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LAWYERS

YOUR OUTCOME ■ OUR PURPOSE

Where do I stand?

A guide to Family Law

Prepared by:

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OVERVIEW

This guide to family law has been prepared by the Harwood Andrews Lawyers' family law department. It is intended to be an easy-to-read summary of family law related issues. This guide is not intended to replace the personal legal service provided by the lawyer responsible for your family law case. It contains basic information and guidance.

We are able to assist you with any issue which has arisen during the course of your relationship or after separation. The Harwood Andrews Lawyers family law department offers ready access to advice and assistance about the full range of family law issues.

INFORMATION ABOUT HARWOOD ANDREWS LAWYERS

Appointments

We maintain a schedule of appointments which we ask our clients to follow. This assists our lawyers to plan their day and, more importantly, reduce your waiting time. However, our appointment schedule is usually flexible enough to allow urgent appointments to be made at very short notice when necessary.

Hours of Business

9.00 a.m. to 5.30 p.m. Monday to Friday

If you have difficulty attending between these times, we will endeavour to accommodate a request for an out of hours appointment.

Letters and Telephoning

If you write to us please include the reference or name of the lawyer handling your file which is shown in the top left corner of all letters. When you are telephoning, please use your lawyer's direct line number which is also on all our letters. This allows us to handle your matter more efficiently.

Email

Each lawyer's email address is shown in the top left corner of all letters. You are invited to correspond with your lawyer by email.

Interpreters

If you do not understand or speak English well, you may need an interpreter when you speak to our lawyers or a counsellor. We can assist in arranging an interpreter when necessary. You may also find it helpful to bring a friend or relative to your appointments to assist you.

COUNSELLING

There are free counselling services which can assist you to make decisions and to cope with personal issues. Individuals, both parties or whole families can attend confidential counselling sessions.

We are able to refer you to counselling services.

GENERAL ADVICE ON SEPARATION

Separation means both people live separately and apart. However you may be separated while still living in the same house as your spouse. If you think this situation may apply to you, you should seek our advice as it can be difficult to prove separation under the same roof.

Arrangements for your children

After a couple separate a decision must be made as to whether the children will live with one or both of them. If children are to live primarily with one parent then the time they are to spend with the other parent must also be addressed. It is usually in the best interests of the children if their parents can reach their own agreement about these matters. If appropriate such an agreement can be formalised in the form of parenting orders made with the consent of the parties and approved by the Court. Our lawyers can assist with this process.

If you are forced to leave the home it is preferable the children remain with you and in your care if you intend that the children continue to live with you. If this is not possible and the children do not remain with you following separation, you need to immediately make arrangements to spend time with them and find suitable accommodation for you and the children. Any delay in having the children returned to your care as soon as possible may make it difficult for them to be returned to your primary care in the future if they are settled and being properly cared for by the other parent.

In most situations you will need to attend mediation to try and resolve these issues by negotiation before you can issue a Court Application. There are limited exceptions to this requirement which can be discussed with our lawyers. Where there is a significant dispute it is important that you make an appointment for mediation immediately. If mediation does not resolve the issues you can then make a Court Application.

Property

If you intend to leave the family home we recommend that you remove your share of personal and household property at the time of separation. It can sometimes be practically difficult to collect your personal property after you have vacated the family home.

You do not lose your entitlement to your share of the home if you leave it following a separation.

INCOME AND FINANCIAL SUPPORT

If you are not working or have a low income, you may be entitled to a Centrelink pension or benefit.

If you have children in your care you may be eligible for a pension. You can apply for these benefits at your local Centrelink branch if you are separated. Centrelink's counter staff can address most issues. More complex issues should be referred to Centrelink's social work staff.

People who have separated but remain living under the same roof can be paid separate pensions or benefits by Centrelink for a limited period if they can satisfy Centrelink that the separation is genuine. You should discuss your entitlements with Centrelink staff if you are in this situation.

If you have children you should also contact the Child Support Agency for information regarding your entitlements or obligations in relation to the ongoing support of your children. You may also have an entitlement to, or obligation to provide, spousal maintenance - see section 8.

DIVORCE

The parties must have lived "separately and apart" for a total period of twelve months before one or both of them can apply for a divorce. The twelve months can be interrupted by an attempted reconciliation of up to three months, provided the two periods of separation total twelve months. No written evidence of separation is needed although a divorce application includes an affidavit confirming that all information it contains is accurate.

A divorce does not address any parenting or financial issues. The divorce ends the legal relationship of a marriage. It is not compulsory.

To be eligible to apply for an Australian divorce one party must be domiciled in Australia, an Australian citizen, a permanent resident or must have been living in Australia for at least twelve months before making the application.

Either party can apply for a divorce if they have been separated for more than twelve months. The consent of the other party is not required to make a divorce application. The other party may oppose the divorce application in limited circumstances. The application must be served on the other party prior to the hearing.

At the hearing the Court grants a 'divorce order'. However the divorce does not become final until one month later. You cannot remarry until a divorce order becomes final.

The Court must be satisfied that appropriate arrangements in all the circumstances have been made for the care of any children of the marriage.

If the financial issues associated with a separation have not been finalised at the time of the divorce there is a twelve month time limit on commencing Court action for property settlement or maintenance once the divorce is final. You will require prompt legal advice if you are already divorced and the financial matters have not yet been finalised.

The Court can waive the twelve month time limit in some circumstances provided it is satisfied that there are adequate reasons. However it is inadvisable to rely on the Court exercising its discretion to extend this time limit.

PARENTAL RESPONSIBILITY

What is 'parental responsibility'?

Parents who have children under the age of eighteen years have joint 'parental responsibility' for their children. This relates to "all the duties, powers, responsibilities and authority which by law parents have in relation to their children".

What if there aren't any parenting orders or parenting plans?

Each parent of a child aged under eighteen years has parental responsibility for that child. Parental responsibility is not affected by any changes in the relationship between the child's parents. This means that both parents have parental responsibility for their children, whether they are de-facto, married, separated, or re-married.

Unless there is a parenting order stating otherwise, both parents have rights and responsibilities in relation to the child's care following their separation.

Why do you need parenting orders?

Even though most separated parents will continue to have joint parental responsibility for their children, they must be in a position to make practical arrangements and decisions for their ongoing care. This can be more difficult when parents are separated. Where separated parents desire certainty and consistency, those arrangements are best formalised by way of parenting orders.

In a limited number of instances some parents may prefer to only have parenting plans. A parenting plan does not have the same status as an order of the Court and is not enforceable. We generally encourage our clients to obtain the more enforceable parenting orders.

Parenting orders are orders made by a Court (either by consent of the parents or if the parents cannot agree, upon judicial determination) relating to matters such as parental responsibility, where the child is to live, the persons with whom the child is to spend time and communicate, and, where applicable, other aspects of parental responsibility.

What is the legal framework in relation to parenting orders?

When making a parenting order, the child's best interests are the paramount consideration.

There are a number of factors that must be taken into account in determining the child's best interests. These include primary considerations such as the benefit to the child of having a meaningful relationship with both parents or in some instances the need to protect the child from abuse, neglect or family violence. Additional considerations include the views expressed by the child depending upon the child's maturity and relationship with each parent.

The making of a parenting order triggers a legal presumption that it is in the best interests of the child for each parent to have equal shared parental responsibility for the child. That presumption must be applied unless there are compelling reasons why they should not both have that responsibility, usually because a parent has engaged in abuse of the child or family violence.

There is no similar presumption when it comes to the time a child spends with each parent.

However, where a parenting order provides for equal shared parental responsibility for the child, the Court must consider:

Whether spending equal time with each parent would be in the best interests of the child and would be practicable. If the Court finds that it would be, it must consider making such an order.

If the Court decides against an order for equal time, it must consider whether spending substantial and significant time with the other parent would be in the best interests of the child and would be reasonably practicable. If so, it must consider making an order that would involve the child spending substantial and significant time with the parent they do not live with.

There are a range of issues which may be relevant, depending on the circumstances of each family, which the Court will take into account in determining whether equal time or substantial and significant time would be reasonably practicable and in the best interests of the child.

What types of parenting orders can be made?

The meaning of 'lives with' orders

A person who has a 'lives with' order made in their favour is the person with whom the child lives for most of the time. The order authorises that parent to make decisions relating to the day-to-day care of the child, such as the dwelling in which the child lives and what the child eats or wears.

A parent who has an order which provides for a child to live with them must, in most situations, ensure that they do not hinder or prevent a child from spending time or communicating with the other parent.

The meaning of 'spends time with' and 'communicates with'

An order which provides for a person to 'spend time with' and/or 'communicate with' a child will usually specify the times when they will see or speak to the child. When a child is 'spending time with' a parent, that parent is able to make decisions that relate to the child's day-to-day care, such as what the child wears or eats, provided that such decisions do not conflict with established practices, such as religious beliefs.

It is possible to have an order providing that a child 'lives with' both parents for specified times which may be, but are not necessarily, of equal time periods.

This approach emphasises the fact that parenting is a mutual obligation. The fact that it is possible for the child to live with each parent makes it clear that, although a child may spend a shorter period with one parent than with the other parent, this in no way reduces the importance of that parent's role in the child's care, welfare and development.

If the times a child spends with and communicate with a parent are set out in parenting orders they are enforceable by the Court. This means that if the parent the child 'lives with' refuses to make the child available to 'spend time with' the other parent as set out in the parenting orders, the other parent can have these orders enforced by the court.

However, a parent who has the right pursuant to an order to spend time with or communicate with their child is not obliged to do so. Thus, if a parent chooses not to 'spend time with' or 'communicate with' the child (or if sometimes they are unable to) then that parent cannot be forced by the Court or the other parent to comply with the order. In this situation the Court generally takes the view that it is not likely to be in the child's best interest to force a reluctant parent to have the child spend time with them.

There are penalties for non-compliance with parenting orders.

The right to spend time or communicate with a child is not dependent upon the payment or non-payment of child support or spousal maintenance.

Orders imposing 'general obligations'

These orders are of considerable importance as they deal with aspects of 'parental responsibility' other than the issues associated with the amount of time the child 'lives with', 'spends time with' or 'communicates with' one or both of the parents.

'Lives with', 'spends time with' and 'communicates with' orders deal with the arrangements relating to how much time a child spends with each parent, and confer decision making responsibilities in relation to issues regarding the child's day-to-day care during that time. They do not otherwise give parents any formal power over or duties in relation to the child.

If there are specific day-to-day issues that need to be dealt with these can be included in the parenting orders.

Parental responsibility in relation to 'major long-term issues'

Parents will often wish to make joint and mutual decisions about the major issues concerning the future of their child. These issues include decisions about:

- ▶ The schools the child will attend;
- ▶ Religious and cultural upbringing;
- ▶ Health issues and medical treatment; and
- ▶ Any changes to the living arrangements for the child that might otherwise interfere with the time spent with a parent, such as proposed interstate or overseas relocation.

In most cases where parenting orders are made, both parents will have equal shared parental responsibility for decisions about major long-term issues relating to their children. Where parents cannot agree on such issues, one of them may apply to the Court for a ruling which is binding and enforceable.

The process where parents agree

Parents in agreement about their child's future care arrangements can arrange for our lawyers to draft parenting orders when one or both of them require that level of formality.

Parenting orders can be made by the Court at the request of the parents, and will provide them with orders which are enforceable. Harwood Andrews Lawyers can prepare all the necessary documents for parenting orders to be obtained, including forwarding the documentation to the other parent for their signature and ensuring that the orders are made by the Court.

Parenting plans are not registered with the Court and are not enforceable, although the Court will take into account the intentions of the parents as provided for in a parenting plan if a dispute subsequently arises.

What if the other parent does not agree?

If one parent does not agree with the other parent's proposals there may be a dispute which the Family Court or Federal Magistrates Court will need to resolve.

In this case our lawyers can make a Court application to have your preferred arrangements made as an order of the Court. If the other parent seeks different arrangements for the care of a child, the Court will be asked to make a decision based on its assessment of the best interests of the child. It is important to remember that this is only necessary where the parents cannot reach an agreement.

Before an application can be made to the Court, the parties are required to comply with the Family Dispute Resolution procedure. This means that both parents must attend mediation with a Family Dispute Resolution practitioner. There are some exceptions to this requirement. You can discuss this issue with our lawyers to determine if your circumstances are exceptional.

If mediation is successful we strongly encourage that the parenting arrangements be formalised into a parenting order. Our lawyers can assist you in achieving this.

Any confidential parenting arrangements made at a mediation conference are unenforceable unless those arrangements become parenting orders.

You can and should obtain legal advice from our lawyers prior to and during any Family Dispute Mediation process.

If, after attending mediation, you and the other party are still unable to agree on the arrangements for the children or the other party refuses to attend mediation, you will be given a certificate by the Family Dispute Resolution practitioner to indicate that you have attempted to resolve the issues by mediation. Each party will be provided with the certificate and either party can then make an application to the Court for parenting orders if they wish to have the parenting issues addressed by the Court.

Where an application for parenting orders is made, the Court may require both parties to attend further counselling.

The purpose of counselling is to help parents resolve their differences on the care, welfare and development of their children in a child-focussed way and without requiring the Court to impose a decision.

What happens to your children if you die?

In most cases the surviving parent will assume responsibility for the care of the children. However, this may not always be the case and other parties who have an interest in the welfare of the children, such as grandparents, may apply to the Court for orders in relation to the arrangements for the children's care.

The outcome of such a case will always depend on the particular circumstances and the Court is required to make a decision which represents its assessment of the best outcome for the children. Their best interests are the paramount consideration.

MAINTENANCE

There are two types of maintenance.

Maintenance may be paid by one spouse for the other spouse (spousal maintenance). Maintenance is also paid by parents for their children (child support).

Maintenance for the husband or wife (spousal maintenance)

Either a husband or a wife may apply to the Court for maintenance at any time after separation and up to twelve months after divorce. Applications for spousal maintenance made more than twelve months after divorce can only be made if there are special circumstances.

A husband or wife seeking spousal maintenance must show that they have a need for maintenance and that the other spouse has the ability to pay that maintenance.

For example, a spouse may be able to show a need for spousal maintenance if they are unable to support themselves adequately by reason of having the day-to-day care of children of the marriage under the age of eighteen years. They may also be able to show a need for spousal maintenance because of their age or physical or mental incapacity to obtain paid or suitable work.

Where a party clearly demonstrates a need for spousal maintenance the next question is whether the other party has the capacity to pay such maintenance.

The Court, in considering whether a spouse should pay maintenance to the other spouse, must look at many factors. These include:

- ▶ The age and health of the parties;
- ▶ The income, property and financial resources of each of the parties;
- ▶ Whether either party is cohabiting with another person and the financial circumstances relating to that cohabitation.

Age, health, past training, present income and expenditure, assets and liabilities, future employment opportunities and the responsibility for children are major factors considered by the Court when deciding whether a spouse is entitled to or liable to pay maintenance, and how much.

Spousal maintenance may be payable for a specified duration or for an unspecified period which may continue until the spouse receiving the maintenance re-marries or dies. Spousal maintenance can be varied with a change of financial circumstances of either party or changes in the cost of living. A spousal maintenance order may also be expressed to continue until the finalisation of the parties' property settlement. Our lawyers can assist you in making the necessary arrangements in regard to spousal maintenance.

Spousal maintenance is a Court ordered payment, although often such orders are made by consent. It cannot be assessed by the Child Support Agency; however you can register such an order with the Agency which can assist in the collection of spousal maintenance.

Maintenance for children (child support)

The *Child Support (Assessment) Act 1989* provides a set formula for calculating the amount of child support to be paid by one parent to the other for the financial support of their children where the parents have separated.

The Child Support Agency has the authority to calculate the amount of child support to be paid. The Agency is a branch of the Australian Taxation Office and can access the parties' respective tax files for information regarding their incomes.

The Child Support Act refers to a number of variables which are used to calculate the support. Your family's circumstances will determine which variables are relevant and how they are applied.

The calculation of child support is based on assumptions about the cost of maintaining children. The Agency calculates the "cost" of maintaining a child based on the combined income of both parents and the "standard of living" such a combined income would support. The time each parent spends with their children is also taken into account. The "cost" of the child is then apportioned between the parents according to the level of care/time each parent provides to their children and their income levels.

The "cost" of a child also takes into consideration the following:

- ▶ Each parent is treated as needing "self-support" income amount of \$16,883 per annum before child support is payable;
- ▶ Older children cost more to support than younger children;
- ▶ The resident parent retains all of the Family Tax Benefit except where there is shared care (more than 35% of the care); and
- ▶ Children from first and subsequent families are treated equally.

You may contact the Agency to obtain specific advice regarding your entitlement to receive child support or your obligation to pay child support depending on your situation. The Agency also operates an interactive website (www.csa.gov.au) which has an "estimator" for parents to obtain information on line about the potential amount to be paid or which is payable once you insert the relevant variable details.

You may contact the Agency to obtain specific advice regarding your entitlement to receive child support or your obligation to pay child support depending on your situation.

It is important that the Agency has up to date information about the care arrangements for your children together with your current income to ensure the correct amount is payable or paid.

Both parents can request the Agency to review the child support payable by one parent if there has been a change in circumstances since the assessment was made. In limited circumstances parents can also apply for an order of the Court varying an assessment on appropriate grounds (departure order).

We recommend that you access the Agency's website for more detailed child support information.

Child Support Agreements

In many circumstances parents agree on the level of child support that one parent is to pay to the other and any other expense toward which they will contribute, including school fees and private health insurance. To formalise this, a child support agreement can be entered into by both parents. We can assist in the drafting of these agreements.

Payment of Child Support

Child Support agreements or orders are usually registered with the Child Support Agency. We can also assist in this process.

Employers can be requested to deduct child support from the liable parent's salary and send it to the Child Support Agency. The Agency will send the money to the other parent every month and will follow up instances of non-payment.

FINANCIAL SETTLEMENTS

Dividing up the property

During their relationship spouses will usually acquire various assets, financial resources and debts.

The most common assets are the family home, investment property, motor vehicles, shares, superannuation and savings. Debts are typically the home mortgage, personal loans and credit cards.

After spouses separate they usually each wish to be financially independent of the other. Accordingly, their assets and liabilities need to be divided. The division of the property may be done by agreement. If you and your spouse cannot agree, then you may need to make an application requesting that the Court decide how the property is to be divided.

Even if you reach agreement it is highly recommended that you obtain legal advice as to how best to implement that agreement.

Agreement

An agreement between spouses is usually preferable to a Court decision as the final distribution of property will be by mutual consent. If you reach an agreement with your spouse about dividing the property you should always have that agreement formalised so that it is enforceable and binding. Harwood Andrews Lawyers is able to act on your behalf to prepare the agreement and make appropriate arrangements for its approval by the Court. This reduces the possibility of a further claim by your spouse for a different distribution of the property in the future.

It is important to remember that after separation the Court can approve this agreement before you make an application for a divorce.

You must be satisfied that the agreement provides you with a fair and reasonable share of property. If in doubt, always obtain legal advice before you sign any documents distributing property.

Often the different circumstances of either of the spouses will be such that an equal distribution of property is not appropriate. These include when there are dependent children or unequal contributions by the parties, either at the commencement of the relationship or during cohabitation.

Court proceedings

If you and your spouse cannot reach agreement for a fair and reasonable settlement, either party may apply to the Court for an order that the property be divided.

Before the Court makes a decision about property division it will require the parties and their lawyers to participate in a conciliation conference. Conciliation is compulsory in all property disputes and represents an excellent opportunity for the parties to settle their dispute without a Court hearing. The conciliator will usually indicate to both parties through their respective lawyers the manner in which the property could be expected to be divided if the Court was required to make a decision. The conciliator is unable to impose a decision on the parties but can endorse a settlement reached by means of the conciliation process.

If a settlement cannot be reached by conciliation the case will be scheduled for a Court hearing, although further negotiations can take place at any time prior to or during the hearing. If the proceedings are not settled your lawyer or a barrister engaged on your behalf will present your case and argue for your proposed division of the property. Your spouse and their lawyer will argue in support of their proposals. The judge will then be asked to make a final decision based on the facts and submissions presented.

The Court is required to take into account all of the relevant factors in your case before reaching its conclusion. The four-step approach preferred by the Court in the decision making process follows:

- ▶ The Court will first make a decision about the asset pool (property, liabilities and financial resources) to be considered and the values to be given to each item.
- ▶ The Court will then assess the financial and non-financial contributions each of the parties made to the acquisition and maintenance of the asset pool and their respective contributions to the welfare of their family if there are children. The Court will assess their contributions in percentage terms.
- ▶ Thirdly, the Court will consider the future needs, means and responsibilities of the parties and determine whether any further adjustment needs to be made.
- ▶ Finally, having regard to the above findings, the Court will determine what orders would provide a just and equitable division in all the circumstances.

Examples of the contributions considered by the Court

- ▶ The introduction of assets and liabilities at the commencement of the relationship;
- ▶ Improvements to a home or a business;
- ▶ Undertaking housework and the care of children; and
- ▶ Gifts or inheritances received by a party during the relationship.

Contributions made by both parties in their respective spheres of responsibility during their relationship are usually considered to have been of equal quality and value.

Examples of future 'financial needs' of the respective spouses take into account

- ▶ Whether a person has or can obtain employment;
- ▶ The income differences between the parties;
- ▶ Who has the future care of the children; and
- ▶ Whether either party is in a new relationship and is being supported by someone else.

If all other factors are equal, a spouse who made the greater contributions or a spouse who has the greater financial needs may be given a greater share of the assets of the relationship.

However this requires careful analysis, which is the role of our lawyers who are highly experienced in these matters.

FAMILY VIOLENCE AND EMERGENCY PROTECTION

The problems of harassment or violence by one spouse toward the other sometimes unfortunately arise during a relationship or following separation. If there is a desire by the parties to address these difficulties and maintain the relationship then counselling may be appropriate.

However, if a spouse requires personal protection there are two types of Court orders which provide a mechanism for this, known as 'intervention orders' and 'injunctions'.

Intervention orders

Intervention orders are available to anyone who is or was living in a domestic relationship, and children who usually lived in that home. The local Magistrates Courts have power to make these orders under the provisions of the Crimes (Family Violence) Act. These orders are similar to injunctions.

A family member who has been threatened with violence or actually assaulted, molested, harassed or had their property damaged, can apply for an order.

Both parties are entitled to be legally represented in relation to intervention order matters when they come before the Court.

Victoria Police provides 24 hour assistance in relation to domestic violence issues.

An intervention order imposes conditions which seek to prevent violent behaviour, such as making it illegal for the other party to enter or come near the home or near the victim. The order can last indefinitely or for a specified period. If the other party ignores the order they can be arrested by the police without a warrant and may be fined or sentenced to a term of imprisonment.

Injunctions (restraining orders)

Injunctions are orders of the Court prohibiting a party from acting in a particular manner, such as restraining them from entering or being near the residence of the other, or ordering one party to stay away from the other party.

An application for an injunction may be made to the Court at any time during the relationship or following separation.

You should contact our lawyers who can assist you in relation to these matters if necessary. If one party breaches an injunction the other party may apply to the Court for an enforcement order.

Urgent injunctions

If the need for an injunction is urgent an application can be made without the other party being present and the Court will, in appropriate circumstances, make a temporary order.

The other party will be advised of the order and a future hearing date will be made so that they have an opportunity to respond. Interim injunctions made in the absence of the other party will only be made if there is a great deal of urgency.

Sole use and occupation of the home

The Court has the power to order that one of the parties, or one party and the children, have the sole right to use and occupy the family home, even if they have previously left the home. However it is only in exceptional circumstances that the Court will make this order.

Ordinarily, either party can return to the family home if that property is jointly owned or rented.

It is important to be aware that an order for sole use and occupation of the home is not an order distributing the parties' property, but merely a temporary order until such time as a property settlement is finalised.

DOMESTIC PARTNER RELATIONSHIPS AND PROPERTY SETTLEMENTS

The law in relation to division of property between couples following the breakdown of their domestic relationship has undergone a major change in recent times. As from 1 March 2009 couples in a domestic relationship, who separate after that date, have access to the family courts for both financial and parenting disputes. The effect of this is that the parties will have access to the same rules as married couples under the *Family Law Act*.

These are important changes which will allow domestic couples access to processes which have not been available in the past. For example, the parties will have access to the provisions relating to superannuation which allow for splitting of entitlements.

Harwood Andrews is well placed to provide advice and guidance in relation to these issues, from any one of our lawyers specialising in family law.

Of course, in many cases an agreement will be negotiated between the domestic partners to settle issues relating to parenting of children and division of property interests. In these cases the agreement will be documented to ensure the rights and responsibilities of the parties are set out clearly and concisely. However, if an agreement cannot be reached then an application can be made to the Court to have the outstanding issues determined.

An application would be made to the Family Court for those couples who have separated after 1 March 2009 provided that the parties have lived together for a period of at least two years or there is a child of the relationship or a party to the relationship has made a substantial contribution to the property of the parties. The definition of a domestic relationship includes people who are in a same sex relationship.

The new provisions will not apply to domestic relationships which breakdown prior to the commencement of those provisions. The existing regimes will be the only avenue available for relationships that end prior to 1 March 2009.

The changes in relation to domestic relationships will have a major influence on the way disputes are resolved between separated couples. In broad terms there will be a much wider range of possible outcomes depending on the circumstances of the parties with allowances for factors such as the care of children, differences in incomes and other factors which will effect the future financial position of the parties moving into the future.

If you find yourself in this situation where your relationship has broken down, before you make any decision in relation to financial issues, you should obtain independent legal advice concerning your rights and obligations.

FURTHER INFORMATION

If there are any aspects of the issues addressed in this guide which require further or more detailed explanation, please make an appointment with a Harwood Andrews Lawyers family lawyer who will be able to answer any such queries.

The advice contained in this guide is of a general nature only. Specific advice in relation to your personal situation should be sought in all circumstances.

IMPORTANT DISCLAIMER

The material contained in this booklet is of the nature of general comment only, and neither purports, nor is intended to be advice on any particular matter. No reader should act on the basis of any matter contained in this booklet without considering and, if necessary, seeking appropriate professional advice from our office upon their own particular circumstances. This firm expressly disclaims all and any liability to any person, in respect of anything and of the consequences of anything done or omitted to be done by any such person in reliance, whether whole or partial, upon the whole or any part of the contents of this booklet.

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GEELONG

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