

FAMILY LAW REVIEW

Volume 4, Number 3

October 2014

EDITORIAL

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ARTICLES

Can Part VII of the Family Law Act do what is asked of it? – *Helen Rhoades, John Dewar and Nareeda Lewers*

This article explores the capacity for legislation governing children’s post-separation care to perform the multiple functions envisaged for it, and asks whether it is possible for a single legislative framework to “speak to” multiple audiences, including separating parents and the family law system’s different professional communities. Its analysis draws on a recent empirical study which examined the relationships between Pt VII of the *Family Law Act 1975* (Cth) and the day-to-day work of lawyers, judges and family dispute resolution practitioners. 150

A national approach to manage vexatious litigation: New powers under the Family Law Act – *Robert Benjamin*

This article examines the new model statutory jurisdiction and powers to deal with vexatious litigants under the *Family Law Act 1975* (Cth). The new model law and powers came into effect in June 2013 and reflect similar powers in the other federal courts and most State Supreme Courts. The new s 102Q of the *Family Law Act* provides a different way to manage and control vexatious proceedings and has repealed much of the former vexatious litigant powers under s 118. The new provisions empower a court to make a range of orders from warnings to the draconian. Once a vexatious proceedings order is made it creates a mandatory statutory injunction to prevent the commencement of a proceeding without leave; and it provides a mandatory statutory stay if proceedings are commenced without leave. If a vexatious proceedings order is made against a person, there is a mandated statutory pathway for that person to seek leave to commence a proceeding. 170

Do members of a class of beneficiaries of a discretionary trust have a “right” to documents which can be enforced in the Family Court? – *Richard Ingleby*

In complex property cases it is often the case that parents of spouses who control discretionary trusts are served with a subpoena by their child’s partner to provide details of the assets of a trust of which their child is a member of the class of beneficiaries. Although there are references to the “proprietary rights” of a member of the class of beneficiaries, there is no clear answer in the law of trusts as to how such rights translate into an entitlement to documents. This article discusses how the tensions and ambiguities in relevant principles of trust law might impact on the resolution of a hearing in relation to a contested subpoena in the Family Court. 183

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