

# Amendments to the *Family Law Act 1975 (Cth)* Effective May 2024



Article by Townsville Family Lawyer [Emma Donald](#)

March 2024

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Important amendments to the *Family Law Act 1975 (Cth)* will take effect on the 6<sup>th</sup> of May 2024. These changes will update a number of matters relevant to how the court makes decisions for children. Some of the changes are outlined below.

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## Joint Decision Making

*Joint Decision Making* will replace the term *equal shared parental responsibility*.

If a *Joint Decision Making* order is made, it will require the parents to consult with each other and make a genuine effort to agree regarding long term decisions for the child/ren, however, it won't require the decision to be made jointly.

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## The Presumption Around Equal Shared Parental Responsibility will be Removed.

The presumption around equal shared parental responsibility will be removed, as well as the rebuttal to the presumption, and what had previously been referred to as the "Goode" pathway.

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## Arrangements that are in the Child's Best Interest.

Changes will be made to the '*best interests*' provision, including the previous structure of the 'primary' and 'additional' considerations.

*Meaningful relationship* is no longer referenced, and '*promotion of safety*' is now a focus.

Section 60CC of the *Family Law Act 1975 (Cth)* had previously set out 16 things the court was to consider when looking at what arrangements would be in the child's best interests. This has now been repealed and replaced with a short list which includes:

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- i. The promotion of safety
  - ii. Views of the child
  - iii. Needs of the child
  - iv. Capacity of carers to provide for the child's needs
  - v. Benefit of the child to having a relationship with the parents and other significant people to the child
  - vi. Any other relevant matter
  - vii. A child's right to enjoy Aboriginal or Torres Strait Islander Culture.
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## Rice & Asplund

The longstanding rule of *Rice & Asplund* which requires a party to prove a significant change in circumstance in order to apply to the Court to change a Parenting Order, is now included in the legislation.

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## Independent Children's Lawyer (ICL) – to meet with the children if over the age of 5 years.

Independent Children's Lawyer (ICL) provisions have been amended and now provide for an obligation on the ICL to meet with children over the age of 5 years old. Currently, it is at the Independent Children's Lawyer's (ICL) discretion to decide whether they meet the children.

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## The Changes are Not Retrospective – changes apply from the 6<sup>th</sup> of May 2024.

It is important to note that the changes will not be retrospective.

The new laws will only apply to matters that are decided by the Federal Circuit and Family Court of Australia *after* 6 May 2024.

The amendments will not act as a gateway to opening up old parenting matters already decided by the Court.

The full impact of the amendments won't be known until the Court commences handing down decisions post the 6<sup>th</sup> of May 2024. The amendments still require the Court to consider the best interests of the child/ren as the *paramount consideration*.

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Everyone's situation is unique. We always recommend that people see an experienced family lawyer to discuss your situation and obtain customised advice about how the law specifically applies to you.

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