



Property Settlement Guide

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Executive Summary

From 10 June 2025, significant changes to the Family Law Act 1975 will affect how property settlements are determined. Understanding these changes is essential for protecting your assets and ensuring a fair resolution, particularly for those with substantial or complex financial arrangements.

This guide provides general information only and is not intended to be legal advice. Each client should seek specific legal advice relevant to their individual circumstances.

References: Family Law Act 1975 (as amended)



The New Property Settlement Framework

The Four-Step Assessment Process

When determining property settlements, the courts follow a structured approach:

1

Identification of Assets and Liabilities

- Complete inventory of all assets (business interests, investments, properties)
- Accurate valuation of business entities and professional practices
- Full disclosure of all liabilities and financial obligations

2

Assessment of Contributions

- Financial contributions (capital investments, business development)
- Non-financial contributions (support to the family enabling business growth)
- Professional goodwill and intellectual property considerations
- **New:** The economic impact of family violence will be considered where relevant

3

Future Needs Analysis

- Age, health and income-earning capacity of each party
- Ongoing business viability and succession planning
- Professional licensing and practice requirements
- Care arrangements for children

4

Just and Equitable Determination

- Final assessment to ensure the overall settlement is fair

Business Assets And Complex Financial Structures

For those with business interests or complex financial arrangements, special consideration must be given to:

- Business valuation methods and timing
- Treatment of retained earnings and reinvestment strategies
- Partnership agreements and shareholder considerations
- Professional goodwill and client relationships
- Intellectual property and brand value




New Considerations: Economic Effects Of Family Violence

The amended legislation requires courts to consider the economic effects of family violence where relevant.

This may include:

- Financial control that limited business participation or career advancement
- Economic abuse that affected business decisions or professional development
- How family violence may have impacted contributions to wealth creation
- Ongoing economic consequences affecting future earning capacity



This factor can significantly influence how assets, including business assets and professional practices, are divided.

Judicial Interpretation And Case Law Development

While the new legislation provides a clear framework, it is important to understand that how courts will interpret and apply these changes in practice is yet to be established.

Consider the following:

Evolving interpretation: The precise application of the new provisions will evolve as cases are heard, appealed, and considered by higher courts.

Binding precedents: Authoritative interpretations will only emerge once rulings from the Full Court of the Family Court or the High Court become binding.

Initial uncertainty: In the early stages, different judicial officers may take varying approaches, particularly regarding the economic effects of family violence and companion animal considerations.

Strategic implications: This period of uncertainty presents both risks and opportunities in negotiation and litigation strategy.

We will closely monitor emerging case law and adjust our advice as judicial interpretation develops. This evolving legal landscape highlights the importance of seeking tailored legal advice based on your specific circumstances.

Financial Disclosure Obligations

All parties have significant disclosure responsibilities, including:

- Comprehensive financial records
- Full transparency regarding investments and asset holdings
- Ongoing obligation to update information as financial circumstances change
- Professional valuations of significant assets

Important: Non-compliance with disclosure obligations may result in:

- Adverse inferences about asset values
- Cost penalties
- Potential contempt of court proceedings
- Possible dismissal or deferral of proceedings

Companion Animals

The new legislation introduces specific considerations for family pets, including:

- Animal welfare concerns
- Emotional attachment considerations
- Limitations on joint ownership arrangements

Protecting Your Assets

Proactive Strategies

- Review and update financial agreements and ownership structures
- Consider binding financial agreements to protect significant assets
- Implement clear documentation of financial contributions
- Maintain separation between personal and joint finances where appropriate

Negotiation Approaches

- Consider mediation with financial experts experienced in complex valuation
- Explore creative settlement options that preserve asset integrity
- Develop proposals that recognise both financial and non-financial contributions



Next Steps

1

Comprehensive Financial Review

- Organise complete documentation of all assets and liabilities
- Prepare for professional valuations of significant assets if required

2

Strategic Planning Session

- Schedule a consultation to develop a tailored property settlement strategy
- Identify key assets requiring protection

3

Dispute Resolution Options

- Explore confidential mediation to maintain privacy
- Consider collaborative approaches to preserve relationships

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