

SIGNIFICANT CHANGES TO THE FAMILY LAW ACT

03 JULY 2006

On 1 July 2006 the *Family Law Amendment (Shared Personal Responsibilities) Act, 2006* became law in Australia. This Act generates substantial changes to the law affecting the parental responsibility of children. It embodies the most significant reform to the *Family Law Act* since that Act was introduced on 1 January 1976.

In brief, the key changes to the law are as follows:

1. Except in certain circumstances, for example where family violence or abuse is present, parents will be required to engage in “Family Dispute Resolution” before applying to a Court.
2. A presumption of equal shared parental responsibility has been introduced whenever a Parenting Order is made.
3. If the Court does not consider it appropriate that the child spend equal time with both parents, the Court must then consider whether the child should spend “a substantial and significant time” with both parents.
4. The existing definition of “Family Violence” has been amended to make it clear that a fear or apprehension of violence must be “reasonable”.
5. The Court will no longer make “Contact Orders” or “Residence Orders”. Rather, the Court will now make Parenting Orders that deal with “the time a child is to spend with a person or other persons”, “the communication a child is to have with another person or persons” and “a person or persons with whom a child is to live”.
6. The amendments contained in the Act also place new obligations on Family Law lawyers to inform clients that they should consider entering into a Parenting Plan in relation to the child.

The amendments contained in the Act will have far reaching implications for all aspects of Family Law. The Act will apply to all proceedings commenced after 1 July 2006 as well as to all proceedings which did not resolve by way of orders made prior to 9 June 2006.

Our Family Law lawyers have had an extensive introduction to the Act and the practical changes the Act will bring about. Sonia Anderson attended a round-table meeting with the Member for Shortland on 20 January 2006 and later put together a submission, 'A Grass Roots Response to Family Law Reform' highlighting the meeting's ideas for making the system better and fairer. Rose Laffan recently attended a seminar presented by an expert who was an accredited specialist in Family Law and an Assistant Secretary to the Attorney-General's Department.

