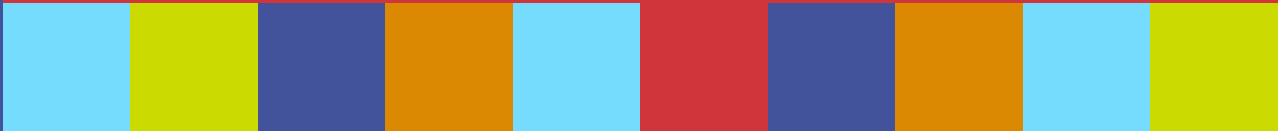


A decorative graphic on the left side of the slide consists of a 3x3 grid of colored squares. The colors are: top row (yellow, magenta, blue), middle row (red, blue, orange), and bottom row (magenta, orange, yellow).

Are Pets Truly Members of The Family? New Provisions Relating to 'Companion Animals' in the *Family Law Act 1975* (Cth)



Agenda

1. How were animals treated in Family Law prior to the 2025 amendments?
 2. Summary of amendments to *Family Law Act 1975 (Cth)* concerning 'companion animals'
 3. Limitations of 'companion animal' provisions in the *Family Law Act 1975 (Cth)*
 4. How are the courts currently interpreting these provisions?
- 

How did the Courts deal with Pets prior to the amendments?

Animals **were not mentioned** in the *Family Law Act 1975* (Cth) and were only considered general 'property' under either:

Making orders for altering property interests of parties in matrimonial property settlement.

Section 79

Making orders for altering property interests of parties in de facto property settlement.

Section 90SM

1

Pets awarded to party via 'monetary contribution':

- *Downey & Beale* [2017] FCCA 316
- *Grunseth & Wighton* [2022] FedCFamC1A 132
- *Day & Jacobsen* [2022] FedCFamC2F 1163
- *Barrese & Arrico* [2022] FedCFamC2F 1023

2

Pets awarded to go 'where the children go':

- *Jarvis & Weston* [2007] FamCA 1339
- *Castaneda & Castaneda* [2023] FedCFamC1F 1017
- *Rowlinson & Bradford (No 2)* [2024] FedCFamC2F 1241

3

No orders made for pets:

- *Walmsley & Walmsley (No. 3)* [2009] FamCA 1209
- *Gaynor & Tseh* [2018] FamCA 164
- *Davenport & Davenport (No.2)* [2020] FCCA 2766
- *Parkhill & Rayne* [2020] FCCA 1989
- *Arena & Arena (No. 4)* [2024] FedCFamC1F 22

3 categories
show the past
approach of the
courts in
making orders
for pet/s, prior
to the
amendments.



Summary of amendments to the *Family Law Act 1975 (Cth)*

Inclusion of 'companion animal' as a form of property	Section 4(1) – Interpretation
What orders the Court can make regarding 'companion animals' in <u>matrimonial property settlement</u>	Sections 79(6) & (7) – Alteration of property interests, considerations relating to companion animals
What orders the Court can make regarding 'companion animals' in <u>de facto property settlement</u>	Sections 90SM(6) & (7) – Alteration of property interests, considerations relating to companion animals

Section 4(1) – Interpretation

‘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:

- a) an assistance animal within the meaning of the [Disability Discrimination Act 1992](#) ; or
- b) an animal kept as part of a business; or
- c) an animal kept for agricultural purposes; or
- d) an animal kept for use in laboratory tests or experiments.

Section 79(6) – Alteration of property interests

considerations relating to companion animals

(6) In property settlement proceedings, so far as they are with respect to property that is a **companion animal**, the court may make an order (including a consent order or an interim order):

- a) that only one party to the marriage, or only one person who has been joined as a party to the proceedings, is to have ownership of the companion animal; or
- ab) that the companion animal be transferred to another person who has consented to the transfer; or
- b) that the companion animal be sold.

The court may not make any other kind of order under this section with respect to the ownership of the companion animal.

Section 90SM(6) – Alteration of property interests

considerations relating to companion animals

(6) In property settlement proceedings, so far as they are with respect to property that is a **companion animal**, the court may make an order (including a consent order or an interim order):

- a) that only one party to the de facto relationship, or only one person who has been joined as a party to the proceedings, is to have ownership of the companion animal; or
- ab) that the companion animal be transferred to another person who has consented to the transfer; or
- b) that the companion animal be sold.

The court may not make any other kind of order under this section with respect to the ownership of the companion animal.

Sections 79(7) & 90SM (7) – Alteration of property interests

(7) In considering what order (if any) should be made under this section with respect to the ownership of property that is a **companion animal**, the court is to take into account the following considerations, so far as they are relevant:

- a) the circumstances in which the companion animal was acquired;
- b) who has ownership or possession of the companion animal;
- c) the extent to which each party cared for, and paid for the maintenance of, the companion animal;
- d) any family violence to which one party has subjected or exposed the other party;
- e) any history of actual or threatened cruelty or abuse by a party towards the companion animal;
- f) any attachment by a party, or a child of the marriage, to the companion animal;
- g) 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;
- h) any other fact or circumstance which, in the opinion of the court, the justice of the case requires to be taken into account.

The *FLA* DOES

Classify pet/s as 'companion animals' that require unique considerations in property settlements that other forms of property do not follow.

Classify 'companion animals' as pet/s owned by either or both parties to the relationship.

Courts can consider emotional needs and connection of family members to the pet/s.

Courts can consider impact of family violence and cruelty toward the pet/s.

Courts can make orders for one party to solely own the pet/s, for another party to own the pet/s, or for the pet/s to be sold.

The *FLA* DOES NOT

Classify animals as 'sentient beings' or anything else other than 'property', do not follow four-stage approach.

Classify 'companion animals' as owned by children of the relationship.

Courts do not have to consider the emotional needs of the pet/s.

Courts do not have to consider the safety and wellbeing of the pet/s.

Courts cannot make orders for 'time sharing' or 'shared care' of pet/s.

Recent case law using the new 'companion animal' provisions

1

Pet/s awarded due to prior ownership:

- *Wright & Berger* [2025] FedCFamC2F 1315
- *Atifa & Partha* [2026] FedCFamC1F 172
- *Ziskind & Greco (No 2)* [2026] FedCFamC1F 378

2

Pet/s awarded by consent of parties:

- *Gronow & Gronow* [2026] FedCFamC2F 107

3

Pet/s split up and given to each party:

- *Arwen & Arwen* [2025] FedCFamC1F 765



Please scan this QR code to read
our article on the 'companion
animal' provisions of the *FLA*

Please scan this QR code to read
our case note on *Wright & Berger*
[2025] FedCFamC2F 1315

