

CURRENT FAMILY LAW

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Third parties have always played an important part in family law property proceedings. Until the introduction of Pt VIIIAA into the Family Law Act 1975 (Cth), the reach of family court orders was oblique and impeded by authority which limited the ability of the court to make orders affecting their interests or rights. This article examines both the court’s previous approach to third-party litigation and tries to predict how the court may approach the new statutory provisions. Properly applied applications under Pt VIIIAA are a useful adjunct to the adjustive jurisdiction of the Family Court. However, the legislation has built into it substantial safeguards to protect the third party’s interests and the issues raised by those safeguards must be dealt with on each application. Individual judges sitting at first instance have expressed the view that Pt VIIIAA is within the Commonwealth’s legislative power under the Constitution, but cases are on the path to the High Court to finally determine that issue.	143
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