

THE FAMILY LAW AMENDMENT (SHARED PARENTAL RESPONSIBILITY ACT) 2006 & YOU

On 1 July 2006 the Family Law Act 1975 and the Family Law System undertook some of the most revolutionary changes since the inception of the Family Court in over a quarter of a century.

If you have children and you are separating you will need to be aware of the laws and how they might impact upon you.

The aim of the Family Law Amendment (Shared Parental Responsibility Act) 2006 (the Act) is to have people to think about family law in a different way. In particular, the Act hopes parties will focus on their children. This includes children having a meaningful relationship with both of their parents and being protected from harm. The Act further encourages parents to share equally in the responsibility for their children.

The cultural shift envisaged by the amendments to the Family Law Act is but part of the changes the Federal Government has introduced to Australia's Family Law system. Other changes include the development of a number of services designed to assist parents to deal co-operatively with each other in a child focused manner including, in particular, the Family Relationships Centres.

CHANGES TO THE LAW

Equal Shared Responsibility

Under the Act parents share "parental responsibility" for their children. This means both parents should be equally responsible for making major decisions about important and significant issues affecting the child's likely care such as education and upbringing.

Equal and/or Substantial and Significant Time

Once equal shared parental responsibility for children is established, the law now requires the Court to consider whether it is in the child's best interest to spend either equal time with each parent or, if this is not the case, spending substantial significant time with the parent with whom the child doesn't live. Substantial and significant time is defined under the Act in a way which, importantly, includes not only week days, weekends and school holidays but also an opportunity for involvement in important events impacting on a child and a parent.

How the Changes Work

Whilst mediation has always been **encouraged** under the Family Law

FAMILY LAW ALERT

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Act, the Act places a greater emphasis on separating parents undergoing mediation in order to reach consensual agreement in relation to issues affecting their children. The introduction of **compulsory** mediation will be phased in over time in the line with the establishment of support services such as the Family Relationship Centres. From 1 July 2006 until 30 June 2007 parents will be encouraged to attend mediation. From 1 July 2007, it will be **compulsory** for the majority of parents to undertake mediation prior to bringing an application for parenting orders. The Act provides, and encourages, the parents to develop a parenting plan which can cover issues such as:

1. who the child will live with;
2. who the child will spend time and communicate with;
3. specific issues such as where a child will go to school, how parents will communicate and other issues in relation to the child.

Whilst a parenting plan is not legally enforceable, it is a matter a Court must take into consideration when looking to make any parenting ORDER. Further, a parenting plan can have the effect of altering parental arrangements set out in a prior ORDER

COURT PROCEDURES

The Act makes provision for less formal court procedures which will allow a graduated resolution of issues in the hope that parties can, in a judge managed forum, focus on the most pressing of issues and led to resolution of children's matters. To this end, the Family Court of Australia has introduced the Children's Cases Programme.

NEW FAMILY RELATIONSHIP CENTRES

Over the next three years the Government plans to establish 65 Family Relationship Centres in Australia. The first Family Relationship Centres to operate in Queensland are located in Townsville and Strathpine and were opened in July 2006. The Strathpine Family Relationship Centre whilst having a catchment area of Strathpine, Caboolture & Redcliffe, will, subject to availability, take referrals from people all over Brisbane. It is anticipated that additional Family Relationship Centres will be opened in the Brisbane and Greater Queensland regions over the next three years.

Family Relationship Centres will provide information in relation to the family relationships both before and after separation. The Centres will assist parents in reaching agreement on parenting arrangements for their children on separation by conducting joint and individual counselling sessions. The Centres can also refer to other professionals such as Counsellors and Social Workers.

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A Family Relationship Advice Line and website has also been established for those that cannot easily access a Family Relationship Centre or who prefer to get information by telephone or internet.

HOW THE CHANGES WILL AFFECT YOU

Couples who are separating and have children under 18 will be affected by the changed laws from 1 July 2006. From 1 July 2006 parents seeking orders in relation to their children are encouraged to attempt to resolve their issues outside of the Court in good faith and only then, be allowed to make an application to the Court. From 1 July 2007 it will be mandatory for parents to attempt to resolve their issues outside of Court. The Court will, in the course of considering any application, give serious consideration to whether there should be equal shared parental responsibility and, if so, equal time and significant time with each parent.

DOES THE NEW LAW AFFECT MY CURRENT ORDERS

The Act provides that its inception by itself does not constitute a factor pursuant to which the Family Court or Federal Magistrates Court would be entitled to reopen old parenting orders. This said, however, persons with existing parenting orders who are in circumstances where there has been a significant change in circumstances from the time the initial orders were made, can find that the new regime established by the Act will apply to them if wishing to change their orders. If this is you, we recommend you contact our family lawyers to give you further advice.

QUINLAN MILLER & TRESTON

Quinlan Miller & Treston is one of Brisbane's oldest most established law firms having been in practice since 1899.

Quinlan Miller & Treston will work with you to identify issues which are important and relevant and consider the most appropriate way to resolve the problems you are facing.

Quinlan Miller & Treston has an extensive network of professional contacts in related areas and is able to refer you to additional services should they be necessary.

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