

Pets and the family law system – changes from June 2025

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From hamsters to horses, pets are an integral part of a family unit. It can be difficult to decide where your pet will live following separation, particularly if your pet was purchased with your former partner or your children are attached to your pet.

In this blog, we will discuss the changes to the *Family Law Act 1975* (Cth) ('the Act') that came into effect on 10 June 2025 and how your family pets or companion animals may be affected by these changes.

June 2025 changes regarding pets/companion animals in family law from

After separation, decisions regarding with whom pets will live can be dealt with in property settlement negotiations.

Prior to 10 June 2025, pets were dealt with like any other property of the relationship (for example, the family home, vehicles, bank accounts, etc). However, changes to the Act now include pets under a specific definition for a 'companion animal':

*"**companion animal** means an animal kept by the parties to a marriage or either of them, or the parties to a de facto relationship or either of them, primarily for the purpose of companionship, but does not include:*

1. *an assistance animal within the meaning of the Disability Discrimination Act 1992; or*
2. *an animal kept as part of a business; or*

3. *an animal kept for agricultural purposes; or*

4. *an animal kept for use in laboratory tests or experiments."*

It is the intention of this paragraph to clarify that animals kept for farming, work, disability support or for the purposes of earning an income are not included under this definition. Non-working animals that are kept mainly or solely for companionship purposes (such as the family dog) will likely be considered within this definition.

This change to the Act acknowledges the deep emotional bonds between people and their pets. The reform aims to provide clearer, fairer outcomes in pet custody disputes, reflecting pets' integral role in families and addressing concerns where animals have been used to exert control in abusive relationships.

Family violence involving pets

It is important to note that the *Family Law Act* includes violence against pets and companion animals in its definition of 'family violence'. Intentionally causing death or injury to an animal may amount to family violence, and it is important to seek legal advice if either you or your children have been exposed to such behaviour.

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What must the Court consider when making orders regarding pets/companion animals?

The changes to the Act mean that the Court must now consider a number of factors when determining who should retain pets of the relationship. Even though the Court has acknowledged these factors existed in previous case law, these acknowledgments were not able to be considered by the Court, and as such did not go so far as to have any effect on the judicial outcomes.

The Court will now consider a specific list of matters when making an order about a companion animal, being:

- the circumstances in which the companion animal was acquired;
- who has ownership or possession of the companion animal;
- the extent to which each party cared for, and paid for, the maintenance of the companion animal;
- any family violence to which one party has subjected or exposed the other party;
- if there was any animal abuse or threat of animal abuse towards the pet as a form of family violence;
- the attachment or relationship of each party and any children to the family pet;
- the demonstrated ability of each party to care for and maintain the companion animal in the future, without support or involvement from the other party; and
- any other fact or circumstance which the Court considers needs to be taken into account.

These changes will provide a new framework for how the Court considers ownership of family pets in property settlements, which is different to other usual property in the asset pool.

The Court will be able to make both interim and final orders about which party is to have ownership of a pet or if the pet is to be sold. However, as pets are still dealt with under the umbrella of ‘property matters’, the Court will not be able to make orders for parties to have shared ownership or shared care arrangements in respect of the pet.

Making arrangements for your pets by consent

Like any family law matter, where your pet will live and who will be responsible for their care can be formally agreed between you and your former partner by consent.

If you and your former partner are able to reach an agreement outside of Court, you can formalise your agreement by way of consent orders or a financial agreement. In this process, you and your former partner sign a written agreement about:

- who will have ownership of your pet; and/or
- if and how your pet is to be sold,

together with any other agreed division of your assets.

The agreement cannot provide for shared ownership or care for your pet, as this is outside of the jurisdiction of the *Family Law Act*. Once you come to an agreement is it is submitted to the Court to be made into formal orders, provided that the Court considers the agreement to be just and equitable.

If you need assistance with formalising a property agreement between you and your former partner, get in touch with one of our experienced family lawyers to discuss your options and if consent orders are right for you.

Get help from a family lawyer

Making arrangements for your family pet following separation can be extremely difficult and emotionally overwhelming. If you need help navigating the property settlement process and future arrangements for your pet, seeking legal advice from our experienced family lawyers will provide guidance and assistance for your situation.

Contacting Smith Family Law

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Further reading related to the June 2025 *Family Law Act* changes

- Family law changes for property matters from June 2025
- Can family violence change the way my property is split after separation?

- Changes to Divorce Applications from 10 June 2025

This blog is of a general nature and should not be relied upon as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.