



Queensland
Law Society®

Family Law

2025 Accredited Specialist
Assessment Guidelines



spec@qls.com.au

07 3842 5952

<https://www.qls.com.au/Education/Specialist-Accreditation>

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Assessment Guidelines Overview

Solicitors who become Accredited Specialists are recognised as having enhanced knowledge and professional practice skills, as well as substantial involvement in established legal specialty areas.

Through the assessment tasks, the Queensland Law Society (QLS) requires candidates to demonstrate a standard of professional knowledge, proficiency in application, and communication that reflects that of a specialist in that area of accreditation, to ensure that recognition as an Accredited Specialist is meaningful.

The 2025 Family Law Specialist Accreditation Assessment Guidelines are designed to assist practitioners to understand, prepare for and undertake the assessment specific to this area of accreditation. These Assessment Guidelines should be viewed in conjunction with the QLS Specialist Accreditation Scheme Handbook which contains the policies and procedures relevant to all areas of accreditation.

Performance outcomes

Specialist Accreditation is a structured assessment process which requires candidates to draw on their existing knowledge and skills to demonstrate their competency and expertise in their chosen area of law.

Solicitors wishing to be accredited should demonstrate a high standard of:

- knowledge of the law and procedure which underpins the performance of tasks in this area of practice; and
- application and communication of legal knowledge and available legal options expected of practitioners wishing to hold themselves out as specialists in the area.

Specialists need to possess knowledge of a wide range of topics. In practice of course, the client base and practice experience of the applicant will result in that applicant having a greater degree of familiarity with some of these topics than others.

Nevertheless, every applicant needs to be aware that once accredited as a specialist in this area, the practitioner will be in effect holding themselves out to potential clients as having a knowledge of all of the topics that fall within the specialty. Over a period of years those topics with which the applicant will be most familiar within the speciality may fluctuate as the client base changes.

Assessment program

The assessments are all delivered in a digital environment. This provides equitable access for all candidates irrespective of location and is also aligned with the nature of legal practice in today's digital world. There is a base level of computer literacy required to complete the assessment, and it is incumbent upon candidates to have access to suitable technology and infrastructure to perform in the most optimal way. Three assessments make up the Specialist Accreditation program in Family Law.

Take home assessment

The take home assessment is usually the first item of assessment attempted in the program. It is in the form of a mock file or files where professional artefacts (e.g. a letter of advice, court documents, contracts etc.) are drafted in response. Candidates are given a period of three weeks from the release date to complete the Take Home assessment, which is then submitted online to the QLS Learning Management System (Canvas).

Written examination

The written exam consists of short answer and extended written questions. It is accessed by candidates via the QLS Learning Management System (Canvas).

Oral assessment

The oral assessment varies in each area of accreditation (client interview, mock hearing or application, professional discussion/viva). In 2025 the oral assessment in Succession Law will be a simulated client interview format conducted online via Microsoft Teams.

Candidates who complete all three assessments to the standard of an accredited specialist are eligible for accreditation as a specialist in Family Law. Schedules 1-3 include further details in relation to each of the three assessments. Topics for Assessment are listed in [Schedule 4](#). Candidates may, in any or all the assessment tasks, be assessed on any or all of the core areas of knowledge and professional practice skills.

All assessments undergo a rigorous marking process. Any assessment deemed to not have achieved the standard of an accredited specialist will go through an independent second round of marking before a recommendation is made to grant or deny Accredited Specialisation.

Candidates will be examined on the law as it stands at the date of assessment unless the assessment instructions specify otherwise.

Key milestones and program timeline

Candidates are advised that the Specialist Accreditation program requires a considerable commitment. From when you get accepted into the program, we encourage you to plan and use these guidelines to prepare.

ITEM	DATE
Specialist Accreditation Information Evening	20 February 2025
Applications Open	24 February 2025
Applications Close	19 March 2025
Candidate Acceptance Notification	17 April 2025
Assessment Briefing Evening	19-20 May 2025
Assessment Dates	
- Take Home Assignment	6 June to 27 June 2025
- Written Exam	26 July 2025
- Simulated Client Interview	27 July 2025
Results Released	Mid-November 2025
Specialist Accreditation Christmas Breakfast	11 December 2025

Note: The above dates are correct at the time of publishing. Should any changes need to occur, they will be communicated directly to candidates throughout their assessment program as early as possible.

SCHEDULE 1: TAKE HOME ASSESSMENT

Letter of advice & Court documents

Release date: Friday 6 June 2025

Due Date: Friday 27 June 2025 at 4pm

Submission: submitted online to the QLS Learning Management System (Canvas)

Assessment overview

Candidates will be required to prepare a letter of advice for a client 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 candidate is not expected to provide any advice relating to costs agreements or disclosure statements. The examiners will assess communication skills as well as legal knowledge.

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; and
- skills in interpreting and drafting documents
- ability to identify and address any ethical issues

Note: a failure to accurately address ethical issues will constitute an automatic fail of this assessment item.

Assessment conditions

Candidates may use the resources of their offices in completing this exercise. However, consultation with any other person in completing the exercise is not permitted and the material submitted must be entirely your own work.

The assessment must be submitted as a word or PDF document through the online student portal by no later than 4pm on the due date advised. Late submissions will not be accepted.

Further details are provided when the assessment is released.

To successfully reach the standard of an accredited specialist, candidates must achieve no less than 50% in this assessment.

SCHEDULE 2: WRITTEN EXAMINATION

Written Examination

Date: Saturday 26 July 2025

Duration: Three (3) hours and 30 minutes inclusive of reading, planning and writing time

Via: QLS Learning Management System (Canvas)

Assessment overview

The written examination will cover a wide range of family law matters that may be encountered in practice. The exam is divided into two sections – Part A is long answer questions and constitutes 70% of the paper. Part B consists of short answer questions and constitutes 30% of the paper.

In Part A candidates are required to answer BOTH extended response questions and provide advice in sufficient depth to demonstrate a high level of competence in the topics raised, and the ability to identify and provide guidance on other related issues.

In planning and time management, it is recommended to use the mark allocation per question as a guide.

Assessment criteria

Candidates will be assessed on their ability to:

- 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; and
- ability to identify and address any ethical issues.

Assessment conditions

This is an open book exam.

Completing the examination

The Written Exam will be delivered online via Canvas. The Specialist Accreditation Team will provide further instructions about the exam ahead of the assessment.

- answers must be typed out using the allocated text box on Canvas
- candidates must have strong and reliable internet connection
- candidates will be solely responsible for any malfunctions, errors or technical problems of any kind associated with the electronic devices they use for the assessment
- candidates will not be provided any additional time to complete an online assessment due to any malfunctions, errors or technical problems of any kind in relation to the electronic advice they use to complete the assessments, or due to their own poor internet connection or usage outages, without approval from the Advisory Committee on a case-by-case basis
- 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.
- **To successfully reach the standard of an accredited specialist, candidates must achieve no less than 50% in each part of the exam.**

SCHEDULE 3: ORAL ASSESSMENT

Simulated Client Interview

Date:	Sunday 27 July 2025. Please note: A second interview day may be added depending on final candidate numbers
Time:	Scheduled by appointment closer to the date
Venue:	via Microsoft Teams – candidates must have a device with a working camera and access to WiFi

Assessment overview

Candidates will conduct a simulated first interview with a person acting in the role of a client. The exercise will take about 60 minutes and will be recorded, with the recording being assessed by the examiners. Candidates will be expected to give advice in the interview subject to the instructions obtained.

The 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.

Assessment criteria

As a minimum requirement, candidates are expected to possess the ability to

- elicit information from the client
- accurately respond to client enquiries
- display significant and accurate knowledge of key legal issues; and
- clearly communicate their advice to the client.

Candidates will be assessed on four different criteria that include:

- gathering / ascertaining client instructions and concerns
- identifying legal, ethical and procedural issues
- providing correct advice to the client
- developing a plan for the client; and
- demonstration of appropriate communication / rapport skills.

Assessment conditions

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.

Candidates must have a device with a working camera and access to WiFi. You will be allocated an interview time closer to the assessment date.

To successfully reach the standard of an accredited specialist, candidates must achieve no less than 50% in this assessment.

SCHEDULE 4: TOPICS FOR ASSESSMENT

Applicants will be expected to display a working knowledge of all the practice areas as well as being expected to be able to address complex issues that might arise in any of the core knowledge areas, identify relevant issues and problems from the fact scenarios provided, provide practical, clear and accurate advice, draft documents in accordance with relevant procedural rules and principles and demonstrate adherence to the ethical and professional “best practice” of family law.

Any matter relevant to practice in Family Law may be examined, including the areas listed below. The following list gives an indication of other matters which candidates might be asked to address. Candidates may be asked questions arising under any legislation, related regulations and other materials listed in these guidelines.

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

- the Family Law Act, the Federal Circuit and Family Court (Family Law) Rules, the Child Support (Assessment) Act, and other relevant legislation and case law
- State legislation relating to domestic violence, children, medical procedures and professional responsibilities, and the intersection between state and federal legislation
- the core knowledge areas as set out in this Schedule.

Note: The cases and sections of legislation are provided by way of guideline assistance only. In the event that any new legislative reforms become effective before the date of assessment and / or new cases delivered, practitioners will be required to be aware of the changes to the law resulting from that legislation and / or those cases.

Parts, divisions, sections, orders and rules, if cited without legislative reference, are parts, divisions, sections, orders or rules of the *Family Law Act 1975* (Cth) or the *Federal Circuit and Family Court (Family Law) Rules 2021* (Cth).

Topics for Assessment

1. Divorce

- jurisdiction
- ground: section 48
 - meaning of separation (including separation under one roof): section 49
 - effect of resumption of cohabitation: section 50
 - requirements where marriage is less than two years: section 44 (1B)
- declaration – children: section 55A
- effect on wills
- time limits for property and maintenance applications: section 44(3)
- applications for leave to institute proceedings out of time

2. Nullity

- grounds for nullity and consequences of nullity decrees
- effect of fraud

3. Children

3.1. Dispute Resolution

- sections 10A to 10K & 10PA *Family Law Act*
- confidentiality re: counselling and family dispute resolution - sections 10D and H
- admissibility of statement made in counselling and family dispute resolution: sections 10E and 10J
- section 10F definition of “*family dispute resolution*” and s10G definition of “*family dispute resolution practitioner*”

- *Family Law (Family Dispute Resolution Practitioners) Regulations 2008* (Cth) - Regulation 25(2)
 - role of Family Relationship Centres
 - section 63 DA and section 60 D - obligation of advisors
 - pre-filing dispute resolution requirements and exceptions: section 60I
 - family dispute resolution not attended because of child abuse or family violence: section 60J
-

3.2. Jurisdictional requirements and discretion to exercise jurisdiction

- standing: section 65C section 69C
 - necessary parties - Part 3.1 FCFCA Rules 2021
 - best interest of children s60CC FLA 1975 and forum
 - repealing the presumption of “equal shared parental responsibility” provisions - Family Law Amendment Bill
 - jurisdiction for parenting orders over child in foreign country
 - forum non conveniens in Children’s matters - definition of “parent”: sections 60H, 60HA and 60HB
 - court’s power to make parenting order: section 65D
 - approach to making of parenting orders: section 60CC
 - meaning of “parenting order” and matters parenting orders can deal with: section 64B
 - whom parenting orders may be made in favour of: section 64C
 - types of children parenting orders can deal with: section 65H
 - parenting orders may be subject to later parenting plans: section 64D
 - effect of death on parenting orders: section 65K
-

3.3. Parental Responsibility – Part VII, Div 2

- *Family Law Amendment Act 2023* (Cth) - sections 61A to 61F
 - definition of “major long-term issues” - section 4
-

3.4. Parenting Orders: general principles - Part VII, Div 12A

- pre-action procedures and exceptions: Rule 4.01 and Schedule 1 of the
- *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (Cth)
- sections 60B, 60CA, 60CC
- court’s power to make an order outside of what parties applied for:
- principles in child-related proceedings: sections 69ZN and 69ZQ.
- other issues concerning Parenting Orders – stay of proceedings pending appeal: *Sarti and Anor & Sarti (No.2)* [2020] FLC 93-993.
- section 60CC(3)(a) and children’s views
- ways in which views can be put before the court: section 60CD, 60CE.
- admissibility of statements by children: *Family Court of Australia (Family Law) Rules 2021* (Cth) Rule 8.10 and section 100B
- how children’s views should be considered and weighed: family reports / expert evidence

Family reports: Section 62G

- Independent Children’s Lawyer (ICL): Part VII, Division 10
- child abuse:
- definition of “abuse”: section 4(1)
- unacceptable risk test
- family violence and Intervention Orders Cases - section 68P

Family Violence

- definition of “family violence”: section 4AB(1)(3)
- long term supervision orders:

Other issues

- surrogacy:
 - schooling
 - travel
 - change of name:
 - child’s passport
 - vexatious proceedings - section 102QB
 - definition of “major long-term issues”: section 4
-

3.5. Part VII, Divisions 4 to 6

- parenting compliance provisions: Part VII, Division 13A
 - the precondition as a preliminary issue: Section 65DAAA
 - when parenting order terminates: Sections 65H, 65J and 65K
 - registration of state, territory and overseas orders: Part VII, Division 13.
 - *Family Law (Child Abduction Convention) Regulations 1986*.
 - location and recovery of children: Part VII, Division 8 – Subdivision C
 - 1980 Hague Convention on the Civil Aspects of International Child Abduction
 - Part VII, Division 12 - subdivisions D & E presumption
 - section 67ZC (1)
 - Family Law Practice Direction – medical procedure proceedings
-

3.6. Relocation

- definition of “major long-term issues” - section 4
-

3.7. Family Violence

- final bias and interim hearings; s 61DA, s 60CG
-

3.8. Parenting plans and orders (particular issues)

- Part V11 Divisions 4 to 6
-

3.9. Contravention of parenting orders

- the parenting compliance provisions
 - contravention list
-

3.10. Alteration of parenting orders: Section 65D (2)

- s65DAAA
- the precondition of fresh circumstances: changed circumstances; undisclosed material facts
- the precondition as a preliminary issue
- when parenting order terminates:
 - *Family Law Act 1975* (Cth)
 - Subsection 65H

3.11. Abduction of children – within Australia and overseas

- Part VII Division 13: Registration of state, Territory and Overseas orders
 - *Family Law (Child Abduction Convention) Regulations 1986*
 - Part VII Division 8 - Subdivision C: Location and Recovery of Children
-

3.12. Child protection convention

- Division 4 of Part XIII AA
 - *Family Law (Child Protection Convention) Regulation 2003 (Cth)*
 - Commonwealth Child Protection Measures 111CD
-

3.13. Paternity

- Part VII Division 12 – Subdivisions D and E
-

3.14. Reaching agreement

- parenting plans and consent orders
 - section 63C
-

3.15. Court sanction of medical procedure

- Section 67ZC (1)
-

3.16. Children in detention

- *Minister for Immigration and Multicultural and Indigenous Affairs v B (No 3) (2004) 219 CLR 365*
-

4. Spousal Maintenance

- establishing a claim
 - sections 72 to 77A
 - threshold finding under section 72 - lack of adequate support and capacity to pay
 - consideration of "any other adequate reason" under section 72(1)(c)
 - consideration of section 75 (2) factors
 - consideration of section 74: exercise of discretion
 - "adequately" and "properly"
 - relationship between spousal maintenance and property orders
 - section 77A requirements
 - cessation of spousal maintenance orders - *In the Marriage of Clauson (1995) FLC 92-595*
 - registrable spousal maintenance liabilities.
 - lump sum spouse maintenance
 - urgent v interim orders
-

5. Child Maintenance and Support

- primary duty to maintain children - section 66C FLA
- jurisdictional aspects - section 66E FLA
- adult child maintenance - section 66L FLA
- when adult child maintenance stops & duty to inform - section 66VA
- limited and binding child support agreements - section 86 of the *Assessment Act*

- binding child support agreements and impact of COVID-19
- child: section 24 *Assessment Act*
- parent: section 25 *Assessment Act*
- non-parent carer: section 25A *Assessment Act*
- Stepparent: section 66M FLA
- the Child Support Formula – Division 2
- re-establishment income
- general grounds of departures: section 117(2) *Assessment Act*
- earning capacity section 117(4)(d); section 117 (7A) (7B)
- departures from administrative assessments - section 98B; section 98C(2); section 117(2)
- court jurisdiction - s116 *Assessment Act*
- change of assessment
- estimates
- sections 60,61,62,63,64 *Child Support (Assessment) Act 1989* (Cth).
- objections to Registrar Decisions.
- Administrative Appeals Tribunal Social Services and Child Support Division
- abolition of AAT and transition to a new Federal administrative review body
- court review and review of AAT decisions
- Part VIII *Registration Act*
- *Federal Circuit and Family Court of Australia (Family Law) Rules 2021*
- when another application is pending section 116(1)(b) *Assessment Act*
- complex applications - section 98E; section 98R
- disputed parentage - sections 106, 107 *Assessment Act*
- stay orders - section 111C *Child Support Registration Act*
- time limit on backdating assessments: section 111(1) *Assessment Act*
- non-periodic amounts - section 123 *Assessment Act*
- urgent child support - section 139(1) *Assessment Act*
- order for recovery of wrongly paid child support
- section 143 *Assessment Act*
- recovery, enforcement and penalties

Note:

- *Assessment Act – Child Support (Assessment) Act 1989* (Cth)
- *Registration Act – Child Support (Registration and Collection) Act 1989* (Cth)
- *Tribunals Amalgamation Act 2015* (Cth)

6. Financial Agreements

6.1. Conceptualising a financial agreement

- sections 90G & 90UJ
- concurrent agreements under Part VIIIA and Part VIIIAB
- property and financial resources
- spousal maintenance (see further Subsection 90E and 90UH for specific drafting requirements, and subsection 90F and 90UI)
- incidental or ancillary matters (including adult child maintenance)
- superannuation – sections 90XH and 90XHA; interplay with section 90XJ(1)(a)

- lifestyle clauses
- agreements with third parties
- onus of proof
- is the agreement binding under sections 90G and 90UJ?
- if the agreement does not comply with section 90G(1), can it be “saved” pursuant to section 90G(1A)?
- grounds for setting an agreement aside – sections 90K and 90UM
- non-disclosure of assets
- subsection 90K(1)(b) – legal and equitable principles that may render an agreement “void, voidable or unenforceable”
- unconscionable conduct and/or undue influence:
- impracticability
- material change in circumstances
- uncertainty/incompleteness
- mistake
- use of equitable and contractual principles to render enforceable an agreement.
- rectification
- part performance
- implied terms
- estoppel
- separation declarations: Australian Securities and Investments
- agreements binding on third parties.
- applications by third parties to set aside Financial Agreements

7. De facto relationships

- section 4AA FLA
- Div 2, Part VIIIAB FLA
- de Facto financial cause – section 39B
- geographical requirements - section 90SK
- section 90SB further requirements - length of relationship, child, substantial contributions

8. Property

- sections 78, 79 and s90 SM - *Family Law Act 1975* (Cth)
- Part VIII & Part VIIIAB of FLA, FCFCOA (Family Law) Rules 2021
- corporatisation of de facto relationships
- forum non conveniens in property matters

8.1. Approach to determining property

Preliminary Step

- whether it is just and equitable to alter property interests section 79(2) FLA.

Step 1: Identifying and valuing property, liabilities and financial resources

- the court seeks to ascertain the net value of all property of the parties by deducting from their total gross property their liabilities, including unsecured liabilities
- property – definition (section 4)
- financial resources and expectation do not constitute property but are relevant and should be identified and valued
- duty of full and frank disclosure – Chapter 6 of FCFCOA (Family Law) Rules 2021

- principle of “full and frank disclosure”
- methods of obtaining financial information
- identify and value relevant property
- treating assets of company or trusts as assets of a party/ discretionary trust
- interest in a partnership
- superannuation
- valuations and expert evidence; the asset pool must be valued at the time of the final hearing including liabilities and notional property
- income tax, capital gains tax, stamp duty and GST: *Income Tax Assessment Act*
- stamp duty - section 90 FLA
- inter family loans or gifts

Step 2: Identify and evaluate the Contributions of Parties

- Section 79 (4) and section 90SM (4) - no starting point of equality
- global c.f. asset by asset approach
- Court’s approach - section 79(4)(a)-(c):
- direct financial contributions
- indirect financial contributions
- 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”
- financial contributions in short marriages, post separation contributions
- third party contributions (gifts, loans etc).
- gifts and inheritances:
- redundancy packages
- windfalls:
- expectation of an inheritance
- interest in a partnership
- waste
- vicissitudes of life
- accident verdicts
- relevance of domestic violence:
- pre-marriage property and contributions
- big money cases
- contribution to the welfare of children of the other party from a previous relationship: Initial Contributions

Step 3: Identify and assess the various relevant matters set out in section 79(4) (d) to (g), which includes section 75 (2), and section 90SM(4)(d) to (g), which includes section 90SF (3) factors

- approach recommended by the High Court
- various factors set out in the sub paragraphs of subsection 75(2) and 90SF(3) are to be applied to the extent that they are relevant
- not appropriate to consider and quantify each of the factors separately but to arrive at a decision of overall adjustment
- consideration of each of the matters set out at section 75(2)/90SF(4)
- weight given to each factor is a matter for judicial discretion
- factors are prospective but are based on the roles the parties adopted during their relationship

- age and state of health of the parties, health of one party — short life expectancy
- income, property and financial resources of each party and capacity for gainful employment
- whether either party has the care of a child under 18, large number of children in the care of one party, shared care
- any fact or circumstance which the justice of the case requires to be taken into account: - non-disclosure of assets
- contribution to post separation redundancy package
- inheritances
- allowance for CGT or realisation costs
- health problems with children
- power to make substituting order in relation to a taxation debt
- effect of orders on earning capacity
- lack of realisability of assets
- violence, short marriage, impact of relationship on earning capacity [NOTE: arduous nature of contributions due to family violence dealt with at Step 2]
- proposed orders to be made with one party assuming significant liabilities
- adjustment in favour of one party where estate is modest and one has much higher income earning capacity
- section 75(2): unlawful killing of one party by the other
- treatment of one party's interest in a trust – asset or resource
- assessing s 75(2) factors when taking an asset by asset approach
- in addition to the cases on income, property and financial resources of each party and capacity for gainful employment
- care for an adult child with a disability

Step 4: Consider matters of justice and equity

- sections 79(2) and 90SM(3)
- equally applicable to sections 90SM(3) and 90SM(8) in particular
- development of the concept that the Four Step Process is merely a shorthand distillation of the legislation which illuminates the path and not a legislatively mandated decision process

8.2. Section 106B – transactions to defeat claims

8.3. Consideration of Third-party interests

8.4. Effect of death on property proceedings

- section 79(8) *Family Law Act 1975* (Cth)

8.5. Execution of instruments by Order of the Court – Section 106A

8.6. Effect of bankruptcy

- *Bankruptcy Act 1966* (Cth) – sections 35 and 35A;
- rights of creditors

8.7. Adjournment of proceedings Section 79(5)

8.8. Leave to initiate property proceedings out of time

8.9. Equitable estoppel

9. Injunctions

- section 68B (parenting) and section 114 (marriage and de facto)
- section 90SS re: de facto relationships
- **Relevant principles (re: power and exercise of discretion):**
 - circumstances arising out of marital relationship
 - personal protection/non-molestation (Section 68B)
- **To restrain dealings in property:**
 - undertakings as to damages
 - personal rights v legal or equitable interests
 - merits of claim and degree of danger of prejudice
 - real danger of prejudice
 - prejudice to third parties
 - ordinary business dealings
 - minimum restrictions imposed
 - undertakings
- **Injunctions and third parties:**
 - Part VIII AA FLA
 - 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 exercise this power under the Family Law Act.
 - Injunctions which affect third parties
 - Injunctions directly against third parties
 - Sham/puppet/alter ego
 - Power no wider for interlocutory injunctions than for permanent injunctions
 - Injunctions against third parties in Section 106B proceedings
 - Jurisdictional questions
- **Exclusive Use and Occupation:**
 - Relevant matters to consider
- **Ex Parte Applications:**
 - *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (Cth) r 5.11 Part 5.3 Applications without notice
 - preservation of evidence (search orders)
 - Anton Pillar Orders - preservation of property (freezing orders)
 - Mareva Orders (Interlocutory)
 - real and urgent need to protect
 - duty of full disclosure
 - usual undertaking as to damages - Rule 10.18

10. Evidence

- Relevant Legislation:
 - *Family Law Act 1975* (Cth)
 - *Evidence Act 1995* (Cth)
 - *Federal Circuit and Family Court of Australia Act 2021*(Cth)
 - *Federal Circuit and Family Court of Australia (Family Law) Rules 2021* (Cth), Chapter 7
- evidence - opinion – expert evidence – admissibility / basis of opinion / valuation
- evidence - opinion – expert evidence – single experts / other experts
- fresh evidence on appeal

- evidence in state court proceedings (refer to applicable Evidence Act in relevant State)
 - unlawfully or Improperly obtained Evidence; s138 Evidence Act
 - recordings without consent
 - self-incrimination and certificates under s 128 Evidence Act 1995.
 - leave to appeal required from a declaration
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11. Enforcement

- Part VII Division 13 A – Children Contraventions of child-related orders
 - Federal Circuit and Family Court of Australia (Family Law) Rules 2021(Cth): Chapter 11 - Financial Orders
 - Rules 1.33-1.34 and Rules 10.26-10.27 - Part XIII – enforcement of decrees
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12. Costs

- lawyer-client costs – *Legal Profession Act 2007* (Qld)
 - requirement to provide cost notices prior to each court event
 - costs orders – section 117
 - contracting out with client
 - specific costs provisions under FCFCoA (Family Law) Rules 2021
 - **Reasons for the making of costs orders**
 - Conduct of parties in relation to proceedings as a litigant and conduct as parent
 - Party-party costs are ordered by the Court where appropriate
 - interim costs
 - section 117C offers to settle
 - written offers of settlement
 - costs ordered due to pre-action offer to settle
 - costs orders against case guardians: s116(6) (Since October 2018) acts or omissions must be unreasonable or delayed proceedings unreasonably, r 6.13
 - set aside financial agreements
 - costs in arbitration
 - costs orders against legal representatives
 - executors of deceased estate ordered to pay costs
-

13. Reviews / Appeals / Transfers

- appeals of discretionary decisions - *House v The King* [1936] HCA 40
- appeals from Court of Summary Jurisdiction
- appeals from Interlocutory Decree
- leave to appeal (and when required)
- appeals to the Full Court - Chapter 22 Federal Circuit and Family Court of Australia (Family Law) Rules 2021
- appeals to the Full Court - Part 13.3 Federal Circuit and Family Court of Australia (Family Law) Rules 2021 (Cth)
 - fresh evidence
 - stays
 - pending appeal: Rules, r 22.11, *Federal Circuit and Family Court of Australia Act 2021*(Cth)
 - pending a review: Rules, r 18.09 *Federal Circuit and Family Court of Australia Act 2021*(Cth)
 - summary dismissal
- **Other matters relevant to the issues of:**
 - fresh evidence

- nature of appeals generally
- procedure
- application in an Appeal for extension of time to serve Notice of Appeal
- slip rule
- McKenzie Friend
- litigants in person; self-represented litigants

14. Inherent, Associated and Accrued Jurisdiction

- associated jurisdiction
- Section 33 *Family Law Act 1975* (Cth)
- inherent jurisdiction:
- slip rule
- cross-vesting
- accrued jurisdiction
- limited statutory jurisdiction
- *Corporations Act 2001* (Cth)

15. Family Violence

- *Family Law Act 1975* (Cth)
- definitions: section 4AB, section 4 definitions of 'abuse' subparagraph (c), 'exposed', 'family violence', 'family violence order'
- Part II, Division 2, Family Counselling, section 10D(4)(c), exceptions to confidentiality of communications in family counselling
- Part II, Division 3, Family Dispute Resolution, section 10H(4)(c), exceptions to confidentiality of communications in family dispute resolution
- Part V, Division 3, Section 43(1)(ca), Principles to be applied by the Courts
- Part VII, Division 1, Section 60CF, Obligation to inform the Court of Family Violence Orders
- Part VII, Division 8, Subdivision D, Allegations of child abuse and family violence
- Part VII, Division 11, Family Violence
- Part VII, Division 12A, Subdivision B, Section 69ZN(5), and Subdivision C, Section 69ZQ and Duties of the Court in conducting child related proceedings
- Part VII, Division 12A, Section 69ZW, Evidence relating to family violence
- Part VII, Division DA, Orders for information etc. in child-related proceedings.
- amendments to the *Family Law Act 1975* (Cth) relating to family violence:
 - *Family Law Legislation Amendment (Family Violence and Other Measures) Act 2011* (Cth) – Act 189 of 2011
 - *Family Law Amendment (Family Violence and Other Measures) Act 2018* (Cth) – Act 97 of 2018
 - *Family Law Amendment (Family Violence and Cross-Examination of Parties) Act 2018* (Cth) – Act 159 of 2018
- National Domestic and Family Violence Bench Book, (June 2017) Australasian Institute of Judicial Administration, online at <http://www.dfvbenchbook.aija.org.au>
- Not Now, Not Ever – Putting an End to Domestic and Family Violence in Queensland, Special Task Force on Domestic and Family Violence in Queensland, see: <https://www.justice.qld.gov.au/initiatives/end-domesticfamily-violence/about/not-now-not-ever-report>

16. Individual state jurisdictions

- domestic / family violence; Family Violence Orders – s68Q FLA
- children
- surrogacy legislation – [Surrogacy Act 2010 \(QLD\)](#)

- [Status of Children Act 1978 \(QLD\)](#)
 - medical procedures
 - professional responsibilities and obligations
 - child welfare – section 69ZK FLA
-

17. Court processes

- Central Practice Direction 2021 “CPD”
 - core Principles, Item 3 CPD overarching purpose of Family Law Practice – Division 4 “Case Management” sections 67 & 68 *Federal Circuit and Family Court of Australia Act 2021* (Cth)
 - allocation between divisions of the Federal Circuit and Family Court of Australia item 4.9-4.13 CPD
 - case management pathway
 - **Steps to include:**
 - interim hearings
 - conciliation conferences
 - trials
 - Central Practice Direction
 - case management pathway
 - anticipated length of time
 - likely costs (financial or otherwise)
 - Dispute Resolution:
 - conciliation conferences (court based)
 - mediations (non-court based)
 - Dispute Resolution Conferences (Court Based)
 - Family Dispute Resolution (Non-Court Based) s13C FLA
 - circuits and specialist lists,
 - The Lighthouse Project
 - Evatt List
 - Priority Property Pool under \$500,000
 - Magellan List
 - cost disclosure obligations Part 12.3 of the Rules
 - offers to settle - Part 4.2 of the Rules
 - applying for an order for interim costs
 - order for costs - Part 12.5 of the Rules
 - applying for interim or procedural order without notice - Part 5.2 rules
 - appointment of litigation guardian - Part 3.5 Rules
 - arbitration
-

18. Alternative to court processes

- FDR (parenting matters)
 - Mediation
 - Arbitration
 - Collaborative practice
 - Agreements:
 - BFA or consent orders (financial matters)
 - Orders or parenting plans (parenting)
-

SCHEDULE 5: RELATED LEGISLATION & MATERIALS

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](#)

Australian Solicitors Conduct Rules 2023

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 – Nullity and validity of marriage proceedings](#)

[Family Law Practice Direction – Parenting proceedings](#)
[Family Law Practice Direction – Passport proceedings](#)
[Family Law Practice Direction – Priority Property Pool Cases \(FAM-PPP\)](#)
[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 – Financial proceedings](#)
[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](#)

Queensland Legislation

[Child Protection Act 1999 \(QLD\)](#)
[Domestic and Family Violence Protection Act 2012 \(QLD\)](#)
[Duties Act 2001 \(QLD\)](#)
[Legal Profession Act 2007 \(QLD\)](#)
[Property Law Act 1974 \(QLD\)](#)
[Status of Children Act 1978 \(QLD\)](#)
[Surrogacy Act 2010 \(QLD\)](#)

Note: It is stressed that [Schedules 4](#) and [5](#) are not intended to be exhaustive and that any matter relevant to practice in Family Law may be examined.