

Preface to *Australian Master Family Law Guide 2009*

Writing the Preface to the third edition of the *Australian Master Family Law Guide* is a great honour.

In the beginning the book was a step into the unknown, albeit by the CCH editorial team which knew what its readers wanted - up-to-date and easily accessible information.

The Guide has developed into an essential reference work, taking its place side by side with the more comprehensive flagship loose leaf service *Australian Family Law and Practice*.

The Guide is assessable because it can fit into a briefcase full of files, sit on a stack of files on a busy desk or be stuffed into a student's backpack. At the same time, the Guide is kept up-to-date in the frequently changing world of family law with internet updates.

All chapters have been reviewed and updated since the 2008 edition and many chapters have been substantially rewritten.

The most significant legislative changes were in the area of property and financial agreements. Heterosexual and same sex de facto couples who did not separate before 1 March 2009 are covered by the *Family Law Act 1975* provided they meet certain jurisdictional hurdles. There were major legislative changes with respect to financial agreements too. In particular, third parties can be parties to financial agreements along with spouse parties. These changes have necessitated changes throughout the Guide.

The Property chapters have been updated to including the High Court decision of *Kennon v Spry* (2008) FLC 93-388, the first consideration by the High Court of the treatment of trust property in family law disputes over twenty years.

The Financial Agreement chapter is updated to deal with *Black and Black* (2008) FLC 93-357 in which the Full Court held that the requirements of s 90G of the Act had to be strictly complied with for a financial agreement to be binding.

Although legislative changes have been proposed that lessen the effects of *Black and Black*, the Bill has been changed several times as Parliament wrestles with the difficult balance between requiring an overly strict reading of the Act for agreements to be binding and a reading which is too loose.

The Bankruptcy and Third Parties chapter includes detailed commentary on recent case law. In particular, the Full Court in *Trustee of the Property of Lemnos, a Bankrupt and Lemnos* (2009) FLC 93-394 looked at the effects of the 2005 amendments, including the interpretation of s 75(2)(ha), priorities of creditors and the waste argument.

The Children chapter has been updated to include such cases as *Miller & Harrington* (2008) FLC 93-383 where the Full Court said that procedural fairness was not given when a matter was heard only "on the papers" without cross examination, *Kendling and Anor & Kendling* (2008) FLC 93-384 where contempt proceedings were settled by the parties and *Moose and Moose* (2008) FLC 93-375, where the Full Court concluded that a trial judge erred in his consideration of s 60CC(2)(a) and s 60CC(2)(b).

The Superannuation chapter has been updated to include *Gabel & Yardley* (2008) FLC 93-383 which dealt with an application filed prior to the December 2002 superannuation

amendments but where the application in so far as it is dealt with the husband's superannuation was adjusted under s 79(5).

The Child Abduction chapter was updated to include a sub chapter on the court's discretion in child abduction cases. Cases are included on matters such as clear evidence being required to establish a grave risk of harm, proceedings should be heard expeditiously and "rights of custody". In *Director-General of the Department of Community Services and Timms (aka Black)* (2008) FLC 93-376 where the Full Court concluded that the trial judge was in error in determining that the father had sole custody of the child and that therefore the child was habitually resident in New Zealand.

The Court process chapter has been updated to include the changes introduced by the *Family Law Amendment Rules 2009 (No 1)* and recent cases.

The Guide is a fantastic reference for tax and superannuation professionals, wills and estates lawyers, bankruptcy practitioners, accountants, family counsellors and family dispute resolution practitioners. It has also been a handy reference for lawyers with either generalist or specialist practices seeking expert commentary on all aspects of family law.

Publishing the *Australian Master Family Law Guide* provides great opportunities. First, it provides the opportunity to present family law in a succinct but still comprehensive format. Second, it is an opportunity to expand beyond a narrow interpretation of the law and cover issues which frequently arise in family law disputes such as drug use, child abuse and family violence, mental health problems, children with special needs and allegations of parental alienation syndrome.

Australian Family Law and Practice is one of CCH's flagship loose-leaf services. It was the foundation for the *Australian Master Family Law Guide*. The skill and expertise, hard work and dedication of editors and contributors since its inception must be recognised. CCH is grateful to the following people who have substantively contributed to the *Australian Family Law and Practice* since it was first published:

c Dr Tom Altobelli FM	c Neil Jackson
c Martin Bartfeld QC	c Tedd Jordan
c Juliet Behrens	c Lisa Lahey
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The *Australian Master Family Law Guide* would not have been possible without the assistance of Peter Rodrigues — Editor-in-Chief, Legal Editorial, Lydia Lucs — Family Law Editor, Sherika Ponniah — Family Law Editor, Lee Li Lian — Subeditor, Anthony Chong Vee Yee — Production Editor, Judy Proctor — Product Analyst, Mark Southwell — Indexer, and all of CCH Australia Limited.

Finally, the *Australian Master Family Law Guide* was written by practitioners who contributed their time, dedication, knowledge and expertise. The authors immersed themselves in the challenge of producing and updating a single volume reference work which a broad range of professionals could use.

I commend to you the second edition of the *Australian Master Family Law Guide*.

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