## 4.4 Spousal Maintenance

<b>Establishing a claim</b>	<ul style="list-style-type: none"> <li>▪ Threshold finding under section 72</li> <li>▪ Lack of adequate support and capacity to pay: <ul style="list-style-type: none"> <li>- <i>In the Marriage of Eliades</i> (1981) FLC 91-022</li> <li>- <i>In the Marriage of Bevan</i> (1995) FLC 92-600</li> <li>- <i>In the Marriage of Mitchell</i> (1995) FLC 92-601</li> <li>- <i>Hall &amp; Hall</i> [2016] HCA 23</li> <li>-</li> </ul> </li> </ul>
<b>Consideration of "any other adequate reason" under section 72(1)(c)</b>	<ul style="list-style-type: none"> <li>▪ <i>Elei &amp; Dodt</i> [2018] Fam CAFC 92</li> </ul>
<b>Matters to be taken into consideration in relation to spousal maintenance</b>	<ul style="list-style-type: none"> <li>▪ Matters set out in section 75(2)</li> </ul>
<b>Power of the Court to make orders for spousal maintenance</b>	<ul style="list-style-type: none"> <li>▪ Section 74</li> <li>▪ Exercise of discretion</li> </ul>
<b>Consideration of "adequately" and "properly"</b>	<ul style="list-style-type: none"> <li>▪ <i>Brown &amp; Brown</i> [2007] FamCA 151;</li> <li>▪ <i>Rollins-Wallis &amp; Wallis</i> [2008] FamCA 1272</li> </ul>
<b>Relationship between spousal maintenance and property orders</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Cantarella</i> (1976) FLC ¶90-056</li> <li>▪ <i>Tallant &amp; Kelsey</i> [2017] FamCAFC 210</li> </ul>
<b>Specification in orders of payments for spousal maintenance purposes</b>	<ul style="list-style-type: none"> <li>▪ Section 77A <ul style="list-style-type: none"> <li>- <i>Doig &amp; Doig</i> [1999] FamCA 1363</li> <li>- <i>Caska &amp; Caska</i> [1998] FamCA 118</li> </ul> </li> </ul>
<b>Cessation of spousal maintenance orders</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Clauson</i> (1995) FLC ¶92-595</li> <li>▪ See also: <ul style="list-style-type: none"> <li>- <i>In the Marriage of Vautin</i> (1998) FLC 92-827</li> <li>- <i>DJM v JLM</i> [1998] FamCA 97</li> <li>- <i>Maroney v&amp; Maroney</i> [2009] FamCAFC 45</li> <li>- <i>In the Marriage of Naphthali</i> (1989) FLC 92-021</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- <i>Hall v Hall</i> (2016) 332 ALR 1</li> <li>- <i>Malone &amp; Malone and Ors</i> [2016] FamCA 432</li> <li>- <i>Bardsley &amp; Bardsley</i> [2016] FamCA 408</li> <li>- <i>Sandberg &amp; Sandberg</i> [2016] FamCA 357</li> <li>- <i>Foley and Foley</i> [2016] FCWA 68</li> <li>- <i>Ibrahim &amp; Raad</i> [2018] FCCA 3753</li> <li>- <i>Collingridge &amp; Aiolfi</i> [2019] FamCAFC 88</li> <li>- <i>Bodily &amp; Hand</i> (2019) 59 Fam LR 425</li> <li>- <i>Rice &amp; Rice</i> [2020] FamCAFC 174</li> <li>- <i>Simpkin &amp; Simpkin</i> [2020] FamCAFC 315</li> <li>- <i>Grange &amp; Grange</i> [2022] FedCFamC1A 9</li> </ul>
<b>Registrable spousal maintenance liabilities</b>	<ul style="list-style-type: none"> <li>▪ <i>Child Support (Registration and Collection) Act 1988</i> <ul style="list-style-type: none"> <li>- <i>Part III</i></li> </ul> </li> </ul>
<b>Lump sum spouse maintenance</b>	<ul style="list-style-type: none"> <li>▪ Powers of the Court to make such Orders</li> <li>▪ Sections 72 and 90SF(1)</li> <li>▪ Sections 80(1)(a) and 90SS(1)(a) <ul style="list-style-type: none"> <li>- <i>Clauson &amp; Clauson</i> (1995) FLC ¶92-395</li> <li>- <i>Fickling &amp; Fickling</i> (1996) FLC ¶92-664</li> <li>- <i>Tyson v Tyson</i> (1996) 70 ALJR 285; (1996) HCATrans 55</li> <li>- <i>Milankov &amp; Milankov</i> (2002) FLC ¶93-095</li> <li>- <i>Brown &amp; Brown</i> (2007) FLC ¶93-316</li> <li>- <i>Strahan &amp; Strahan (No 2)</i> [2012] FamCA 248</li> <li>- <i>Rankin &amp; Rankin</i> (2017) FLC ¶93-766</li> <li>- <i>Jobling &amp; Slade</i> [2020] FamCA 419</li> <li>- <i>Simpkin &amp; Simpkin</i> [2020] FamCAFC 315</li> </ul> </li> </ul>
<b>Urgent v Interim orders</b>	<ul style="list-style-type: none"> <li>▪ Distinction between section 74 Order and section 77 Order <ul style="list-style-type: none"> <li>- <i>In the Marriage of Wilson</i> (1989) FLC ¶92-033</li> </ul> </li> </ul>



## 4.5 Child Maintenance and Child Support

### 4.5.1 Child Maintenance

<b>Threshold finding under section 72</b>	<ul style="list-style-type: none"> <li>▪ Lack of adequate support</li> <li>▪ Capacity to pay</li> </ul>
<b>Primary duty to maintain children</b>	<ul style="list-style-type: none"> <li>▪ Section 66C</li> </ul>
<b>Jurisdictional aspects</b>	<ul style="list-style-type: none"> <li>▪ Section 66E</li> </ul>
<b>Adult Child Maintenance</b>	<ul style="list-style-type: none"> <li>▪ Section 66L <ul style="list-style-type: none"> <li>- <i>Re: AM (Adult Child Maintenance) (2006) FLC</i> ¶93-262</li> <li>- <i>Everett v. Everett [2014] FamCAFC 152</i></li> </ul> </li> </ul>
<b>When step-parents have a duty to maintain</b>	<ul style="list-style-type: none"> <li>▪ Section 66M <ul style="list-style-type: none"> <li>- <i>Carnell v. Carnell (2006) 204 FLR 122; [2006] FMCAfam 476</i></li> </ul> </li> </ul>

### 4.5.2 Child Support

<b>Exclusive and inalienable Jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ Section 66E <i>Family Law Act 1975</i> <ul style="list-style-type: none"> <li>- <i>Love v Henderson (1996) FLC</i> ¶92-653</li> </ul> </li> </ul>
<b>Limited and Binding Child Support Agreements</b>	<ul style="list-style-type: none"> <li>▪ Part 6, Division 1A CSAA 1989 <ul style="list-style-type: none"> <li>- Sections 80A to 80G</li> </ul> </li> <li>▪ Part 6; Divisions 2 and 2A CSAA 1989 <ul style="list-style-type: none"> <li>- Sections 86, 86A, and 87</li> </ul> </li> <li>▪ <i>Sathra &amp; Sathra [2013] FamCAFC 142</i></li> <li>▪ Binding Child Support Agreements and impact of COVID-19/Force Majeure/Global Pandemics <ul style="list-style-type: none"> <li>- <i>Martyn &amp; Martyn [2020] FamCA 526</i></li> </ul> </li> </ul>
<b>Children in relation to whom applications may be made</b>	<ul style="list-style-type: none"> <li>▪ Section 24 CSAA 1989</li> </ul>
<b>Persons who may apply: Parents</b>	<ul style="list-style-type: none"> <li>▪ Section 25 CSAA 1989</li> </ul>
<b>Persons who may apply: non-parent carers</b>	<ul style="list-style-type: none"> <li>▪ Section 25A CSAA 1989</li> </ul>

<b>The Child Support Formula</b>	<ul style="list-style-type: none"> <li>▪ Part 5, Division 2 CSAA 1989</li> <li>▪ Elements of the Child Support Formula</li> <li>▪ More than one formula</li> </ul>
<b>Departure from Administrative Assessment</b>	<ul style="list-style-type: none"> <li>▪ Jurisdiction <ul style="list-style-type: none"> <li>- Section 116 CSAA 1989</li> </ul> </li> <li>▪ General Grounds of departure from administrative assessment of child support <ul style="list-style-type: none"> <li>- Sections 98B and Section 98C(2) CSAA 1989</li> <li>- Section 117(2) CSAA 1989</li> <li>- <i>In the Marriage of Gyselman</i> (1992) FLC 92-279</li> <li>- <i>Billing and Tillick (Child Support)</i> [2018] AATA 220</li> <li>- <i>Bonnett &amp; Bonnett</i> (2021) FLC 98-080</li> </ul> </li> <li>▪ Re-establishment income <ul style="list-style-type: none"> <li>- Section 117(2) CSAA 1989</li> </ul> </li> <li>▪ Earning Capacity <ul style="list-style-type: none"> <li>- Section 117 (4)(d) CSAA 1989</li> <li>- Sections 117(7A) and (7B) CSAA 1989</li> <li>- <i>DJM v JLM</i> [1998] FamCA 97</li> <li>- <i>Skinner &amp; Cluny</i> [2013] FamCA 301</li> <li>- <i>Child Support Registrar &amp; Crowley</i> [2015] FamCAFC 76</li> </ul> </li> </ul>
<b>Change of Assessment</b>	<ul style="list-style-type: none"> <li>▪ Election to estimate adjusted taxable income <ul style="list-style-type: none"> <li>- Part 5, Division 6, Subdivision C</li> <li>- Section 60 to 64 CSAA 1989</li> </ul> </li> </ul>
<b>Objections to CS Registrar's decisions</b>	<ul style="list-style-type: none"> <li>▪ Review by Administrative Appeals Tribunal - Social Services and Child Support <ul style="list-style-type: none"> <li>- Division VIIA, CSRCA 1988</li> </ul> </li> <li>▪ Abolition of AAT and transition to new federal administrative review body</li> <li>▪ Review by FCFCoA Division 2 <ul style="list-style-type: none"> <li>- Division VIII, CSRCA 1988</li> </ul> </li> <li>▪ When another application is pending <ul style="list-style-type: none"> <li>- Section 116(1)(b) CSAA 1989</li> </ul> </li> <li>▪ Complex applications <ul style="list-style-type: none"> <li>- Section 98E and Section 98R CSAA 1989</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>Disputed parentage <ul style="list-style-type: none"> <li>Sections 106 and 107 CSAA 1989</li> </ul> </li> </ul>
Stay Orders	<ul style="list-style-type: none"> <li>Section 111C CSRCA 1988 <ul style="list-style-type: none"> <li><i>Abani &amp; Abani (SSAT Appeal) [2014] FCCA 2058</i></li> <li><i>Jones v Child Support Registrar [2007] FCA 1732</i></li> <li><i>Palkvig &amp; Bowden [2018] FamCA 973</i></li> <li><i>Child Support Registrar &amp; Stinton and Anor (2020) FLC 98-078</i></li> </ul> </li> </ul>
Time limit on backdating assessments	<ul style="list-style-type: none"> <li>Section 111(1) CSAA 1989 <ul style="list-style-type: none"> <li><i>Teal &amp; Teal [2010] FamCAFC 120</i></li> </ul> </li> </ul>
Non-periodic amounts	<ul style="list-style-type: none"> <li>Section 123 CSAA 1989</li> </ul>
Urgent child support	<ul style="list-style-type: none"> <li>Section 139(1) CSAA 1989</li> </ul>
Order for recovery of wrongly paid child support	<ul style="list-style-type: none"> <li>Section 143 CSAA 1989 <ul style="list-style-type: none"> <li><i>Magill v Magill [2006] HCA 51; (2006) 226 CLR 551</i></li> </ul> </li> </ul>
Recovery, Enforcement and Penalties	<ul style="list-style-type: none"> <li>Position of SA-CS as to remission</li> <li><i>DRP v AJL [2004] FMCAfam 440</i></li> </ul>

## 4.6 Financial Agreements

### 4.6.1 Conceptualising a Financial Agreement

What constitutes a financial agreement within the meaning of the Act?	<ul style="list-style-type: none"> <li><i>Senior &amp; Anderson [2011] FamCAFC 129</i></li> </ul>
Contractual underpinnings of a financial agreement	<ul style="list-style-type: none"> <li><i>Sullivan &amp; Sullivan [2011] FamCA 752</i></li> </ul>
Concurrent agreements under Part VIIIA and Part VIIIAB	<ul style="list-style-type: none"> <li><i>Piper &amp; Mueller [2015] FamCAFC 241.</i></li> </ul>

### 4.6.2 Matters that a Financial Agreement can deal

Subject matter that can be included in a Financial Agreement	<ul style="list-style-type: none"> <li>Property and financial resources <ul style="list-style-type: none"> <li>Sections 90B, 90C, 90D, 90UB, 90UC and 90UD</li> </ul> </li> <li>Spousal maintenance <ul style="list-style-type: none"> <li>Sections 90E, 90UH, 90F, and 90UI</li> </ul> </li> </ul>
--	---

	<ul style="list-style-type: none"> <li>▪ Incidental or ancillary matters (including adult child maintenance)</li> <li>▪ Superannuation <ul style="list-style-type: none"> <li>- Sections 90XH and 90XHA; interplay with section 90XJ(1)(a)</li> </ul> </li> <li>▪ <i>Lifestyle</i> clauses <ul style="list-style-type: none"> <li>- <i>Parkes &amp; Parkes [2014] FCCA 102</i></li> </ul> </li> <li>▪ Agreements with third parties to marriage/relationship</li> </ul>
<b>4.6.3 Challenging a Financial Agreement</b>	
<b>Onus of proof</b>	<ul style="list-style-type: none"> <li>▪ <i>Hoult &amp; Hoult [2013] FamCAFC 109</i></li> </ul>
<b>Is the agreement binding?</b>	<ul style="list-style-type: none"> <li>▪ Application of section 90G and 90UJ</li> </ul>
<b>Legal Advice</b>	<ul style="list-style-type: none"> <li>▪ <i>Logan &amp; Logan [2013] FamCAFC 151</i></li> <li>▪ <i>Ruane &amp; Bachman-Ruane [2009] FamCA 1101</i></li> <li>▪ <i>Pascot &amp; Pascot [2011] FamCA 945.</i></li> <li>▪ <i>Hoult &amp; Hoult [2013] FamCAFC 109.</i></li> <li>▪ <i>Raleigh &amp; Raleigh [2015] FamCA 625</i></li> <li>▪ <i>Thorne &amp; Kennedy [2017] HCA 49</i></li> </ul>
<b>If the agreement does not comply with section 90G(1), can it be “saved” pursuant to section 90G(1A)?</b>	<ul style="list-style-type: none"> <li>▪ <i>Parker &amp; Parker [2012] FamCAFC 33</i></li> <li>▪ <i>Abrum &amp; Abrum [2013] FamCA 897</i></li> <li>▪ <i>Graham &amp; Squibb [2019] FamCAFC 33</i></li> <li>▪ <i>Daily &amp; Daily [2020] FamCA 486</i></li> </ul>
<b>Should the agreement be set aside? Grounds for setting aside an agreement</b>	<ul style="list-style-type: none"> <li>▪ Provisions of sections 90K and 90UM</li> <li>▪ Non-disclosure of assets <ul style="list-style-type: none"> <li>- <i>Cording &amp; Oster [2010] FamCA 511</i></li> <li>- <i>Adame &amp; Adame [2014] FCCA 42</i></li> <li>- <i>Parke &amp; Parke [2015] FCCA 1692</i></li> </ul> </li> </ul>
<b>Void, voidable or unenforceable</b>	<ul style="list-style-type: none"> <li>▪ Section 90K(1)(b)</li> <li>▪ Principles of Law and Equity that may render an agreement “void, voidable or unenforceable”</li> </ul>
<b>Unconscionable conduct and/or undue influence</b>	<ul style="list-style-type: none"> <li>▪ <i>Saintclair &amp; Saintclair [2015] FamCAFC 245</i></li> <li>▪ <i>Adame &amp; Adame [2014] FCCA 42</i></li> </ul>

	<ul style="list-style-type: none"> <li>▪ <i>Parkes &amp; Parkes [2014] FCCA 102</i></li> <li>▪ <i>Thorne &amp; Kennedy [2017] HCA 49</i></li> <li>▪ <i>Frederick &amp; Frederick [2018] FCCA 1694</i></li> <li>▪ <i>Gongsun &amp; Paling (2020) FLC 93-987</i></li> </ul>
<b>Impracticability</b>	<ul style="list-style-type: none"> <li>▪ <i>Sanger &amp; Sanger [2011] FamCAFC 210</i></li> <li>▪ <i>Herold &amp; Kay [2012] FMCAfam 1071</i></li> <li>▪ <i>Bryson &amp; Bryson [2012] FMCAfam 197</i></li> <li>▪ <i>Parke &amp; Parke [2015] FCCA 1692</i></li> </ul>
<b>Material change in circumstances</b>	<ul style="list-style-type: none"> <li>▪ <i>Parkes &amp; Parkes [2014] FCCA 102</i></li> <li>▪ <i>Fewster &amp; Drake [2016] FamCAFC 214</i></li> <li>▪ <i>Frederick &amp; Frederick [2019] FamCAFC 87</i></li> <li>▪ <i>Guild &amp; Stasiuk [2020] FamCA 348</i></li> <li>▪ <i>Daily &amp; Daily [2020] FamCA 486</i></li> </ul>
<b>Uncertainty/incompleteness</b>	<ul style="list-style-type: none"> <li>▪ <i>Garvey &amp; Jess [2016] FamCA 445</i></li> </ul>
<b>Mistake</b>	<ul style="list-style-type: none"> <li>▪ <i>Phak &amp; Xu [2015] FamCA 939</i></li> <li>▪ <i>Sullivan and Sullivan [2011] FamCA 752</i></li> </ul>
<b>Use of equitable and contractual principles to render enforceable an agreement</b>	<ul style="list-style-type: none"> <li>▪ Rectification <ul style="list-style-type: none"> <li>- <i>Fevia &amp; Carmel-Fevia [2009] FamCA 816</i></li> </ul> </li> <li>▪ Part performance</li> <li>▪ Implied terms <ul style="list-style-type: none"> <li>- <i>Bryson &amp; Bryson [2012] FMCAfam 197</i></li> </ul> </li> <li>▪ Estoppel</li> </ul>
<b>4.6.4 Agreements made prior to 2009 statutory amendments</b>	
<b>Commencement of Part VIIIA to 2008</b>	<ul style="list-style-type: none"> <li>▪ <i>Black &amp; Black [2008] FamCAFC 7</i></li> </ul>
<b>Retrospective operation of the post-Black statutory provisions</b>	<ul style="list-style-type: none"> <li>▪ <i>Wallace &amp; Stelzer [2013] FamCAFC 199</i></li> <li>▪ <i>Daily &amp; Daily [2020] FamCA 486</i></li> </ul>
<b>4.6.5 Third parties and Financial Agreements</b>	

<b>Separation declarations</b>	<ul style="list-style-type: none"> <li><i>Australian Securities and Investments Commission &amp; Rich [2003] FamCA 1114</i></li> </ul>
<b>Agreements binding on third parties</b>	
<b>Applications by third parties to set aside Financial Agreements</b>	<ul style="list-style-type: none"> <li><i>Grainger &amp; Bloomfield [2015] FamCAFC 221</i></li> </ul>

#### 4.6.6 Intersection with the accrued jurisdiction

<b>Actions in negligence against one's own advisors</b>	<ul style="list-style-type: none"> <li><i>Noll &amp; Noll [2013] FamCAFC 24</i></li> <li><i>Ruane &amp; Bachman-Ruane (Accrued Jurisdiction) [2012] FamCA 369</i></li> <li><i>F Firm &amp; Ruane [2014] FamCAFC 189</i></li> <li><i>Gibbs &amp; Gibbs &amp; Ors [2017] Fam CA 7</i></li> <li><i>Bolden &amp; Woodruff (2018) FCCA 1439</i></li> <li><i>Orwin v Rickards [2019] VSC 375</i></li> </ul>
---	---

## 4.7 De facto relationships

<b>Definition</b>	<ul style="list-style-type: none"> <li>Section 4AA FLA</li> <li>Section 32DA <i>Acts Interpretation Act 1954 (Qld)</i></li> <li>Sections 2D, 2E, 2F <i>Acts Interpretation Act 1901 (Cth)</i></li> </ul>
<b>Amendments to FLA from 1 March 2009</b>	<ul style="list-style-type: none"> <li>Division 2, Part VIIIAB FLA generally</li> </ul>
<b>Proving existence of de facto relationship</b>	<ul style="list-style-type: none"> <li><i>Clarence and Crisp [2016] FamCAFC 157</i></li> </ul>
<b>Meaning of "breakdown of a de facto relationship"</b>	<ul style="list-style-type: none"> <li><i>Fairbairn and Radecki [2022] HCA 18</i></li> </ul>

## 4.8 Property

### 4.8.1 Fundamental concepts

<b>Declarations of interest in property</b>	<ul style="list-style-type: none"> <li>Section 78</li> </ul>
<b>Adjustment of property</b>	<ul style="list-style-type: none"> <li>Section 79</li> </ul>
<b>Legislative framework</b>	<ul style="list-style-type: none"> <li>Part VIII – parties to a marriage</li> <li>Part VIII AB – parties to a de facto relationship</li> </ul>
<b>Practice and Procedure</b>	<ul style="list-style-type: none"> <li><i>Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth)</i></li> </ul>
<b><i>Forum non conveniens</i> in property matters</b>	<ul style="list-style-type: none"> <li><i>Voth v Manildra Flour Mills Pty Ltd [1990] HCA 55</i></li> <li><i>Obannon &amp; Scarffe [2021] FamCAFC 33</i></li> </ul>

### 4.8.2 Four Step Approach to determining property matters

<b>Significant authorities</b>	<ul style="list-style-type: none"> <li><i>Hickey &amp; Hickey &amp; Attorney-General for the Commonwealth of Australia [2003] FamCA 395</i></li> <li><i>In the Marriage of Ferraro (1992) 16 Fam LR 1</i></li> <li><i>Stanford v Stanford (2012) 247 CLR 108</i></li> <li><i>Watson &amp; Ling [2013] FamCA 57</i></li> <li><i>Bevan &amp; Bevan [2014] FamCAFC 19</i></li> <li><i>Fielding v Nichol [2014] FCWA 77</i> (WA de facto matter with comments about Stanford/addbacks)</li> </ul>
<b>Development of the concepts – Four Step Approach</b>	<ul style="list-style-type: none"> <li>Process is merely a shorthand distillation of the legislation which illuminates the path and not a legislatively mandated decision process <ul style="list-style-type: none"> <li><i>Bevan &amp; Bevan [2014] FamCAFC 19</i></li> </ul> </li> </ul>
<b>Preliminary step</b>	<ul style="list-style-type: none"> <li>It must be determined whether it is just and equitable to alter property interests <ul style="list-style-type: none"> <li>Section 79(2)</li> <li><i>Stanford v Stanford (2012) 247 CLR 108</i></li> <li><i>Watson &amp; Ling [2013] FamCA 57</i></li> <li><i>Bevan v Bevan [2014] FamCAFC 19</i></li> <li><i>Hunter &amp; Borman and Anor [2020] FamCAFC 250</i></li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- <i>Washburn &amp; Pacini</i> [2020] FamCAFC296</li> <li>- <i>Oamra &amp; Williams</i> [2021] FamCAFC 117</li> </ul>
<b>STEP 1</b>  <b>Identifying and valuing property, liabilities, and financial resources</b>	<ul style="list-style-type: none"> <li>▪ The Court seeks to ascertain the net value of all property (both legal and equitable interests) of the parties by deducting from their total gross property their liabilities, including unsecured liabilities.</li> <li>▪ Property is defined under section 4</li> <li>▪ Financial resources and expectation do not constitute property but are relevant and should be identified and evaluated</li> <li>▪ Duty of full and frank disclosure             <ul style="list-style-type: none"> <li>- Chapter 6 - <i>FCFCoA (Family Law) Rules 2021</i></li> </ul> </li> <li>▪ Principles of “full and frank disclosure”             <ul style="list-style-type: none"> <li>- <i>In the Marriage of Black and Kelner</i> (1992) 15 Fam LR 343</li> <li>- <i>Chang &amp; Su</i> [2002] FamCA 156.</li> </ul> </li> <li>▪ Identify and value relevant property             <ul style="list-style-type: none"> <li>- <i>In the Marriage of Zorbas</i> (1990) 14 Fam LR 226</li> </ul> </li> <li>▪ Treatment of assets of a company or trusts as assets of a party/discretionary trust             <ul style="list-style-type: none"> <li>- <i>Kennon v Spry</i> (2008) 238 CLR 366;</li> <li>- <i>Nolan &amp; Nolan &amp; Ors</i> [2014] QSC 218</li> <li>- <i>Nolan &amp; Ors &amp; Nolan</i> [2015] QCA 199</li> <li>- <i>E Pty Ltd and Ors &amp; Zunino and Anor</i> [2020] FamCAFC</li> <li>- <i>Atkins &amp; Hunt and Ors</i> [2020] FamCAFC 252</li> <li>- <i>Rigby &amp; Kingston (No.4)</i> [2021] FamCA 501</li> <li>- <i>Barrett &amp; Winnie</i> [2022] FedCFamC1A 99 (see also <i>Woodcock &amp; Woodcock (No. 2)</i> [2022] FedCFamC1F 173, subject to any appeal of this decision)</li> </ul> </li> <li>▪ Interest in a partnership             <ul style="list-style-type: none"> <li>- <i>In the Marriage of Best</i> (1993) 16 Fam LR 937</li> <li>- <i>B v B</i> [1999] FamCA 1142</li> </ul> </li> <li>▪ Superannuation             <ul style="list-style-type: none"> <li>- <i>Coghlan v Coghlan</i> [2005] FamCA 429</li> <li>- <i>Semperton &amp; Semperton</i> [2012] FamCAFC 132</li> </ul> </li> </ul>



	<ul style="list-style-type: none"> <li>▪ Valuations and expert evidence - the asset pool must be valued at the time of the final hearing <ul style="list-style-type: none"> <li>- <i>Hickey (2003) FamCA 395</i></li> </ul> </li> <li>▪ Liabilities <ul style="list-style-type: none"> <li>- <i>In the Marriage of Biltoft (1995) 19 Fam LR 82</i></li> </ul> </li> <li>▪ Notional property <ul style="list-style-type: none"> <li>- <i>AJO &amp; GRO [2005] FamCA 195 aka Omacini (2005) FLC ¶93-218</i></li> </ul> </li> <li>▪ Tax and realisation costs (including income tax and CGT) <ul style="list-style-type: none"> <li>- <i>Rosati &amp; Rosati [1998] FamCA 38</i></li> <li>- <i>JEL &amp; DDF (2001) FLC ¶93-075</i></li> <li>- <i>Blake &amp; Blake [2006] FamCA 10</i></li> </ul> </li> <li>▪ Power of the Court to make orders that shift a tax liability from one party to another <ul style="list-style-type: none"> <li>- <i>Commissioner of Taxation v Tomaras [2018] HCA 62.</i></li> </ul> </li> <li>▪ Stamp duty <ul style="list-style-type: none"> <li>- Section 90 FLA</li> <li>- Section 90WA FLA</li> <li>- Section 420 to 424 <i>Duties Act 2001 (Qld)</i></li> </ul> </li> <li>▪ Inter-family loans or gifts <ul style="list-style-type: none"> <li>- <i>Limitation of Actions Act 1974 (Qld)</i></li> <li>- <i>Hsiao v Fazarri [2020] HCA 35</i></li> </ul> </li> </ul>
<b>STEP 2</b>  <b>Identify and evaluate the contributions of parties</b>	<ul style="list-style-type: none"> <li>▪ Section 79(4) and section 90SM(4)</li> <li>▪ Contributions must be considered “holistically” and “weighed collectively” <ul style="list-style-type: none"> <li>- <i>Jabour &amp; Jabour [2019] FamCAFC 78</i></li> <li>- <i>Benson &amp; Drury [2020] FamCAFC 303</i></li> <li>- <i>Barnell [2020] FamCAFC 102</i></li> </ul> </li> <li>▪ Global Approach or Asset by Asset approach <ul style="list-style-type: none"> <li>- <i>In the Marriage of Norbis (1986) 161 CLR 513</i></li> <li>- <i>Stiller &amp; Power [2011] FMCAfam 996</i></li> </ul> </li> <li>▪ Court's approach Section 79(4)(a)-(c) <ul style="list-style-type: none"> <li>- <i>In the Marriage of Zyk (1995) 19 Fam LR 797</i></li> </ul> </li> </ul>

- *In the Marriage of Waters and Jurek* (1995) 20 Fam LR 190
- *In the Matter of McLay* (1996) 20 Fam LR 239
- *In the Marriage of Mallett* (1984) 156 CLR 605
- *Jabour & Jabour* [2019] FamCAFC 78
- *Barnell & Barnell* [2020] FamCAFC 102
- Direct financial contributions
- Indirect financial contributions
  - *Palkovich & Palkovich* [2016] Fam CAFC 134
- Financial contributions by or on behalf of a child of the marriage
- Non-financial contributions
- Contributions to the welfare of the family
- "Special" contributions or "skills"
  - *Fields & Smith* [2015] FamCAFC 57
  - *JEL and DDF* [2000] FamCA 1353
  - *Kane & Kane* [2013] FamCAFC 205
  - (noting that since Hoffman (below) these decisions cannot be relied upon but ought be known in the context of arguments about contributions)
- Financial contributions in short marriages
  - *Harris & Dewell* [2018] FamCAFC 94
- Third party contributions (gifts, loans etc)
  - *In the Marriage of Gosper* (1987) 11 Fam LR 601
  - *In the Marriage of Kessey* (1994) 18 Fam LR 149
  - *AB & ZB* [2002] FamCA 1178
  - *In the Marriage of Pellegrino* (1997) 22 Fam LR 474
  - *Mabb & Mabb and Anor* [2020] FamCAFC 18
- Gifts and inheritances
  - *Calvin & Mctier* [2017] FamCAFC 125
  - *Holland & Holland* [2017] FamCAFC 166
- Redundancy packages
  - *Perrin & Perrin (No. 2)* [2018] FamCAFC 122

	<ul style="list-style-type: none"> <li>▪ Windfalls <ul style="list-style-type: none"> <li>- <i>Farmer v Bramley</i> [2000] FamCA 1615</li> <li>- <i>Jabour &amp; Jabour</i> [2019] FamCAFC 78</li> </ul> </li> <li>▪ Expectation of an inheritance <ul style="list-style-type: none"> <li>- <i>De Angelis</i> (2003) FLC ¶93-133</li> <li>- <i>G &amp; G</i> [2000] FamCA 1075</li> <li>- <i>Rigby &amp; Kingston No.4</i> [2021] FamCA 501</li> </ul> </li> <li>▪ Interest in a partnership <ul style="list-style-type: none"> <li>- <i>In the Marriage of Best</i> (1993) 16 Fam LR 937</li> </ul> </li> <li>▪ Waste <ul style="list-style-type: none"> <li>- <i>In the Marriage of Kowaliw</i> (1981) FLC ¶91-092</li> <li>- <i>Gao &amp; Wang</i> [2016] FamCAFC 183</li> </ul> </li> <li>▪ Accident verdicts <ul style="list-style-type: none"> <li>- <i>Fontana &amp; Fontana</i> [2018] FamCA 63</li> </ul> </li> <li>▪ Relevance of domestic violence to contributions <ul style="list-style-type: none"> <li>- <i>Kennon &amp; Kennon</i> (1997) FLC ¶92-757</li> <li>- <i>Benson &amp; Drury</i> [2020] FamCAFC 303</li> <li>- <i>Loncar &amp; Loncar</i> [2021] FedCFamC1A 14</li> </ul> </li> <li>▪ Pre-marriage property and contributions <ul style="list-style-type: none"> <li>- <i>Jabour &amp; Jabour</i> [2019] FamCAFC 78</li> <li>- <i>Barnell &amp; Barnell</i> [2020] FamCAFC 102</li> </ul> </li> <li>▪ "Big money" cases <ul style="list-style-type: none"> <li>- <i>Hoffman</i> [2014] FamCAFC 92</li> <li>- <i>Fields &amp; Smith</i> [2015] FamCAFC 57</li> </ul> </li> <li>▪ Contribution to the welfare of children of the other party from a previous relationship <ul style="list-style-type: none"> <li>- <i>Jarrott &amp; Jarrott</i> [2007] FamCA 1002</li> </ul> </li> </ul>
<b>STEP 3</b>  Identify and assess the various relevant matters set out in section 79(4) (d) to (g), which includes section 75 (2), and	<ul style="list-style-type: none"> <li>▪ Approach recommended by the High Court <ul style="list-style-type: none"> <li>- <i>In the Marriage of Mallet</i> (1984) 156 CLR 605</li> </ul> </li> <li>▪ The various factors set out in section 75(2) and 90SF(3) are to be applied to the extent that they are relevant</li> </ul>

**section 90SM(4)(d) to (g),  
which includes section 90SF  
(3) factors**

- *In the Marriage of Colins* (1990) 14 Fam LR 162
- Not appropriate to consider and quantify each of the factors separately but to arrive at a decision of overall adjustment
  - *In the Marriage of Clauson* (1995) 18 Fam LR 693
- Weight given to each factor is a matter for judicial discretion
  - *In the Marriage of Mallet* (1984) 156 CLR 605
- The factors are prospective but are based on the roles the parties adopted during their relationship
  - *In the Marriage of Waters and Jurek* (1995) 20 Fam LR 190
- Age and state of health of the parties
  - *W v W* (1997) 21 Fam LR 343
  - *In the Marriage of Lawrie* (1981) FLC 91-102
  - *Fontana & Fontana* (2016) FamCAFC 11
  - health of one party – short life expectancy
- Income, property and financial resources of each party and capacity for gainful employment
  - *DJM v JLM* [1998] FamCA 97
  - *Gould v Gould* [2007] FamCA 609
  - *Sindel v Milton* [2010] FamCAFC 232
  - *In the Marriage of Best* (1993) 16 Fam LR 937
  - *Surrridge & Surrridge* (2017) FLC ¶93-757
- Whether either party has the care of a child under 18
  - *In the Marriage of Abdo* (1989) 12 Fam LR 861
- Large number of children in the care of one party
  - *Wayne & Wayne* [2010] FamCAFC 33
  - *Davida & Davida* [2011] FamCAFC 38: *shared care*
- Any fact or circumstance which the justice of the case requires to be taken into account
  - *In the Marriage of Black and Kelner* (1992) 15 Fam LR 343
  - *Gould* (2007)
  - *Sebastian & Sebastian (No 5)* [2013] FamCA 191
  - *Kane & Kane* [2013] FamCAFC 205

- *Weir & Weir* [1992] FamCA 69; (1993) FLC ¶92-338 (Non-disclosure of assets)
- Contribution to post separation redundancy package
  - *Bassi & K D Sales Force Specialists Pty Ltd & Maas* [1999] FamCA 1352
- Inheritances
  - *In the Marriage of White* (1995) FLC 92-640
  - *In the Marriage of Dickson* [1999] FamCA 278
  - *Calvin & McTier* [2017] FamCAFC 125
  - *Holland & Holland* [2017] FamCAFC 166
- Allowance for CGT or realisation costs
  - *Rosati & Rosati* [1998] FamCA 38
  - *JEL & DDF* (2001) FLC ¶93-075
  - *Blake & Blake* [2006] FamCA 10
- Power to make substituting order in relation to a taxation debt
  - *Tomaras & Tomaras and Anor and Commissioner of Taxation* [2017] FamCAFC 216
  - *Commissioner of Taxation v Tomaras* [2018] HCA 62
- Allowance for health problems of children
  - *Rosati & Rosati* [1998] FamCA 38
- Effect of orders on earning capacity
  - *Elsey v Elsey* (1996) 21 Fam LR 249
- Lack of realisability of assets
  - *In the Marriage of Ramsay* (1997) FLC 92- 742
- Violence, short marriage, impact of relationship on earning capacity
  - *Kennon v Kennon* (1997) 22 Fam LR 1
- Proposed orders to be made with one party assuming significant liabilities
  - *In the Marriage of Way* (1996) FLC 92-702
- Section 75(2) factors should be given real and not token weight
  - *In the Marriage of Waters and Jurek* (1995) 20 Fam LR 190
- Modest size of estate compared with large disparity in income earning capacities

	<ul style="list-style-type: none"> <li>- <i>In the Marriage of Mitchell</i> (1995) 19 Fam LR 44</li> <li>▪ Unlawful killing of one party by the other: discussion of section 75(2) <ul style="list-style-type: none"> <li>- <i>Homsy and Yassa and the Public Trustee</i> (1993) 17 Fam LR 299</li> </ul> </li> <li>▪ Treatment of one party's interest in a trust – asset or resource <ul style="list-style-type: none"> <li>- <i>In the Marriage of Goodwin</i> (1990) 14 Fam LR 801</li> </ul> </li> <li>▪ Assessment of contributions and as to section 75(2)(b) and (n) <ul style="list-style-type: none"> <li>- <i>Yarrow &amp; Yarrow</i> [2022] FedCFamC1A 135</li> </ul> </li> </ul>
<b>STEP 4</b>  <b>Consider matters of justice and equity</b>	<ul style="list-style-type: none"> <li>▪ Sections 79(2) and 90SM(3) <ul style="list-style-type: none"> <li>- <i>In the Marriage of Mallet</i> (1984) 156 CLR 605</li> <li>- <i>In the Marriage of Zubcic</i> (1995) FLC 92-609</li> <li>- <i>Russell &amp; Russell</i> [1999] FamCA 1875</li> <li>- <i>JEL v DDF</i> [2000] FamCA 1353</li> <li>- <i>Chang and Su</i> [2002] FamCA 156</li> <li>- <i>Stanford v Stanford</i> (2012) 247 CLR 108</li> <li>- <i>Redman &amp; Redman</i> [2013] FamCAFC 183</li> <li>- <i>Watson &amp; Ling</i> [2013] FamCA 57 <ul style="list-style-type: none"> <li>▪ <i>equally applicable to sections 90SM(3) and 90SM(8) in particular</i></li> </ul> </li> <li>- <i>Bevan &amp; Bevan</i> [2014] FamCAFC 19</li> <li>- <i>Chancellor &amp; McCoy</i> (2016) FCCA 53</li> <li>- <i>Rodgers &amp; Rodgers (No 2)</i> [2016] FamCAFC 104</li> <li>- <i>Trang &amp; Kingsley</i> [2017] FamCAFC 120</li> <li>- <i>Washburn &amp; Pacini</i> [2020] FamCAFC 296</li> </ul> </li> </ul>
<b>4.8.3 Adjournment of property settlement proceedings</b>	
<b>Adjournment of proceedings until future time/event</b>	<ul style="list-style-type: none"> <li>▪ Section 79(5)</li> <li>▪ <i>In the Marriage of Grace</i> (1997) 22 Fam LR 442</li> <li>▪ <i>Blue &amp; Blue</i> [2008] FamCA 787</li> </ul>
<b>4.8.4 Transactions to defeat claims</b>	
<b>Power of the Court</b>	<ul style="list-style-type: none"> <li>▪ Section 106B <ul style="list-style-type: none"> <li>- <i>In the Marriage of Gould; Swire Investments Ltd</i> (1993) FLC 92-434</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- <i>Stephens &amp; Stephens &amp; Ors</i> [2007] FamCA 680</li> <li>- <i>Atkins &amp; Hunt and Ors (No. 3)</i> [2019] FamCA 977</li> <li>- <i>Atkins &amp; Hunt and Ors (2020)</i> FLC ¶93-992</li> </ul>
<b>4.8.5 Third Parties</b>	
<b>Consideration of Third Party interests</b>	<ul style="list-style-type: none"> <li>▪ <i>Halabi v Artillaga and Ors</i> (1994) FLC 92-470</li> <li>▪ <i>Kennon v Spry</i> (2008) 238 CLR 366; [2008] HCA 56</li> <li>▪ <i>Pittman &amp; Pitmann</i> [2010] FamCAFC 30</li> <li>▪ <i>Commissioner of Taxation v Tomaras &amp; Ors</i> [2018] HCA 62</li> <li>▪ <i>Ingels &amp; Ingels &amp; Ors</i> [2019] FamCA 33</li> <li>▪ <i>Rigby &amp; Kingston (No.4)</i> [2021] FamCA 501</li> </ul>
<b>4.8.6 Effect of Death on property proceedings</b>	
<b>Legislative provisions</b>	<ul style="list-style-type: none"> <li>▪ Section 79(8)</li> </ul>
<b>Cases</b>	<ul style="list-style-type: none"> <li>▪ <i>Frost (Deceased) &amp; Whooten</i> (2018) FLC ¶93-860</li> <li>▪ <i>Layton &amp; Layton</i> [2019] FCWA 145</li> <li>▪ <i>Simonds (Deceased) &amp; Coyle</i> [2019] FamCAFC 47; [2019] FLC ¶93-895</li> </ul>
<b>4.8.7 Execution of Instruments by Order of Court</b>	
<b>Legislative provisions</b>	<ul style="list-style-type: none"> <li>▪ Section 106A</li> </ul>
<b>Cases</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Corry</i> (1983) 9 Fam LR 201</li> <li>▪ <i>Jebbett &amp; Corey (No. 3)</i> [2020] FamCAFC 233</li> </ul>
<b>4.8.8 Bankruptcy</b>	
<b>Effect of Bankruptcy on property settlement</b>	<ul style="list-style-type: none"> <li>▪ Sections 35 and 35A <i>Bankruptcy Act</i> 1966 (Cth)</li> <li>▪ <i>Bankruptcy Regulations</i> 2021</li> <li>▪ <i>Federal Circuit and Family Court of Australia (Division 2) (Bankruptcy) Rules</i> 2021 <ul style="list-style-type: none"> <li>- <i>In the Marriage of Guirguis and the Official Trustee in Bankruptcy</i> (1997) 21 Fam LR 356</li> <li>- <i>O'Neill and O'Neill and Tayper Pty Ltd and Kayhaven Pty Ltd and Likami Properties Pty Ltd</i> [1998] FamCA 67</li> <li>- <i>Cummings v Claremont Petroleum N.L.</i> (1996) 185 CLR 124</li> <li>- <i>Bryson and Pember</i> [2013] FamCA 43</li> </ul> </li> </ul>

<b>Rights of creditors</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Biltoft</i> (1995) 19 Fam LR 82</li> <li>▪ <i>Lemnos and Lemnos</i> [2009] FamCAFC 20</li> <li>▪ <i>Re Chemaisse; Commissioner of Taxation (Cth) (Intervener)</i> (1990) 13 Fam LR 724</li> </ul>
<b>4.8.9 Equitable Estoppel</b>	
<b>Definition</b>	<ul style="list-style-type: none"> <li>▪ <i>The Commonwealth v Verwayen</i> (1990) 170 CLR 394</li> </ul>
<b>Application to Family Law</b>	<ul style="list-style-type: none"> <li>▪ <i>Sidhu v Van Dyke</i> (2014) 251 CLR 505; [2014] HCA 19</li> </ul>
<b>4.8.10 Leave to initiate property proceeding out of time</b>	
<b>Cases</b>	<ul style="list-style-type: none"> <li>▪ <i>Whitford &amp; Whitford</i> [1979] FamCA 3 (1979) FLC ¶90-612</li> <li>▪ <i>Sharp &amp; Sharp</i> [2011] FamCAFC 150</li> <li>▪ <i>Anderson &amp; McIntosh</i> [2013] FamCAFC 200</li> <li>▪ <i>Edmunds &amp; Edmunds</i> [2018] FamCAFC 121</li> <li>▪ <i>Gadzen &amp; Simkin</i> [2018] FamCAFC 218</li> <li>▪ <i>Sheppard &amp; Reeves</i> [2022] FedCFamC2F 317</li> <li>▪ <i>Wilder &amp; Wilder</i> [2022] FedCFamC1F 575</li> </ul>

## 4.9 Injunctions

<b>Power of the Court</b>	<ul style="list-style-type: none"> <li>▪ Part VII - section 68B</li> <li>▪ Part XIV - section 114 <ul style="list-style-type: none"> <li>- <i>Norton &amp; Locke</i> [2013] FamCAFC 202</li> </ul> </li> <li>▪ Section 90SS(5) – de facto relationships <ul style="list-style-type: none"> <li>- <i>Dunworth &amp; Falletti</i> [2020] FamCA 178</li> </ul> </li> </ul>
<b>Relevant principles – power and exercise of discretion</b>	<ul style="list-style-type: none"> <li>▪ General principles <ul style="list-style-type: none"> <li>- <i>In the Marriage of Waugh</i> [2000] FamCA 1183</li> <li>- <i>G &amp; T</i> [2003] FamCA 1076</li> <li>- <i>Mullen and De Bry</i> (2006) FLC ¶93-293</li> </ul> </li> <li>▪ Circumstances arising out of marital relationship - personal protection/non-molestation (section 68B) <ul style="list-style-type: none"> <li>- <i>In the Marriage of Kemsley</i> (1984) 10 Fam LR 125</li> <li>- <i>Oates &amp; Crest</i> [2008] FamCAFC 29</li> </ul> </li> </ul>



<b>To restrain dealings concerning property</b>	<ul style="list-style-type: none"> <li>▪ Personal rights versus legal or equitable interests <ul style="list-style-type: none"> <li>- <i>Mullane v Mullane</i> (1983) 158 CLR 436</li> </ul> </li> <li>▪ Merits of claim and degree of danger or prejudice <ul style="list-style-type: none"> <li>- <i>In the Marriage of Sieling</i> (1979) 4 Fam LR 713</li> <li>- <i>Luck &amp; Norwood</i> (2018) FamCAFC 207</li> </ul> </li> <li>▪ Real danger of prejudice <ul style="list-style-type: none"> <li>- <i>In the Marriage of Stowe</i> (1980) 6 Fam LR 757</li> </ul> </li> <li>▪ Prejudice to third parties <ul style="list-style-type: none"> <li>- <i>In the Marriage of Martiniello</i> (1981) 7 Fam LR 299</li> </ul> </li> <li>▪ Ordinary business dealings/ordinary course of business <ul style="list-style-type: none"> <li>- <i>In the Marriage of Martiniello</i> (1981) 7 Fam LR 299</li> </ul> </li> <li>▪ Minimum restrictions imposed <ul style="list-style-type: none"> <li>- <i>In the Marriage of Sieling</i> (1979) 4 Fam LR 713</li> </ul> </li> <li>▪ Undertakings <ul style="list-style-type: none"> <li>- <i>Blueseas Investments Pty Ltd &amp; Mitchell &amp; McGillivray</i> [1999] FamCA 745</li> </ul> </li> </ul>
<b>Injunctions and third parties</b>	<ul style="list-style-type: none"> <li>▪ Part VIII A FLA</li> <li>▪ Injunctions which affect third parties <ul style="list-style-type: none"> <li>- <i>R v Dovey; Ex parte Ross</i> (1979) 141 CLR 526</li> <li>- <i>In the marriage of Tiley</i> (1980) 6 Fam LR 528</li> <li>- <i>Sellers &amp; Burns and Anor</i> [2019] FamCAFC 113</li> </ul> </li> <li>▪ Injunctions directly against third parties - sham/puppet/alter ego <ul style="list-style-type: none"> <li>- <i>Ascot Investments Pty Ltd v Harper</i> (1981) 148 CLR 337</li> </ul> </li> <li>▪ Power no wider for interlocutory injunctions than for permanent injunctions <ul style="list-style-type: none"> <li>- <i>Re Ross-Jones, Marinovich and Marinovich</i> (1984) FLC ¶91- 555</li> </ul> </li> <li>▪ Injunctions against third parties in section 106B proceedings <ul style="list-style-type: none"> <li>- <i>In the marriage of Collins and Collins</i> (1987) 11 Fam LR 382</li> </ul> </li> <li>▪ Jurisdictional questions <ul style="list-style-type: none"> <li>- <i>Yunghanns &amp; Yunghanns &amp; Yunghanns</i> [1999] FamCA 64</li> </ul> </li> <li>▪ Circumstances in which the court may make final orders in property proceedings against a third party, and what must be satisfied for the court to</li> </ul>

exercise this power under the Family Law Act.

- Exclusive Use and Occupation - relevant matters to consider
  - *In the Marriage of Davis* (1982) 8 Fam LR 975
  - *In the Marriage of O'Dea* (1980) 6 Fam LR 675
  - *In the Marriage of Borzak* (1979) 5 Fam LR 571
  - *In the Marriage of Fedele* (1986) 10 Fam LR 1069
  - *Saveree and Elenton* [2014] FamCA 38
  - *Perdicari & Perdicari* (2019) FLC ¶93-914
- *Ex parte* applications/Applications without notice
  - Part 5.2 - FCFCoA (*Family Law*) Rules 2021 (Cth)
  - Rule 5.11 – what the applicant must do
  - Rule 5.12 – necessary procedural orders
  - Rules 5.16 to 5.22 – Applying for a search and seize order (*Anton Pillar* order)
  - Rules 5.23 to 5.26 – Applying for a freezing order (*Mareva* Order)
  - Rule 10.18(5) – Usual Undertaking as to Damages
  - *Zan & Zaro* [2019] FamCA 143
  - *Saltzer & Pacek* (No. 3) [2020] FCCA 1381
  - *Qian & Xue* [2022] FedCFamC1A 93
- Real and urgent need to protect
  - *In the Marriage of Sieling* (1979) 4 Fam LR 713
- Duty of full disclosure
  - *In the Marriage of Dean* (1977) 2 Fam LR 11691
  - *In the Marriage of Stowe* (1980) 6 Fam LR 757

## 4.10 Evidence

<b>Relevant legislation</b>	<ul style="list-style-type: none"> <li>▪ <i>Family Law Act 1975</i></li> <li>▪ <i>Evidence Act 1995 (Cth)</i></li> <li>▪ <i>FCFCoA Act 2021 (Cth)</i></li> <li>▪ <i>FCFCOA (Family Law) Rules 2021</i> <ul style="list-style-type: none"> <li>- Chapter 7</li> </ul> </li> </ul>
<b>Expert Evidence</b> <ul style="list-style-type: none"> <li>▪ <b>Opinion and Basis of Opinion</b></li> <li>▪ <b>Admissibility</b></li> <li>▪ <b>Valuation evidence</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Makita (Australia) Pty Ltd v Sprowles [2001] NSWCA 305; (2001) 52 NSWLR 705</i></li> <li>▪ <i>Dasreef Pty Ltd v Hawchar [2011] HCA 21; (2011) 243 CLR 588</i></li> <li>▪ <i>Thornton &amp; Little [2022] FedCFamC1A 49</i></li> <li>▪ <i>Australian Securities &amp; Investments Commission (ASIC) v Rich [2005] NSWSC 149; (2005) 190 FLR 242</i></li> <li>▪ <i>Sydneywide Distributors Pty Ltd v Red Bull Australia Pty Ltd [2002] FCAFC 157;</i></li> <li>▪ <i>McGregor &amp; McGregor [2012] FamCAFC 69</i></li> </ul>
<b>Expert Evidence</b> <ul style="list-style-type: none"> <li>▪ <b>Single Experts</b></li> <li>▪ <b>Other Experts</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ <i>Bass v Bass [2008] FamCAFC 67; [2008] FLC ¶93-366</i></li> <li>▪ <i>Danell &amp; Saller [2015] FamCA 859; (2015) 54 Fam LR 416</i></li> <li>▪ <i>Macvean &amp; Manton [2022] FedCFamC1F 376</i></li> </ul>
<b>Fresh evidence on appeal</b>	<ul style="list-style-type: none"> <li>▪ <i>CDJ v VAJ (No 1) (1998) 197 CLR 172; [1998] FLC ¶92-828</i></li> <li>▪ <i>Abdo and Abdo (1989) FLC ¶92-013</i></li> <li>▪ <i>Alaim &amp; Alaim [2017] FamCAFC 170</i></li> <li>▪ <i>Werth &amp; Pocapelli (2018) FLC ¶93-843;</i></li> <li>▪ <i>Mandall &amp; Camdyn (No 2) [2022] FedCFamC1A 91</i></li> </ul>
<b>Evidence in state court proceedings</b>	<ul style="list-style-type: none"> <li>▪ <i>Evidence Act 1977 (Qld)</i></li> <li>▪ <i>Domestic &amp; Family Violence Protection (Combatting Coercive Control) and Other Legislation Amendment Act 2023</i></li> </ul>
<b>Self-incrimination and certificates</b>	<ul style="list-style-type: none"> <li>▪ <i>Section 128 Evidence Act 1995 (Cth)</i> <ul style="list-style-type: none"> <li>- <i>Field and Kingston [2018] FamCAFC 145</i></li> </ul> </li> </ul>

## 4.11 Enforcement

Enforcement of parenting Orders	<ul style="list-style-type: none"> <li>Division 13A – Part VII</li> </ul>
Review of “reasonable excuse” for contravention of parenting order	<ul style="list-style-type: none"> <li><i>Childers &amp; Leslie [2008] FamCAFC 5</i></li> <li><i>Saldo &amp; Tindall [2012] FamCA194</i></li> <li><i>Vaughton &amp; Randle (No. 2) [2013] FamCA 286</i></li> </ul>
Enforcement of Financial Orders	<ul style="list-style-type: none"> <li>Chapter 11 – <i>FCFCoA (Family Law) Rules 2021</i></li> </ul>

## 4.12 Costs

Lawyer/own client costs	<ul style="list-style-type: none"> <li>Governed by state or territory in which lawyer practices <ul style="list-style-type: none"> <li>Queensland – <i>Legal Profession Act 2007</i></li> <li>New South Wales, Victoria, Western Australia – <i>Legal Profession Uniform Law</i></li> </ul> </li> <li>Requirements for specific notices under sections 308, 310, and 312 <i>Legal Profession Act 2007</i> (Qld)</li> <li>Requirement to provide costs notices prior to each court event – <i>FCFCoA (Family Law) Rules 2021</i></li> <li>Contracting out with client <ul style="list-style-type: none"> <li><i>Schiliro v Gadens Ridgeway (1995) 19 Fam LR 196</i></li> <li><i>Twigg &amp; Co v Rutherford (1996) 20 Fam LR 862.</i></li> </ul> </li> </ul>
Specific costs provisions under FCFCoA (Family Law) Rules 2021	<ul style="list-style-type: none"> <li>Rule 6.17 - Consequence of non-disclosure</li> <li>Rule 6.19 – Costs of compliance (oppressive)</li> <li>Rule 8.18 – Objectional material may be struck out</li> <li>Rule 8.20 – Notice to attend for cross-examination</li> <li>Rule 11.06 – Affidavit relating to enforcement – amount of costs claimed</li> </ul>
Application of Chapter 12 FCFCoA (Family Law) Rules 2021	<ul style="list-style-type: none"> <li>Security for Costs</li> <li>Costs disclosure obligations</li> <li>Management of legal costs</li> <li>Orders for costs</li> </ul>

	<ul style="list-style-type: none"> <li>▪ Calculation of costs</li> <li>▪ Specific costs matters</li> <li>▪ Claiming and disputing costs</li> </ul>
<b>Section 117 generally</b>	<ul style="list-style-type: none"> <li>▪ <i>Penfold v Penfold</i> (1980) 144 CLR 311</li> <li>▪ <i>Parker v Jacks (No 3)</i> [2009] FMCAfam 993</li> </ul>
<b>Reasons for making of Costs Orders</b>	<ul style="list-style-type: none"> <li>▪ Section 117(2) and 117(2A)</li> <li>▪ Conduct or parties in relation to proceedings as a litigant and conduct as parent <ul style="list-style-type: none"> <li>- <i>Renald &amp; Renald (Costs)</i> [2018] FamCAFC 4</li> </ul> </li> <li>▪ Party-party costs are ordered by the court where appropriate <ul style="list-style-type: none"> <li>- section 117</li> <li>- <i>Penfold v Penfold</i> (1980) 144 CLR 311</li> <li>- Rules 12.17, 12.18 FCFCoA (Family Law) Rules 2021</li> </ul> </li> </ul>
<b>Interim Costs</b>	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Barro</i> (1982) 8 Fam LR 855</li> <li>▪ <i>Strahan v Strahan</i> [2009] FamCAFC 166</li> <li>▪ <i>Bennison &amp; Bennison</i> [2013] FamCA 11</li> </ul>
<b>Offers to Settle</b>	<ul style="list-style-type: none"> <li>▪ Section 117C <ul style="list-style-type: none"> <li>- <i>In the Marriage of Harris</i> (1987) 11 Fam LR 629</li> <li>- <i>In the Marriage of Kowalski</i> (1994) 18 Fam LR 193</li> <li>- <i>Camilleri and Camilleri</i> [2002] FamCA 1157</li> </ul> </li> <li>▪ Written Offers to Settle</li> <li>▪ Costs ordered due to pre-action offer to settle <ul style="list-style-type: none"> <li>- <i>Firmer v Britton</i> [2012] FamCA 576</li> </ul> </li> </ul>
<b>Costs and expenses of Litigation Guardians</b>	<ul style="list-style-type: none"> <li>▪ Rule 3.18 FCFCoA (Family Law) Rules 2021</li> </ul>
<b>Costs orders against legal representatives</b>	<ul style="list-style-type: none"> <li>▪ Generally <ul style="list-style-type: none"> <li>- <i>Anstis v Anstis</i> [1999] FamCA 842</li> <li>- <i>Yunghanns &amp; Yunghanns</i> [2000] FamCA 681</li> <li>- <i>Parker &amp; Jacks (No.3)</i> [2009] FMCAfam 993</li> <li>- <i>Z (A Solicitor) &amp; Limonsin</i> (2010) FLC 93-433</li> </ul> </li> <li>▪ Executors of deceased estate Ordered to pay costs <ul style="list-style-type: none"> <li>- <i>Bain &amp; Bain (Deceased) (Costs)</i> [2017] FamCAFC164</li> </ul> </li> </ul>

## 4.13 Reviews, Appeals, and Transfers

Appeals of discretionary decisions	<ul style="list-style-type: none"> <li>▪ <i>House v The King</i> [1936] HCA 40</li> </ul>
Appeals from Court of Summary Jurisdiction	<ul style="list-style-type: none"> <li>▪ Section 47A</li> <li>▪ Part 2, Division 2, Division 4, Part 5, <i>Federal Circuit and Family Court of Australia Act 2021(Cth)</i></li> <li>▪ Nature of Hearing <i>de novo</i> <ul style="list-style-type: none"> <li>- <i>Harris v Caladine</i> (1991) 172 CLR 84</li> </ul> </li> </ul>
Appeals from Interlocutory Decree	<ul style="list-style-type: none"> <li>▪ <i>In the Marriage of Tudor</i> (1991) 15 Fam LR 165</li> </ul>
Leave to appeal	
Extension of time	<ul style="list-style-type: none"> <li>▪ <i>Gallo &amp; Dawson</i> [1990] HCA 30</li> </ul>
Appeals to the Full Court	<ul style="list-style-type: none"> <li>▪ Part 13.3 <i>Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth)</i></li> </ul>
	<ul style="list-style-type: none"> <li>▪ Fresh Evidence <ul style="list-style-type: none"> <li>- <i>Collu and Rinaldo</i> [2010] FamCAFC 53</li> <li>- <i>CDJ v VAJ (No 1)</i> (1998) 197 CLR 172</li> <li>- <i>Allesch v Maunz</i> (2000) 203 CLR 172</li> <li>- <i>Wall &amp; Wall</i> [2002] FamCA 257</li> <li>- <i>Van Ballekom v Kelly</i> (2005) FLC ¶93- 233</li> <li>- <i>Werth &amp; Pacapelli</i> (2018) FLC ¶93-843</li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>▪ Stays <ul style="list-style-type: none"> <li>- pending appeal: Rules, r 22.11, Federal Circuit and Family Court of Australia Act 2021(Cth) - section 13.12</li> <li>- pending a review: Rules, r 18.09 Federal Circuit and Family Court of Australia Act 2021(Cth) - Chapter 14</li> <li>- Parenting Cases: <ul style="list-style-type: none"> <li>▪ <i>Aldridge &amp; Keaton (Stay Appeal)</i> [2009] FamCAFC 106;</li> <li>▪ <i>Treloar &amp; Nepean</i> [2009] FMCAfam 847</li> <li>▪ <i>Sheldon &amp; Weir (Stay Application)</i> [2011] FamCAFC 5</li> </ul> </li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>- Financial Cases: <ul style="list-style-type: none"> <li>▪ <i>Gull (Stay Application) [2009] FamCAFC 104</i></li> <li>▪ <i>Jackson &amp; Balen [2009] FamCAFC 131</i></li> </ul> </li> </ul>
	<ul style="list-style-type: none"> <li>▪ Summary Dismissal <ul style="list-style-type: none"> <li>- <i>Lindon v The Commonwealth (No 2) (1996) 136 ALR 251</i></li> <li>- <i>Hunter &amp; Morrison (Contravention) [2014] FamCA 198</i></li> <li>- <i>Barden &amp; Barden [2014] FamCA 745</i></li> <li>- <i>D &amp; D [2006] FamCA 339</i></li> </ul> </li> <li>▪</li> </ul>
<b>Other matters</b>	<ul style="list-style-type: none"> <li>▪ <i>Simpson v Brockmann [2010] FamCAFC 37</i> – relevant to the issue of: <ul style="list-style-type: none"> <li>- <i>fresh evidence</i></li> <li>- <i>nature of appeals generally</i></li> <li>- <i>deals with Allesch v Maunz (2000) 203 CLR 172; CDJ v VAJ (No 1) (1998) 197 CLR 172.</i></li> </ul> </li> <li>▪ <i>Harrell &amp; Nesland [2020] FamCAFC 21</i> – relevant to issue of: <ul style="list-style-type: none"> <li>- <i>Procedure</i></li> <li>- <i>Application in an Appeal for extension of time to serve Notice of Appeal</i></li> <li>- <i>Slip Rule</i></li> </ul> </li> <li>▪ McKenzie Friend <ul style="list-style-type: none"> <li>- <i>McKenzie &amp; McKenzie [1970] 3 All ER 1034</i></li> <li>- <i>Watson &amp; Watson (2002) FLC ¶93-094</i></li> </ul> </li> <li>▪ Litigants in person <ul style="list-style-type: none"> <li>- Best Practice Guidelines for Lawyers Doing Family Law Work, Part 4 self-represented litigants</li> </ul> </li> <li>▪ Appeal Pathway from Magistrates Court of WA to the Court of Appeal (WA) <ul style="list-style-type: none"> <li>- <i>MCG v JM [2016] WASCA 77</i></li> <li>- <i>CDW v LVE [2015] WASCA 247</i></li> <li>- <i>Marino &amp; Hodney [2016] FCWA 29</i></li> <li>- <i>FDR v JDL [No 2] [2016] WASCA 231</i></li> <li>- <i>Eckett &amp; Eckett [2010] FamCAFC 39</i></li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>▪ Appeal Family Court of Western Australia: Full Court considered powers of FCWA <ul style="list-style-type: none"> <li>- <i>Teo v Guan</i> [2015] FamCAFC 94</li> <li>- <i>CDW v LVE</i> [2015] WASCA 247</li> </ul> </li> </ul>
--	--

## 4.14 Inherent, Associated, and Accrued Jurisdiction

<b>Associated jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ Section 33</li> </ul>
<b>Limited statutory jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ <i>Minister for Immigration and Multicultural and Indigenous Affairs v B (No 3)</i> (2004) 219 CLR 365</li> <li>▪ <i>Corporations Act 2001</i> (Cth)</li> </ul>
<b>Inherent jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ <i>DJL v Central Authority</i> (2000) 201 CLR 226</li> </ul>
<b>Slip rule</b>	<ul style="list-style-type: none"> <li>▪ <i>Horleck v Horleck (No 2)</i> [2008] FamCA 683</li> <li>▪ <i>Higginson &amp; Higginson</i> [2013] FamCA 902</li> </ul>
<b>Cross-vesting jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ <i>Re Wakim; Ex parte McNaly</i> (1999) 198 CLR 511</li> </ul>
<b>Accrued jurisdiction</b>	<ul style="list-style-type: none"> <li>▪ <i>Warby v Warby</i> [2001] FamCA 1469</li> <li>▪ <i>Finlayson and Finlayson and Gillam</i> [2001] FamCA 49</li> <li>▪ <i>Foley v Farquharson</i> [2003] QSC 021</li> <li>▪ <i>Bishop &amp; Bishop</i> [2003] FamCA 240</li> <li>▪ <i>Noll &amp; Noll</i> [2013] FamCAFC 24</li> <li>▪ <i>Bergman v Bergman</i> [2009] FamCAFC 27</li> <li>▪ <i>F Firm &amp; Ruane &amp; Ors</i> [2014] FamCAFC 189</li> <li>▪ <i>C and C and C: Accrued Jurisdiction</i> [2001] FamCA 459</li> <li>▪ <i>Selen v Selen</i> [2013] FamCAFC 39</li> <li>▪ <i>Wentworth v Hamilton</i> [2014] FamCA 533;</li> <li>▪ <i>Ruane v Bachman-Ruane (Accrued Jurisdiction)</i> [2012] FamCA 369.</li> </ul>



## 4.15 Family Violence

<b>Family Law Act 1975 (Cth)</b>	<ul style="list-style-type: none"> <li>▪ Definitions: section 4AB, section 4 definitions of 'abuse' subparagraph (c), 'exposed', 'family violence', 'family violence order'</li> <li>▪ Part II, Division 2, Family Counselling, section 10D(4)(c), exceptions to confidentiality of communications in family counselling</li> <li>▪ Part II, Division 3, Family Dispute Resolution, section 10H(4)(c), exceptions to confidentiality of communications in family dispute resolution</li> <li>▪ Part V, Division 3, Section 43(1)(ca), Principles to be applied by the Courts</li> <li>▪ Part VII, Division 1, Section 60CF, Obligation to inform the Court of Family Violence Orders</li> <li>▪ Part VII, Division 8, Subdivision D, Sections 67Z to 67ZBB, Allegations of family violence</li> <li>▪ Part VII, Division 11, Sections 68N to 68T, Inconsistencies between Family Violence Orders and Other Orders</li> <li>▪ Part VII, Division 12, Subdivision C, Section 69H, Jurisdiction of Courts</li> <li>▪ Part VII, Division 12A, Subdivision B, Section 69ZN(5), and Subdivision C, Section 69ZQ and Duties of the Court in conducting child related proceedings</li> <li>▪ Part VII, Division 12A, Section 69ZW, Evidence relating to family violence</li> <li>▪ Amendments to the Family Law Act 1975 (Cth) relating to Family Violence: <ul style="list-style-type: none"> <li>- <i>Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011</i> (Cth) – Act 189 of 2011</li> <li>- <i>Family Law Amendment (Family Violence and Other Measures) Act 2018</i> (Cth) – Act 97 of 2018</li> <li>- <i>Family Law Amendment (Family Violence and Cross-Examination of Parties) Act 2018</i> (Cth) – Act 159 of 2018 (commenced 11 March 2019)</li> </ul> </li> </ul>
<b>Other Resources</b>	<ul style="list-style-type: none"> <li>▪ National Domestic and Family Violence Bench Book, (June 2017) Australasian Institute of Judicial Administration, online at <a href="http://www.dfvbenchbook.aija.org.au">http://www.dfvbenchbook.aija.org.au</a></li> <li>▪ Royal Commission into Family Violence (Victoria), (2016), Summary and Recommendations Volume, see: <a href="http://www.rcfv.com.au/Report-Recommendations">http://www.rcfv.com.au/Report-Recommendations</a></li> <li>▪ <i>Not Now, Not Ever – Putting an End to Domestic and Family Violence in</i></li> </ul>

	<p>Queensland, Special Task Force on Domestic and Family Violence in Queensland, see: <a href="https://www.justice.qld.gov.au/initiatives/end-domestic-family-violence/about/not-now-not-ever-report">https://www.justice.qld.gov.au/initiatives/end-domestic-family-violence/about/not-now-not-ever-report</a></p> <ul style="list-style-type: none"> <li>State Family Violence Acts</li> </ul>
--	--

## 4.16 Individual State Jurisdictions

Family Violence Orders	<ul style="list-style-type: none"> <li>s68Q</li> </ul>
Children	<ul style="list-style-type: none"> <li><i>Status of Children Act 1978</i> (Qld)</li> </ul>
Surrogacy	<ul style="list-style-type: none"> <li><i>Surrogacy Act 2010</i> (Qld)</li> </ul>
Child Welfare Laws	<ul style="list-style-type: none"> <li>s69ZK</li> </ul>

## 4.17 Court Processes

General	<ul style="list-style-type: none"> <li>Docket Registrar's Role</li> <li>Central Practice Direction 2021 (CPD)</li> <li>Core Principles - item 3 CPD <ul style="list-style-type: none"> <li>overarching purpose of family law practice</li> </ul> </li> <li>Division 4 "Case Management" sections 67 &amp; 68 Federal Circuit and Family Court of Australia Act 2021 (Cth)</li> <li>Allocation between divisions of the Federal Circuit and Family Court of Australia item 4.9-4.13 CPD</li> <li>Case Management Pathway –</li> <li>Court Events, item 5 CPD</li> <li>First Court Event</li> <li>Interim hearings</li> <li>Subsequent Interlocutory Hearings, rule 4.03 of the Rules</li> <li>Compulsory Dispute Resolution for both property and parenting matters, item 5.26 CPD</li> <li>Courts powers in relation to Court and Non-Court Based Family Services Part 111B of the FLA</li> <li>Conciliation Conferences (Court based)</li> <li>Mediations (non-court based)</li> <li>Dispute Resolution Conferences (Court Based)</li> </ul>
---------	---

	<ul style="list-style-type: none"> <li>▪ Family Dispute Resolution (Non-Court Based) s13C FLA</li> <li>▪ Compliance &amp; Readiness Hearing, item 5.51 CPD</li> <li>▪ Certificate of Readiness</li> <li>▪ Circuits and Specialist Lists</li> <li>▪ The Lighthouse Project</li> <li>▪ The Evatt List</li> <li>▪ Priority Property Pool under \$500,000</li> <li>▪ The Magellan List</li> <li>▪ Cost Disclosure Obligations Part 12.3 of the Rules</li> <li>▪ Offers to settle Part 4.2 of the Rules</li> <li>▪ Compulsory offers to settle – rule 4.11</li> <li>▪ Applying for an order for interim costs</li> <li>▪ Order for Costs Part 12.5 Rules</li> <li>▪ Applying for interim or procedural order without notice Part 5.2 rules</li> <li>▪ Appointment of litigation guardian Part 3.5 Rules</li> <li>▪ Arbitration</li> <li>▪ Financial Agreement or consent orders (financial matters)</li> <li>▪ Orders or parenting plans (parenting)</li> </ul>
--	--

**It is stressed that the above list is not intended to be exhaustive and that any matter relevant to practice in Family Law may be examined. Schedule 5 gives a further indication of the legislation and topics which candidates might be asked to address.**

# SCHEDULE 5: RELATED LEGISLATION & OTHER MATERIALS

---

## Related legislation

This is not necessarily an exhaustive list. It does not list subordinate legislation and policy or regulations, guidelines or gazette notices which may also be relevant.

Candidates will be examined on the law as it stands at the date of assessment.

## Commonwealth Legislation

- Bankruptcy Act 1966 (Cth)
- *Child Support (Assessment) Act 1989 (Cth)*
- *Child Support (Registration and Collection) Act 1988 (Cth)*
- *Child Support (Assessment) Regulations 2018 (Cth)*
- *Child Support (Registration and Collection) Regulations 2018 (Cth)*
- *Corporations Act 2001 (Cth)*
- *Evidence Act 1995 (Cth)*
- *Family Law Act 1975 (Cth)*
- *Family Law Amendment (Western Australia De Facto Superannuation Splitting and Bankruptcy) Act 2020 (Cth)*
- *Federal Circuit and Family Court of Australia Act 2021 (Cth)*
- *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Act 2021 (Cth)*
- *Marriage Act 1961 (Cth)*
- *Trans-Tasman Proceedings Act 2010 (Cth)*
- *Superannuation Industry (Supervision) Regulations 1994 (Cth)*
- *Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth)*
- *Federal Circuit and Family Court of Australia (Division 2) (Family Law) Rules 2021 (Cth)*
- *Federal Circuit and Family Court of Australia (Division 2) (Bankruptcy) Rules 2021 (Cth)*
- *Family Law (Child Protection Convention) Regulations 2003 (Cth)*
- *Family Law (Child Abduction Convention) Regulations 1986 (Cth)*
- *Family Law (Family Dispute Resolution Practitioners) Regulations 2008 (Cth)*
- *The Hague Convention on the Civil Aspects of International Child Abduction, 25 October 1980*

## Related Procedures Family Court

- *Central Practice Direction: Family Law Case Management*
- *Family Law Practice Direction – Corporations Act proceedings*
- *Family Law Practice Direction – Medical procedure proceedings*
- *Family Law Practice Direction – National Contravention List*
- *Family Law Practice Direction – National COVID-19 List*
- *Family Law Practice Direction – Nullity and validity of marriage proceedings*
- *Family Law Practice Direction – Parenting proceedings*
- *Family Law Practice Direction – Passport proceedings*
- *Family Law Practice Direction – Priority Property Pools under \$500,000*
- *Family Law Practice Direction – Surrogacy proceedings*
- *Family Law Practice Direction – Trans-Tasman Proceedings Act proceedings*
- *Family Law Practice Direction – Appeals*
- *Family Law Practice Direction – Arbitration*
- *Family Law Practice Direction – Bankruptcy Act proceedings*
- *Family Law Practice Direction – Child support and child maintenance proceedings*
- *Family Law Practice Direction – Critical Incident List*
- *Family Law Practice Direction – Divorce proceedings*
- *Family Law Practice Direction – Evatt List*
- *Family Law Practice Direction – Financial proceedings*
- *Family Law Practice Direction – Lighthouse Project and Evatt List*
- *Family Law Practice Direction – Major Complex Financial Proceedings List*
- *FCFCOA Practice Direction – Revocation of Practice Directions and Information Notices*
- *FCFCOA Practice Direction – Transitional Arrangements*
- *FCFCOA Special Measures Information Notice - COVID-19 Electronic Subpoena Inspection*
- *FCFCOA Special Measures Information Notice – Hearing protocol*
- *FCFCOA Information Notice: Applications for Review*
- *FCFCOA Information Notice: Court Record*
- *FCFCOA Information Notice: Subpoenas and the Department of Fairness Families and Housing Victoria*

## New South Wales Legislation

- *Crimes (Domestic and Personal Violence) Act 2007 (NSW)*
- *Children and Young persons (Care and Protection) Act 1998 (NSW)*
- *Duties Act 1997 (NSW)*
- *Legal Profession Uniform Law and Legal Profession Uniform Law (NSW) and Legal Application Act 2014 (NSW)*
- *Property (Relationships) Act 1984 (NSW)*
- *Suitors' Fund Act 1951 (NSW)*
- *Status of Children Act 1996 (NSW)*
- *Surrogacy Act 2010 (NSW)*

## Queensland Legislation

- *Child Protection Act 1999 (QLD)*
- *Children's Court Act 1992 (QLD)*
- *Domestic and Family Violence Protection Act 2012 (QLD)*
- *Duties Act 2001 (QLD)*
- *Land Title Act 1994 (QLD)*
- *Land Title Regulation 2022(QLD)*
- *Legal Profession Act 2007 (QLD)*
- *Powers of Attorney Act 1998 (QLD)*
- *Property Law Act 1974 (QLD)*
- *Status of Children Act 1978 (QLD)*
- *Succession Act 1981 (QLD)*
- *Surrogacy Act 2010 (QLD)*
- *Transplantation & Anatomy Act 1979 (Qld)*

## South Australian Legislation

- *Children and Young People (Safety) Act 2017 (SA)*
- *Family Relationships Act 1975 (SA)*
- *Intervention Orders (Prevention of Abuse) Act 2009 (SA)*
- *Legal Practitioners Act 1981 (SA)*

- *Stamp Duties Act 1923 (SA)*

### **Victorian Legislation**

- *Assisted Reproductive Treatment Act 2008 (Vic)*
- *Births Deaths and Marriages Registration Act 1996 (Vic)*
- *Children Youth and Families Act 2005 (Vic)*
- *Duties Act 2000 (Vic)*
- *Family Violence Protection Act 2008 (Vic)*
- *Legal Profession Uniform Law Application Act 2014 (Vic)*
- *Personal Safety Intervention Orders Act 2010 (Vic)*
- *Property Law Act 1958 (Vic)*
- *Relationships Act 2008 (Vic)*
- *Status of Children Act 1974 (Vic)*

### **Western Australian Legislation**

- *Adoption Act 2008 (WA)*
- *Duties Act 2008 (WA)*
- *Evidence Act 1906 (WA)*
- *Family Court Act 1997 (WA)*
- *Family Court Rules 2021*
- *Practice Direction 1 of 2021 – FCWA Case Management Guidelines issued 7 May 2021*
- *Family Provisions Act 1972 (WA)*
- *Family Violence Legislation Reform Act 2019 (WA)*
- *Interpretation Act 1984 (WA)*
- *Property Law Act 1969 (WA)*
- *Restraining Orders Act 1997 (WA)*
- *Residential Tenancies Legislation Amendment (Family Violence) Act 2018 (WA)*
- *Surrogacy Act 2008 (WA)*
- *Transfer of Land Act 1893 (WA)*
- *Uniform Legal Profession Law*

### Related Guidelines

- *Australian Solicitors Conduct Rules and relevant legislation in states and territories*
  - *Ethical Guidelines*
  - *Legal Professional Uniform Law Australian Conduct Rules 2015*
  - *Australian Solicitors Conduct Rules and Commentary - Queensland*
  - *Federal Circuit and Family Court of Australia, Family Violence Best Practice Principles (2016)*
-