



Family law reforms: companion animals and property settlement

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From 10 June 2025, changes to the family law will affect how pets are treated in property settlements after separation. For the first time, the *Family Law Act* (“the Act”) recognises “companion animals” and sets out how courts can decide who keeps pets of the relationship.

This article explains what counts as a companion animal, how the new laws work, and what separating couples should know to protect both their rights and their pet’s well-being.

These reforms continue the government’s focus on tackling, amongst other things across the family law spectrum, the rise in family violence. This focus has seen significant amendments to the Act for both parenting matters (which came into effect from May 2024) and property matters.

You may find our earlier articles related to pets helpful background reading:

• [Family violence reforms to protect pets – effective from June 2025](#)

• [Big changes to Australia’s Family Law Act from June 2025: a comprehensive overview](#)

What is a companion animal under the family law property amendments?

For the first time, a group of animals will be defined in the *Family Law Act*, being pets of separating couples. In the amendments, pets in the family law dynamic will be identified as companion animals, being an animal kept primarily for companionship.

Notably, the new definition also makes it clear that animals in other groups (non-companion animals), such as animals used in agriculture, used in science, owned in business (such as a racehorse) and assistance animals are **not** deemed to be companion animals.

This does not mean that other animals cannot be considered in the context of family law property disputes and how property is divided, but the division and allocation of these animals will remain the way it has been to date. That is, such animals are a form of property, and the Court can only make orders on this basis regarding their ownership. The Court will take into account their economic purpose or value, rather than their role in the family, like a companion animal under these reforms.

Example: The difference between companion vs non-companion animals

An example of the difference might be where there is a dog owned by a separating couple who is a source of companionship, and the couple also lives on a farm and owns several sheep and cattle.

Under the amendments and the new definition, the family dog would be considered a companion animal, and therefore, the law detailed below would apply.

The sheep and cattle, although also animals owned by the parties, would not fall under this definition and therefore would be divided based on their financial value, as would other forms of property on the farm, such as farming equipment.

An issue might arise under the new definition where the pet has a dual purpose. For example, the dog in the scenario above might also be a working dog on the farm. In this scenario, it is understood that because the dog has another purpose or role besides being a companion animal, they may not be classified a companion animal (as per the new definition) in a family law property dispute and therefore the parties could not file an application regarding ownership on this basis.

While these amendments mean greater protection for members of the family, particularly victim survivors of family violence and their pets, it still unfortunately means that other animal groups' sentient needs and individual circumstances will not be considered, given they are still deemed "property". The needs of a sheep in the scenario above, for example, will not be considered in a companionship sense but rather, just for its monetary value.

Key changes to family law and pets – from 10 June 2025

Provided the animal falls under the category of a companion animal as set out above, the Court has the power to make orders in relation to the ownership.

The Court will have the power to not just make an order clarifying who owns the pet/companion animal, but will also have the power to transfer ownership with or without consent of the party or make an order that the pet be sold (save this situation will hopefully not arise too often). The sale of a pet might arise where the pet is being subject to abuse and neglect by a party, and the other party does not have capacity or means to take ownership of the pet.

It is important to be aware however, that unlike other overseas jurisdictions where orders providing for “shared ownership” of a pet have been made by the Court, including Spain where [orders were made in a case for the shared care of the dog, Panda](#), the new amendments do not give the Court power to make orders for shared ownership. Ownership is the key factor in these amendments and who is to take or retain ownership of the pet to the exclusion of the other party.

What this means, is that a party can file an application solely relating to the ownership of the companion animal, but they will only be able to seek an order that the pet be transferred to them if they do not currently have it in their possession or sold. They cannot seek an order that the pet lives with them each second weekend, for example, in a shared arrangement (as is the case in [parenting plans or orders](#)).

It is also understood that some Court forms will be simplified due to the changes in cases where there is an application solely regarding the return of a “companion animal”.

What factors will the Court consider when making orders regarding companion animals?

The factors the Court will consider in making an order include:

1. the circumstances in which the companion animal was acquired;
2. who has ownership or possession of the companion animal;
3. the extent to which each party cared for, and paid for the maintenance of the companion animal;
4. any family violence to which one party has subjected or exposed the other party;
5. any history of actual or threatened cruelty or abuse by a party towards the companion animal;
6. any attachment by a party, or a child of the relationship, to the companion animal;
7. 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;
8. any other fact or circumstance which, in the opinion of the court, the justice of the case requires to be taken into account.

There have been a number of cases in the past where the Courts have made orders in relation to the ownership of pets despite there being no separate section under the Act for companion animals and how they should be treated.

These historical cases may now be considered by the Court when applying the above factors, given some of these factors were apparent in the Court's reasons for their decision. Some examples include where the Courts have made orders for ownership of a pet based on where the children primarily live, which is connected to the factor above, considering a child's attachment to the animal.

The Courts in the past have also been less likely to make orders for change of ownership where an animal has been living with one party since separation over a long period, which is also set out in the second factor above. The effect of ownership post-separation might need to be considered in a scenario where family violence is present and whether the animal was not in the possession of

the victim survivor post-separation because the other party, as a means of control or to cause the victim survivor mental and emotional harm, refused to return the pet to them.

Given these amendments are so new, we will need to see how the Court applies the above factors in a few cases to understand whether they will take a broad or conservative approach in the context of the Court having a broad discretion in property law cases generally.

These property law reforms have largely been introduced with an aim to better protect victim-survivors of family violence as they progress through the Court system in property disputes. It is therefore likely that situations where disputes regarding companion animals of family violence victim survivors arise, Court orders will be made with an aim to better protect the victim survivor and their pet(s).

Making a companion animal application

Before these reforms, parties were limited in the orders they could seek in relation to the ownership of pets and how they could seek orders, given pets were just considered another form of property. Now, a party can either make:

- an application for the return or transfer of their pet; or
- an application in conjunction with other property orders; and/or
- a parenting application if necessary.

The list of factors the Court must consider also means that the parties will have a clearer understanding of what is relevant and necessary as evidence when making a companion animal application.

While it might be easier for applications to be made for the return of your pet post-separation, we encourage parties to attempt to negotiate a resolution before issuing proceedings. This might include sending a letter to the other party or proposing dispute resolution, [such as mediation](#).

It is also worth considering clarifying who is to retain the pet at the beginning of the relationship. It is possible to enter into a financial agreement or a "Pet Nup" to avoid a dispute about your pet in the future in the event of separation.

Get help from a family lawyer

We will be closely monitoring the impact of these new reforms and how the Courts decide these matters.

If you would like tailored advice about your family law matter, including an issue concerning your pet, please reach out to the team at Emera Family Law. Nicky Neville-Jones is a specialist Family Lawyer and Animal Lawyer (and it is an area of particular interest to her).

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.