

White & Case

Lucy's Project – Pro Bono Collaboration Research (2025)

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Can legal protections be extended to animals in DFV situations?



Yes, legal protections can be extended to animals in DFV situations. However, there are currently no overarching national laws governing animal welfare in Australia. The *Family Law Act 1975* (Cth) ('*Family Law Act*'),¹ recently amended by the *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*'),² is the only federal law expressly addressing DFV, which recognises causing death or injury to an animal as being a form of family violence. However, there are no express protection for animals or people with animals under the *Family Law Act*. Family violence against animals may be relevant to affording protection to children, which may result in removing animals from the care of perpetrators.³ This is not to protect animals, but rather because doing so is in the best interests of the child.⁴ Similarly, family violence against animals may be relevant to family violence orders under state and territory laws, but only indirectly. While these orders do not arise under the *Family Law Act* (or other federal laws), nor can animals be included in them, courts must consider the existence of these orders in determining the best interests of children in court proceedings.⁵ The following provisions may be used to prevent a partner from harming or disposing of a family pet by reason that such acts would cause emotional harm on the protected person or child:

- s 68B of the *Family Law Act* allows courts in children's matters to make an injunction to protect a child or a person caring for a child from family violence, and;⁶
- s 114 of the *Family Law Act* allows parties to seek an injunction for personal protection and for property during matrimonial proceedings.⁷ Without reference to family violence, however, it is unclear whether s 114 can provide protection.

If a client is leaving a violent home, can they legally take their animals with them?



Whether a survivor of DFV can bring their animals with them when leaving a violent home will depend on whether that person can demonstrate their ownership of the animal. The *Family Law Act* treats companion animals as a special type of property.⁸ 'Companion animal' is defined as animals primarily kept for companionship by parties to a marriage or de facto relationship.⁹ This definition excludes assistance animals and animals kept for business, agricultural purposes, or laboratory tests.¹⁰ In determining 'ownership', the courts must consider the following factors (to the extent they are relevant):

- how and why the companion animal was acquired;
- who has ownership or possession;
- who cared and paid for the maintenance of the companion animal;
- history of family violence or cruelty towards the animal;
- attachment by a party or a child; and
- the future ability to provide care and maintenance.¹¹

The *Family Law Act* allows courts to make specific orders regarding the movement or transfer of companion animals. There are two separate regimes, being orders relating to spousal maintenance and maintenance agreements in the context of marriages (s 79(6) and (7)) and financial matters regarding de facto relationships (s 90SM(6) and (7)).¹² In these property settlement proceedings, courts can order the ownership, transfer or sale of companion animals:¹³

- Courts can only order one party to the marriage, or one person joined to the proceedings, to have ownership. Courts cannot order joint **ownership** or shared custody, and;
- the types of people who a companion animal can be transferred to are not specified, with courts given the discretion and flexibility to **transfer** the animal to any person who has consented.¹⁴

Proof of ownership can be established through several factors, including who: purchased the animal (ownership); the animal is registered to (registration); is the primary carer (caregiving); and is responsible for expenses in relation to the animal (financial responsibility).¹⁵

What rights do renters experiencing DFV have when it comes to keeping animals?



In Australia, tenancy laws are governed under state and territory legislation. This means there are no rights of tenants experiencing DFV to keep animals in residential premises under federal laws.

How are pets treated in family law disputes, especially where there has been violence?



The *Amendment Act* introduced several changes focusing on property matters and the impact of family violence.¹⁶ Courts can now consider issues involving animals in property settlements and custody matters. Animals continue to be treated as property and are not afforded a status as a category of protected persons, separate to their owners, however courts can consider the welfare of companion animals and the parties' attachment to them.

The new framework applies to 'companion animals', as defined in Q2.¹⁷ Courts must determine if an animal is primarily kept for companionship. There is little guidance surrounding what is to be taken into consideration to determine companionship. However, key points include that 'companionship' is given its ordinary meaning, any species of animal can be a companion animal, and an animal can only be a companion animal where it is owned by the parties to a marriage or a de facto relationship (or either of them).¹⁸ Essentially, it is a question of fact whether an animal provides companionship.

If an animal serves dual purposes (e.g. assisting with farming and providing companionship), the court evaluates the primary purpose. If the primary role falls under excluded categories, it will be treated like other property.¹⁹ This means its economic value takes precedence over companionship. Under the new framework, the treatment as a special form of property enables courts to make specific orders regarding their ownership having regard to the matters set out in Q2 above. However, joint ownership or shared custody orders are not permitted.²⁰



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Safe Families - Paws and All



What protections exist for assistance animals and their owners in DFV contexts?



The *Disability Discrimination Act 1992* (Cth) ('DDA') protects people with disabilities from discrimination.²¹ The DDA extends the same rights and protections to having an assistance animal as are applied to having a disability.²² An 'assistance animal' is a dog or other animal which is accredited under state or territory laws, accredited by an animal training organisation prescribed by the regulations, or trained to assist a person with a disability to alleviate the effect of the disability and to meet appropriate standards of public hygiene and behaviour.²³

The DDA makes it unlawful to discriminate based on disability in many areas of public life, including:

- employment;²⁴
- education;²⁵
- access to premises;²⁶
- the provision of goods, services and facilities;²⁷
- the provision of accommodation;²⁸
- the sale of land;²⁹
- and the administration of Commonwealth laws and programs.³⁰

Victims of DFV with assistance animals can rely on these anti-discrimination protections.

What if animals on a farm or in the wild are harmed during a DFV incident?



As there are no overarching national laws for animal welfare,³¹ survivors of DFV may instead rely on state or territory animal welfare legislation to hold perpetrators accountable.

Violence against animals can be raised in the context of establishing DFV against human victims under state or territory laws,³² but there are no federal instances of farmed or wild animals being legally identified as victims.

Endnotes

1. *Family Law Act 1975* (Cth) ss 4AB(1), (2) ('Family Law Act'). The Act defines 'family violence' as violent, threatening or coercive and controlling behaviour, with causing death or injury to animals and destruction of property recognised examples of family violence.
2. *Family Law Amendment Act 2024* (Cth) ('Amendment Act').
3. See, eg, *Smythe & Banks* [2016] FamCA 946 at [56] (Austin J); *Catling v Gould* [2022] FedCFamC1F 233; *Pickford v Pickford* [2024] FedCFamC1A 249. Cf *Jarvis & Weston* [2007] FamCA 1339 (where there was only implicit recognition of protecting animals).
4. See generally *Family Law Act* (n 1) pt VII ss 60B(a), 60CA, 60CC. These sections set out the framework for parenting and care arrangements of children and acknowledge the child's best interests as the paramount consideration.
5. See generally *Family Law Act* (n 1) ss 43(1), 68B, 114.
6. *Ibid* s 68B.
7. *Ibid* s 114.
8. See generally *Family Law Act* (n 1) pt VII div 1–14.
9. *Ibid* s 4 (definition of 'companion animal').
10. *Grunseth & Wighton* [2022] FedCFamC1A 132, [18], [64], relating to *Family Law Act* (n 1) ss 79, 90SM (on the topic of property settlement disputes in marriages and de facto relationships).
11. *Amendment Act* (n 2) sch 1 pt 1 div 1 ss 24, 43.
12. *Family Law Act* (n 1) ss 79(6), (7), 90SM(6), (7).
13. *Amendment Act* (n 2) sch 1 pt 1 div 1 ss 24, 43 ('Amendment Act').
14. Supplementary Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) ('Supplementary Explanatory Memorandum') 9.
15. Rochelle Morton et al, 'Assessing the Uniformity in Australian Animal Protection Law: A Statutory Comparison' (2021) 11(1) *Animals* 35, 35.
16. *Amendment Act* (n 2). See Rochelle Morton et al, 'Assessing the Uniformity in Australian Animal Protection Law: A Statutory Comparison' (2021) 11(1) *Animals* 35, 35.
17. *Family Law Act* (n 1) s 4(1); *Amendment Act* (n 2) sch 1 pt 1 div 1 s 1.
18. Explanatory Memorandum, Family Law Amendment Bill 2024 (Cth) ('Explanatory Memorandum') 31.
19. *Ibid* 31–32.
20. Supplementary Explanatory Memorandum (n 9) 9.
21. *Disability Discrimination Act 1992* (Cth) ('DDA').
22. *Ibid* s 8(1).
23. *Ibid* s 9(2).
24. *Ibid* s 15.
25. *Ibid* s 22.
26. *Ibid* s 23.
27. *Ibid* s 24.
28. *Ibid* s 25.
29. *Ibid* s 26.
30. *Ibid* s 29.
31. 'Legislation and Regulations', *RSPCA New South Wales* (Web Page) <<https://www.rspcansw.org.au/ending-animal-cruelty/investigating-animal-cruelty/legislation-andregulations>>.
32. See *Family Law Act* (n 1) s 4AB(2)(f). See, eg, *Latrell and Latrell* [2024] FedCFamC1F 211.



Can legal protections be extended to animals in DFV situations?

Yes, legal protections can be extended to animals in DFV situations.



Although animals are not explicitly treated as victims of domestic violence under the *Crimes (Domestic and Personal Violence) Act 2007* (NSW) ('*CDPV Act*'), 'domestic abuse' includes 'behaviour that causes death or injury to an animal, or otherwise makes use of an animal to threaten a person'.¹ Intimidation is also a form of 'domestic abuse' and may include conduct that causes harm to an animal that belongs to a person with whom the person has a domestic relationship.² To that end, animals can indirectly be protected through an apprehended violence order made by a court against the offender if there are reasonable grounds for the person to fear the commission of domestic violence.³ An apprehended violence order prohibits the offender from harming an animal that belongs to the protected person.⁴ The court may also further impose any prohibitions or restrictions on the behaviour of the offender that it considers necessary such as prohibiting access to places frequented by the person, prohibiting the offender from locating the person, prohibiting the offender from interfering with the person's property or prohibiting specified behaviour that might affect the person.⁵

More generally, a wide range of acts of cruelty against animals such as beating, kicking, wounding or maiming an animal are prohibited under the *Prevention of Cruelty to Animals Act 1979* (NSW) ('*PCA Act*').⁶ Inspectors and the police may take possession of an animal if it is in imminent danger of suffering significant injury or has a life-threatening condition requiring veterinary treatment.⁷

If a client is leaving a violent home, can they legally take their animals with them?



Whether a person can legally take their animals with them turns on a question of ownership as animals are considered property under NSW law. Although there is no clear way of demonstrating ownership of an animal, examining receipts, invoices, registration and other documents may give rise to evidence establishing legal ownership. In one court case, significant financial and non-financial contributions towards the animal's care led to a determination of ownership though it could equally result in difficulties when proving ownership, particularly in a DFV context where there might be a power imbalance in respect of ownership of the residence and paying for the animal.⁸ In the case of farm animals, ownership can be more readily determined as the *Biosecurity (National Livestock Identification System) Regulation 2017* (NSW) provides that 'identifiable stock' (which include cattle, pigs, goats and sheep) must be identified using permanent identifiers which will include reference to the name and address of the person operating the farming premises.⁹

Under the *Family Law Act 1975* (Cth) ('*Family Law Act*'),¹⁰ as amended by the *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*'),¹¹ in the case of determining ownership of 'companion animals' (which refers to animals kept by parties to a marriage or a de facto relationship for the purpose of companionship), the recently amended legislation introduced a requirement for courts to consider: (1) the circumstances in which the companion animal was acquired, (2) the extent to which each party cared for the companion animal, (3) any family violence to which one party has subjected or exposed the other party, and (4) any history of actual or threatened cruelty or abuse by a party toward the companion animal.¹² Once a determination is made, courts may order that one party is to have ownership of the companion animal, that the companion animal be transferred to another person or that the companion animal be sold.¹³

What rights do renters experiencing DFV have when it comes to keeping animals?



Renters are only able to keep animals at residential premises with the landlord's consent, though the landlord may only refuse on certain grounds (for example, where the premises are unsuitable for keeping the animal, where the animal will likely cause costly damage to the premises or where keeping the animal would contravene law).¹⁴ If a landlord refused an application and the renter believes the grounds for refusal are not applicable, the renter may apply to the tribunal requesting it to make an order allowing the tenant to keep the animal at the premises.¹⁵

Where renters are experiencing DFV, a change to the tenant under a residential tenancy agreement can only occur with the landlord's written consent.¹⁶ However, where an apprehended violence order has been issued in respect of a tenant or co-tenant that prohibits access to the residential premises, the tenancy of that tenant or co-tenant is terminated (this does not affect the tenancy of any other co-tenant not subject to the apprehended violence order).¹⁷ For occupants, the tribunal may make an order recognising the occupant as the tenant and vesting a tenancy over the premises on such terms of the previous residential tenancy agreement as the tribunal sees fit (which may include the landlord's approval to keep animals on the premises).¹⁸



How are pets treated in family law disputes, especially where there has been violence?



In family law disputes, courts may make certain orders under the *Family Law Act* regarding ownership of a pet where the pet is a 'companion animal' (which is an animal kept by the parties to a marriage or a de facto relationship for the purpose of companionship).¹⁹ As mentioned above, such orders include that one party is to have ownership of the companion animal, that the companion animal be transferred to another person or that the companion animal be sold.²⁰ There is no restriction on the type of animal that can constitute a 'companion animal' though there are certain exclusions such as assistance animals.²¹

In determining who should have ownership of a 'companion animal', the court must consider various factors including (1) the circumstances in which the companion animal was acquired, (2) the extent to which each party cared for the companion animal, (3) any family violence to which one party has subjected or exposed the other party, and (4) any history of actual or threatened cruelty or abuse by a party toward the companion animal.²²

Notably, where an animal has dual purposes (for example, a dog may be assisting with farming operations in addition to providing companionship), the court will look at the primary purpose of the animal. However, if the animal is kept as an assistance animal, as part of a business, for agricultural purposes or for use in laboratory tests or experiments, it will not be considered a 'companion animal'.²³

What protections exist for assistance animals and their owners in DFV contexts?



NSW law does not explicitly provide protection for assistance animals and their owners in the context of DFV. However, individuals with disabilities will have access to certain anti-discrimination protections under the law. In particular, discrimination against a person for the fact that they have a dog which assists in respect of a disability relating to vision, hearing or mobility is prohibited.²⁴

Where a person is the victim of discrimination for a disability, they may lodge a complaint (or others may lodge a complaint on behalf of them) to the Anti-Discrimination Board who has the power to investigate complaints and require the persons to appear before the President of the Anti-Discrimination Board for the purposes of resolving the complaint by conciliation.²⁵

What if animals on a farm or in the wild are harmed during a DFV incident?



While there are no explicit protections for animals on a farm or in the wild, the *PCA* prohibits a wide range of acts of cruelty such as beating, kicking, wounding or maiming an animal (and penalties apply) against animals (including animals on a farm or in the wild) which include a member of a vertebrate species, birds, fish, mammals, reptiles and crustaceans.²⁶ Inspectors and the police may take possession of an animal if it is in imminent danger of suffering significant injury or has a life-threatening condition requiring veterinary treatment.²⁷ Despite this, however, there is no specific reference to the context of DFV.

Endnotes

1. *Crimes (Domestic and Personal Violence) Act 2007* (NSW) s 6A(2) ('CDPV Act').
2. *Ibid* ss 6A(2)(f), 7(1)(c)(iv).
3. *Ibid* s 16.
4. *Ibid* s 36(c).
5. *Ibid* s 35.
6. *Prevention of Cruelty to Animals Act 1979* (NSW) s 4 ('PCA Act').
7. *Ibid* ss 24E, 24I, 24J.
8. *Downey v Beale* [2017] FCCA 316.
9. *Biosecurity (National Livestock Identification System) Regulation 2017* (NSW) s 17.
10. *Family Law Act 1975* (Cth) ('Family Law Act').
11. *Family Law Amendment Act 2024* (Cth) ('Amendment Act').
12. *Family Law Act* (n 10) s 79(7); *Amendment Act* (n 11) sch 1 pt 1 div 1 ss 1, 24, 43.
13. *Family Law Act* (n 10) s 79(6); *Amendment Act* (n 11) sch 1 pt 1 div 1 ss 24, 43.
14. *Residential Tenancies Act 2010* (NSW) ss 73B and 73F ('RT Act').
15. *Ibid* s 73G.
16. *Ibid* s 74.
17. *Ibid* s 79(1).
18. *Ibid* s 79(2), (3).
19. *Amendment Act* (n 11) sch 1 pt 1 div 1 s 1.
20. *Ibid* sch 1 pt 1 div 1 ss 24, 43.
21. Explanatory Memorandum, *Family Law Amendment Bill 2024* (Cth) 31.
22. *Amendment Act* (n 11) sch 1 pt 1 div 1 ss 24 and 43.
23. *Ibid* sch 1 pt 1 div 1 s 1.
24. *Anti-Discrimination Act 1977* (NSW) s 49B(3).
25. *Ibid* ss 87A, 87B, 90B, 91A.
26. *PCA Act* (n 6) s 4(1).
27. *Ibid* ss 24E, 24I, 24J.



Can legal protections be extended to animals in DFV situations?



Yes, legal protections can be extended to animals in DFV situations in Victoria. In Victoria, domestic and family violence is regulated by the *Family Violence Protection Act 2008* (Vic) ('FVPA'). The FVPA provides that 'family violence' includes 'causing or threatening to cause the death of, or injury to, an animal', with animal being undefined under the FVPA, meaning there is scope for a broad range of animals to be afforded protection.¹ If a court decides to issue family violence intervention orders to protect a victim from family violence, these orders can include conditions to protect animals owned by victims of DFV.² However, it is important to be aware that such conditions under family violence intervention orders may only be made where it can be shown that the animal is 'owned' by the victim, as animals are not listed as a separate class of protected persons but instead treated as personal property.³

In addition, animal cruelty legislation in Victoria prohibits a range of acts of cruelty towards all animals irrespective of whether such cruelty occurred in DFV situations or not. The primary legislation governing animal welfare in Victoria is the *Prevention of Cruelty to Animals Act 1986* (Vic) ('POCTA').⁴ Under POCTA, courts may impose orders disqualifying a person from owning or being in charge of animals, either permanently or for a specific period, if they have been convicted of an offence. Inspectors and the police have enforcement powers⁵ and emergency powers⁶ under POCTA to enter premises, search for, seize, retain possession, examine, feed, water and free an animal.⁷ Penalties for contravening animal cruelty legislation include fines of up to \$49,398 and/or imprisonment for up to 12 months for cruelty or up to \$98,795 and/or imprisonment up to 2 years for aggravated cruelty.⁸

Various codes of practice in Victoria also set minimum standards and practices for keeping a wide range of animals.⁹ There are many codes that govern the management of dogs and cats, including the acceptable conditions when housing them for breeding, boarding and training.¹⁰ Farm animals (such as cattle, goats and poultry),¹¹ reptiles,¹² amphibians,¹³ and even laboratory animals¹⁴ also have dedicated codes that set out the acceptable treatment and management of these animals. Although DFV situations are not expressly contemplated in these codes, where DFV situations lead to violations of these codes, the protections afforded under them may be enlisted to protect affected animals.

If a client is leaving a violent home, can they legally take their animals with them?



If a client is leaving a violent home, they may be able to legally take their animals with them. Whether they can do so depends on whether they can show that they are the legal owner of the animal in Victoria. The way that ownership of an animal may be demonstrated will depend on the type of animal in question, and an official written record will be beneficial to proving ownership. In relation to a dog or cat, a person is considered the 'owner' if they keep or harbor the animal or have the animal in their care for the time being (i.e. at that point in time) whether the animal is at large or in confinement.¹⁵ Owners of dogs or cats in Victoria are required to register their cats or dogs with their local councils in addition to the standard microchipping, with more dangerous breeds of dogs requiring the implantation of prescribed permanent identification devices.¹⁶ Therefore, if a client has registered their dog or cat, this would suggest that the client owns the animal and would strengthen the legal basis on which the client may take the animal with them when leaving a violent home.

In relation to livestock or farm animals, a person is considered the 'owner' if they have or claim any right, title or interest to or in any livestock, whether with someone else or individually.¹⁷ Similar to the above, owners of farm animals must register their livestock,¹⁸ and so if a client has registered their livestock, this may support a claim that the client owns the livestock and strengthen the legal basis on which the client may take the livestock with them if leaving a violent home. If a client is leaving a violent home, their legal right to take their animals with them is likely to be determined by whether they were the 'owner' in relation to that animal prior to leaving.

If a client is not the owner of the animal, a client may seek to rely on the *Family Law Act 1975* (Cth) ('Family Law Act'), which has been amended in 2025 to introduce a new concept of 'companion animals'.¹⁹ A 'companion animal' is an animal kept by the parties to a marriage or in a de facto relationship primarily for the purpose of companionship.²⁰ There is no limitation on the type of animal that can be considered as a 'companion animal'. Instead, the Court will make a determination of whether an animal is kept primarily for companionship or not based on the facts in each case. The matters the Court will take into account in making its determination include, but are not limited to, (i) the circumstances that the animal was acquired; (ii) ownership or possession of the animal; (iii) the historical care and treatment of the animal; and (iv) whether a particular party has abused the animal.²¹ If an animal is determined to be a companion animal, the court can make orders determining ownership or care of the animal including that a particular individual, such as the client, is to have ownership of the animal, or to the contrary, that the animal is transferred to another person or even sold.²²

What rights do renters experiencing DFV have when it comes to keeping animals?



Renters may keep animals at rented premises provided they have obtained the written permission of the landlord.²³ Renters experiencing DFV may apply to the Victorian Civil and Administrative Tribunal (VCAT) for an order either (i) terminating the existing residential rental agreement; or (ii) entering into a new residential rental agreement.²⁴ The new residential rental agreement must be on the same terms and conditions as the existing agreement, subject to any changes VCAT determines,²⁵ so if the existing residential rental agreement permitted the victim of DFV to keep their animal on the property, the victim would be able to continue to keep their animal if VCAT orders the renewal of an existing rental property to a renter experiencing DFV. If, however, the renter experiencing DFV did not previously obtain permission to keep an animal on the property, VCAT can exercise its discretion to include a condition that permits the renter to keep the animal. The new residential rental agreements can also exclude the perpetrator of violence as a named tenant and VCAT may order that no break fees are permitted when terminating the existing residential rental agreement.²⁶

How are pets treated in family law disputes, especially where there has been violence?



Recent amendments to the *Family Law Act* have broadened the types of orders that courts can make in family law disputes, including orders that deal with pets, and the considerations that are taken into account in making those orders.²⁷ Previously, the *Family Law Act* treated animals as mere property with no special consideration for the animal's welfare however a new definition for 'companion animal' has been introduced. A 'companion animal' is an animal kept by married or de-facto couple or either of them, primarily for the purpose of companionship. Companionship is undefined and is given its ordinary meaning, and the family courts bears the responsibility of determining whether the primary purpose of companionship based on the facts is evident. There is no restriction on the species of animal that can be considered a 'companion animal' but it excludes assistance animals (e.g. guide dogs), animals kept as part of a business or for agricultural purposes, or animals kept for use in laboratory tests or experiments.²⁸ If the court determines that an animal is a 'companion animal' then, in making any orders for the animal's protection, the court must consider various factors such as which party perpetrated family violence and/or has threatened or caused harm to the animal. Family law courts can make orders granting a specific party ownership of the animal, order that the animal is transferred to another person who has consented to the transfer or sold. However, the courts cannot make any orders granting joint ownership or shared custody of the 'companion animal'.

If an animal has dual purposes (e.g. it provides companionship and assists with farming operations), the family law court's inquiry will concern the primary purpose of the animal in determining whether it is a 'companion animal'. Where the primary purpose is being an assistance animal, an animal kept as part of a business or for agricultural purposes, or the animal is kept for use in laboratory tests or experiments, the animal is not considered a 'companion animal'.



What protections exist for assistance animals and their owners in DFV contexts?



Various anti-discrimination laws in Victoria protect assistance animals and their owners from discrimination in every-day situations,²⁹ however, there is no Victorian law that explicitly provides protections for assistance animals in DFV contexts. Rather, assistance animals and their owners are given specific rights in Victoria which include permission to access restaurants,³⁰ access to public transport, taxis and commercial passenger vehicles,³¹ and access to public events and national parks.³² If an assistance animal and its owner are discriminated against, the owner may bring a claim of direct or indirect discrimination under Victorian anti-discrimination law and can lodge complaints through the Victorian Equal Opportunity and Human Rights Commission to seek various avenues of redress.³³ However, it is important to note that the current definition of 'assistance animal' under Victorian anti-discrimination law is limited to assistance / guide dogs only, whereas Victorian animal cruelty laws extends to many types of animals.

The federal disability protection legislation also protects people with disabilities from discrimination in many areas of public life including employment, education, access to premises, provision of goods, services and facilities, and accommodation.³⁴ It is a general framework that focuses the anti-discrimination protection on individuals and not the assistance animals, which are governed by the specific regulatory schemes under state or territory legislation. Nonetheless, the federal legislation defines assistance animals more broadly to cover any animal that is accredited under state or territory law, accredited by a prescribed training organization, or trained to assist a person with a disability.³⁵ Even animals that have been informally trained to assist an individual with a disability are considered assistance animals under the federal disability protection legislation.³⁶ Notably, federal disability protection legislation extends anti-discrimination protections to the carers, assistants, assistance animals and disability aids of individuals with disabilities.³⁷

What if animals on a farm or in the wild are harmed during a DFV incident?



Currently, there is no explicit recognition of wild animals as victims in DFV incidents within Australian legislation nor have we encountered any examples of cases in the courts where wild animals have been recognized as victims in the DFV context. However, various Victorian laws provide protections to animals on a farm or wild animals that are exposed to violence.

POCTA criminalises acts of cruelty towards all animals, including farm and wild animals. Acts of cruelty include, among other offences, mutilating, beating, wounding, and doing or omitting to do an act that results in 'unreasonable pain and suffering or likely to be caused, to an animal'.³⁸ If such acts of cruelty are proven, courts can impose orders disqualifying individuals from owning or possessing these animals and authorities can impose fines, imprison perpetrators, and have emergency powers under *POCTA* to take steps to feed, water and free those animals.³⁹

Under the *Wildlife Act 1975* (Vic), it is an offence to acquire protected wildlife,⁴⁰ and to hunt, take or destroy threatened wildlife.⁴¹ However, the *Wildlife Act* regulates the practice of hunting, with no explicit provisions dealing with animal cruelty (dealt with separately under *POCTA*).

The Code of Practice for the Welfare of Wildlife during Rehabilitation, which was incorporated into *POCTA*, also provides a legal framework for rehabilitators and authorities to rely on to respond to harm to a wild animal, even harm arising during a DFV incident. Separately, given the *Livestock Disease Control Act 1994* (Vic) mandates the registration of farmed animals,⁴² owners of injured farm animals are easily traceable which assists authorities and rehabilitators with identifying the source of harm.

Endnotes

1. Family Violence Protection Act 2008 (Vic) s 5(2)(e) ('FVPA').
2. Ibid ss 74, 86.
3. Ibid s 86.
4. Prevention of Cruelty to Animals Act 1986 (Vic) ('POCTA').
5. Ibid pt 2A div 1A.
6. Ibid ss 22–24D.
7. Ibid ss 21C, 23.
8. Ibid s 9.
9. 'Overview of the Animal Welfare Codes of Practice', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/overview-of-the-animal-welfare-codes-of-practice>>.
10. 'Codes of Practice for the Management of Dogs and Cats in Shelters and Pounds', *Agriculture Victoria* (Web Page, 2022) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/codes-of-practice/code-of-practice-for-the-management-of-dogs-and-cats-in-shelters-and-pounds>>; 'Code of Practice for the Operation of Pet Shops', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/codes-of-practice/code-of-practice-for-the-operation-of-pet-shops>>; 'Code of Practice for the Operation of Dog Training Establishments', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/codes-of-practice/code-of-practice-for-the-operation-of-dog-training-establishments>>; 'Code of Practice for the Operation of Breeding and Rearing Businesses' (PDF, 2018) <https://agriculture.vic.gov.au/_data/assets/pdf_file/0008/529964/Code-of-practice-operation-breeding-rearing-businesses.pdf>; 'Code of Practice for the Operation of Boarding Establishments', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/domestic-animals-act/codes-of-practice/code-of-practice-for-the-operation-of-boarding-establishments>>.
11. 'Code of Accepted Farming Practice for the Welfare of Cattle', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-accepted-farming-practice-for-the-welfare-of-cattle>>; 'Code of Accepted Farming Practice for the Welfare of Goats', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-accepted-farming-practice-for-the-welfare-of-goats>>; 'Code of Accepted Farming Practice for the Welfare of Poultry', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-accepted-farming-practice-for-the-welfare-of-poultry>>.
12. 'Code of Practice for the Welfare of Animals – Private Keeping of Reptiles', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-welfare-of-animals-private-keeping-of-reptiles>>.
13. 'Code of Practice for the Welfare of Amphibians in Captivity', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-welfare-of-amphibians-in-captivity>>.
14. 'Code of Practice for the Housing and Care of Laboratory Mice, Rats, Guinea Pigs and Rabbits', *Agriculture Victoria* (Web Page, 2025) <<https://agriculture.vic.gov.au/livestock-and-animals/animal-welfare-victoria/pocta-act-1986/victorian-codes-of-practice-for-animal-welfare/code-of-practice-for-the-housing-and-care-of-laboratory-mice-rats-guinea-pigs-and-rabbits>>.
15. Domestic Animals Act 1994 (Vic) s 3(1) ('DAA').
16. Ibid ss 10, 18, 19(2).
17. Livestock Disease Control Act 1994 (Vic) s 3(1) ('LDC Act').
18. Ibid.
19. Family Law Act 1975 (Cth) ('Family Law Act'); Family Law Amendment Act 2024 (Cth) ('Amendment Act').
20. Amendment Act (n 19) sch 1 pt 1 div 1 s 1.
21. Family Law Act (n 19) s 79(7).
22. Amendment Act (n 19) sch 1 pt 1 div 1 ss 24 and 43.
23. Residential Tenancies Act 1997 (Vic) ss 71A–B.
24. Ibid s 91V.
25. Ibid s 91W(4)(c).
26. Ibid s 91X(2).
27. Amendment Act (n 19).
28. Ibid sch 1 pt 1 div 1 s 1.
29. See, eg, Equal Opportunity Act 2010 (Vic) s 7; DAA (n 15) s 7.
30. Australia New Zealand Food Standards Code std 3.2.2 cl 24(2).
31. See, eg, Transport (Passenger Vehicles) Regulations 2005 (Vic) r 72(1); Transport (Taxi-Cabs) Regulations 2005 (Vic) r 33; Transport (Compliance and Miscellaneous) (Conduct on Public Transport) Regulations 2015 (Vic) r 39(2).
32. See, eg, Major Events (Crowd Management) Act 2003 (Vic) s 10(1)(a); Australian Grand Prix (Formula One) Regulations 2006 (Vic) r 5; Forests (Murrumbidgee Scenic Reserve) Regulations 1999 (Vic) r 17.
33. Equal Opportunity Act 2010 (Vic) s 7(2).
34. Disability Discrimination Act 1992 (Cth) ss 15, 22, 23, 24, 25 and 26 ('DDA').
35. Ibid s 9(2).
36. Sheehan v Tin Can Bay Country Club [2002] FMCA 95.
37. DDA (n 34) s 8.
38. POCTA (n 4) s 9(1)(c).
39. Ibid ss 21C, 23.
40. Wildlife Act 1975 (Vic) s 47 ('Wildlife Act').
41. Ibid s 41.
42. LDC Act (n 17) s 9A(1).



Can legal protections be extended to animals in DFV situations?



Yes, legal protections can be extended to animals in DFV situations. In Queensland, the *Domestic and Family Violence Protection Act 2012* (Qld) ('DFVPA') acknowledges domestic violence to be various forms of abusive, threatening, coercive behaviour or any behaviour which in any way controls or dominates a person and causes a person to fear for their safety or wellbeing, or that of someone else, including damaging a person's property and causing or threatening to cause death or injury to an animal as a way to control, dominate or coerce a person.¹

Under the DFVPA, damage to personal property includes damage to animals, since animals are treated as property under Australian law. Domestic Violence Orders ('DVOs') can provide legal protection to animals, by including an ouster condition (a condition imposing a prohibition on a respondent from remaining at the premises, entering or attempting to enter or approaching within a certain distance of a premises of an aggrieved person),² or a condition preventing a respondent from using or threatening to use a 'thing' to commit domestic violence against an aggrieved person (a 'thing' being an object including an animal).³ In addition to the DFVPA, the Criminal Code under the *Criminal Code Act 1899* (Qld) ('Criminal Code') makes it a serious offence with a substantial penalty of up to 7 years imprisonment, if a person wilfully or unlawfully kills or causes serious injury to or prolongs suffering of an animal.⁴

Separately, the *Animal Care and Protection Act 2001* (Qld) ('ACPA') imposes a duty of care on people in charge of animals to care for them including providing food and water, accommodation or living conditions, displaying normal patterns of behaviour, treating disease or injury, and ensuring any handling of the animal including confinement or transportation by the person or caused by the person is appropriate.⁵ Animal cruelty behaviours also attract up to 3 years' imprisonment.⁶

If a client is leaving a violent home, can they legally take their animals with them?



If a client is leaving a violent home, they may be able to legally take their animals with them. Whether they can do so depends on whether they can show that they are the legal owner of the animal in Queensland. The *Animal Management (Cats and Dogs) Act 2008* (Qld) ('AMCDA') states that an owner of a dog or cat is a person who:

- is the registered owner of the dog or is identified as the owner of the cat under the local law;
- owns the dog or cat, in the sense that it is the person's personal property;
- usually keeps the dog or cat,
- is a child who identifies as the owner.⁷

It should be noted that a person who lives in a place where a cat or dog is living or, keeps a dog or cat as part of their employment is not considered to own a dog or cat.⁸ A person who owns an animal is legally required to provide it with appropriate care, which includes protecting it from unjustifiable, unnecessary or unreasonable pain.⁹ If a person meets these requirements under the legislation, as well as microchipping the animal,¹⁰ they are considered the owner of the animal and can take the animal with them when leaving a situation of DFV, in the same way they would take any of their other possessions.

Registration of animals in Queensland will depend on the type of animal. Dogs are required to be registered with their local council within 14 days of moving to a new area, whereas owners of cats are required to contact their local council to determine whether registration is required.¹¹ An owner of livestock is required to be registered as a biosecurity entity with Biosecurity Queensland where they have more than 1 head of cattle, 100 or more poultry or a beehive.¹² A biodiversity entity can be a person, persons or an organisation.¹³ Once registered, the biodiversity entity will be issued with a property identification code which is lodged into a national system to track livestock.¹⁴ Microchipping of animals is required to be performed by an authorised implanter being either a veterinary surgeon or a person who has a qualification relating to the implantation of microchips.¹⁵ Livestock are required to be fitted with an approved national livestock identification system before they are moved from one property to another.¹⁶ This is to ensure that livestock movements are recorded on a national database.¹⁷ These devices can be in the form of a single ear tag.¹⁸

Often victims of DFV who flee to refuge shelters or crisis centers find that those places are not equipped for or do not permit pets and therefore, to remain with their animal the victim may either be left homeless or may return to their home with their abuser. Where pets are not able to access refuge with their owners in shelters, the RSPCA in Queensland has developed the Pets in Crisis Program which provides a safe haven for the pets of individuals who are at serious risk of DFV.¹⁹ The Pets in Crisis Program provides 28 days of emergency boarding and free preventative healthcare for animals to give owners peace of mind during difficult times.²⁰ So, where animals travel with their owners out of DFV situations but are not able to temporarily reside in refuge shelters, the Pets in Crisis Program can temporarily secure the animal's safety.

What rights do renters experiencing DFV have when it comes to keeping animals?



The *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) ('RTRAA') provides that tenants must obtain approval from landlords to keep pets at their rental accommodation.²¹ A 'pet' under the RTRAA is considered a domesticated animal or an animal dependant on a person for food or shelter but, does not include working dogs.²² Landlords must respond to pet requests within 14 days, with either an approval or refusal, otherwise the request is deemed approved.²³ Landlords can refuse pet requests for specific reasons, such as the unsuitability of the property or potential risk to health and safety.²⁴ Conditions imposed by landlords on tenants who have pets must be reasonable.²⁵ Reasonableness of a landlord's condition includes if the pet is not a type that is ordinarily kept inside, the pet is capable of carrying parasites which may infect the premises, and if the pet is permitted indoors, that the carpets are professionally cleaned at the end of the tenancy.²⁶ Consent is not required for a tenant to keep a working dog (e.g. assistance dog or guide dog) at a rental property.²⁷

In October 2021, amendments were made to the RTRAA to address DFV, allowing tenants to vacate immediately with 7 days' notice, without liability for any costs associated with terminating the lease, nor any obligation to repair or provide compensation for any damage to the property arising from DFV.²⁸ Tenants may also request a refund of their security bond where they have vacated the property due to DFV. If a tenant wishes to remain in the property but the perpetrator is also living in the property, tenants may apply to the Queensland Civil and Administrative Tribunal (QCAT) for an order seeking to be recognised as the sole tenant under the lease agreement, instead of the perpetrator.²⁹ Tenants may also change locks on their rental property in DFV situations.³⁰

While these amendments do not specifically provide protections around keeping pets in DFV situations, any existing agreement between landlords and tenants around keeping pets at a rental property generally remain valid in the event that changes to a lease are sought through QCAT, as long as the initial requirements have been met by the tenant. Permission to keep pets on a rental property, once granted, will not be affected by QCAT orders.

How are pets treated in family law disputes, especially where there has been violence?



Traditionally pets have been considered personal property under Australian law, similar to other property assets such as cars and furniture. Therefore, in any dispute about the ownership of a pet, the courts have considered questions such as who paid for the pet; whose name is on the ownership documents; who has possession of the pet; and who pays for the pet's expenses.³¹ Shared care or custody arrangements for pets is not a concept considered by the courts in circumstances of family relationship breakdowns. In determining care arrangements for pets, courts often focus on who had the superior right to title, a common question in property law.

The *Family Law Amendment Act 2024* (Cth) ('Amendment Act'), amending the *Family Law Act 1975* (Cth) ('Family Law Act'), came into effect on 10 June 2025 and provides a new framework for determining ownership of the family pet in divorce and separation proceedings.³² In particular, pets may no longer be recognised merely as property, but as 'companion animals'.³³ Under the amended Act, a 'companion animal' is defined as 'an animal kept by the parties to a marriage or either of them, or the parties to a de facto relationship or either of them, primarily for the purpose of companionship'.³⁴ The definition of 'companion animal' does not, however, include assistance animals pursuant to the meaning of the *Disability Discrimination Act 1992* (Cth) ('DDA').³⁵ Therefore, in most cases pets will likely satisfy the definition of companion animals under the *Family Law Act*, although it will not apply to assistance animals. With this, family law courts must now consider animal abuse, including threats to harm pets, when deciding which partner is awarded ownership. When a marriage or de facto relationship breaks down, the court will consider any past cruelty towards a pet when deciding future ownership. Matters for consideration will include: the extent to which each party cared for and paid for the maintenance of the companion animal; any family violence to which one party has subjected or exposed the other party; and any history of actual or threatened cruelty or abuse by a party towards the companion animal.³⁶



What protections exist for assistance animals and their owners in DFV contexts?



Definition / Coverage

Although the protections afforded to companion animals under the *Amendment Act* will not apply to assistance animals, the broad definition of 'animal' under the Criminal Code—being 'any living creature other than mankind'³⁷ and similarly under the *ACPA*—being 'all vertebrate, nonvertebrate and marsupial species and specifically excludes humans and immature life forms from the definition',³⁸ provide a broad scope of inclusion of all categories of animals, including assistance animals.

Protection / Penalty

Both the Criminal Code and the *ACPA* offer a broad protection against cruelty against animals. While there are no express provisions relating to DFV under the *ACPA*, the circumstances of violence involved in a DFV situation would be likely to enliven the protections under the Criminal Code and the *ACPA*. Both Acts prescribe the behaviours that would constitute animal cruelty and prohibit such behaviour towards all animals.

Under the Criminal Code, if a person is found guilty of the intention to inflict severe pain or suffering, unlawfully kills or causes serious injury to, or prolongs suffering of an animal, and may attract a substantial penalty of up to 7 years' imprisonment and/or a fine of up to \$80,650.³⁹

The *ACPA*, on the other hand, imposes a duty of care on persons who are in charge of animals— including but not limited to providing an animal with food and water, accommodation, and treatment of disease or injury. Breach of this obligation may result in a fine of up to \$48,390, or up to one year imprisonment.⁴⁰

What if animals on a farm or in the wild are harmed during a DFV incident?



While the Criminal Code and the *ACPA* do not specifically address circumstances of DFV,⁴¹ given their broad application to animals generally, any protection afforded under this legislation relating to animal cruelty, whether in circumstances of DFV or not, appears to extend to farmed and wild animals.

In addition, the most effective way to address harm to wild or farm animals in DFV situations is to report to the police or other authorities of a person's violation under s 8(3) of the *DFVPA*, if the harm caused to the animal is for the purpose of 'controlling, dominating, or coercing a person'.⁴² The term 'animal' is not defined in the *DFVPA*, however, if the literal meaning of the word is used, it is likely to cover both farm and wild animals, therefore the protections afforded under the *DFVPA* may be available to wild and farm animals. Although it can be gathered from the legislation that the relevant protections would apply to wild and farm animals, wild and farm animals specifically are not recognised as victims of domestic violence under the legislation.

Endnotes

1. *Domestic and Family Violence Protection Act 2012* (Qld) s 8(3) ('*DFVPA*').
2. *Ibid* s 57(1), (2).
3. *Ibid* s 81(1), (2).
4. *Criminal Code Act 1899* (Qld) sch 1 s 242 ('Criminal Code').
5. *Animal Care and Protection Act 2001* s 17(3) ('*ACPA*').
6. *Ibid* s 18.
7. *Animal Management (Cats and Dogs) Act 2008* (Qld) s 9 ('*AMCDA*').
8. *Ibid* s 9(2).
9. *ACPA* (n 5) s 3.
10. *AMCDA* (n 7) s 14.
11. 'Laws for pet owners in Queensland', *Queensland Government* (Web Page, 1 July 2025) <<https://www.qld.gov.au/families/government/pets/pet-laws#registration>>.
12. 'Livestock as companion animals in Queensland', *Queensland Government* (Web Page, 15 February 2023) <<https://www.qld.gov.au/families/government/pets/livestock-as-companion-animals-in-queensland>>.
13. 'Owners of livestock registration', *Queensland Government* (Web Page, 20 March 2023) <<https://www.qld.gov.au/environment/plants-animals/animals/pests-diseases/livestock-registration>>.
14. *Ibid*.
15. *AMCDA* (n 7) sch 2.
16. 'NLIS approved devices or tags', *Queensland Government* (Web Page, 6 May 2025) <<https://www.business.qld.gov.au/industries/farms-fishing-forestry/agriculture/animal/nlis/tags>>.
17. *Ibid*.
18. Integrity Systems, 'Animal Identification' *NLIS* (Web Page) <<https://www.integritysystems.com.au/identification--traceability/animal-identification/>>.
19. 'Pets in Crisis Program: Supported by the Petbarn Foundation', *RSPCA Queensland* (Web Page) <<https://www.rspcaqld.org.au/what-we-do/save-animals/pet-in-crisis-program>>.
20. *Ibid*.
21. *Residential Tenancies and Rooming Accommodation Act 2008* (Qld) s 184D ('*RTRAA*').
22. *Ibid* s 184A.
23. *Ibid* s 33C.
24. *Ibid* s 18F(1)(b).
25. *Ibid* s 184E.
26. *Ibid* s 184F(2).
27. *Ibid* s 184B(2).
28. *Ibid* s 308G.
29. *Ibid* s 245.
30. *Ibid* s 211(2)(a).
31. *Downey v Beale* [2017] FCCA 316.
32. *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*'); *Family Law Act 1975* (Cth) ('*Family Law Act*').
33. *Family Law Act* (n 32) s 4 (definition of 'companion animal').
34. *Ibid*.
35. *Disability Discrimination Act 1992* (Cth) ('*DDA*').
36. Supplementary Explanatory Memorandum, *Family Law Amendment Bill 2024* (Cth) 4.
37. Criminal Code (n 4) s 1.
38. *ACPA* (n 5) s 11.
39. Criminal Code (n 4) ss 242, 468.
40. *ACPA* (n 5) s 17.
41. *Ibid* ss 17–19.
42. *DFVPA* (n 1) s 8(3).



Can legal protections be extended to animals in DFV situations?



Yes, legal protections can be extended to animals in DFV situations. However, in cases of DFV, protections for animals generally apply only to the extent that violence against animals can constitute evidence of a pattern of DFV behaviour against a person. Animal cruelty is a separate criminal act.¹ Animals are vulnerable as victims of violence, given they 'cannot seek help nor ... communicate what has happened', not to mention it is easy for 'acts of violence against domesticated pets' to be 'conceal[ed] from authorities'.²

Under most Australian legislation, animals are considered personal property.³ DFV behaviour may be treated as causing damage to a person's property.⁴ Examples of family violence behaviour listed in the *Restraining Orders Act 1997 (WA)* ('*Restraining Orders Act*') include 'causing death or injury to an animal that is the property of the family member',⁵ as well as any acts towards an animal which would cause a family member to fear for their safety.⁶ Under the *Family Court Act 1997 (WA)*, similarly, DFV can include anything causing a family member to be fearful, such as 'intentionally causing death or injury to an animal'.⁷

A Family Violence Restraining Order ('FVRO') can be issued under the *Restraining Orders Act* to restrict the movement of an abusive person in relation to a victim of family violence.⁸ Animals themselves cannot be protected persons for the purposes of an FVRO as they are not natural persons.⁹ While abuse of an animal that is recognised as property of the victim can form grounds for an FVRO, there are currently no case law examples where animals themselves are afforded protection under FVRO conditions in WA. An FVRO, if granted, can include specific restraints on types of behaviour that would 'reasonably be expected to cause the person seeking to be protected to apprehend that they will have family violence committed against them',¹⁰ such as violence towards an animal. If, however, the animal is not the legal property of the victim, such protections will not be available.¹¹

If a dog's aggressive behaviour is demonstrated to be a result from provocation or abuse, its actions will not be considered an "attack" under the *Dog Act 1976 (WA)* ('*Dog Act*'), thereby affording the dog protection against any consequences.¹² This provocation includes violence towards a person of whom the dog could reasonably be expected to be protective but does not include provocations by a person liable for the control of the dog.¹³ In determining whether to implement protections preventing aggressive dogs from being put down in these circumstances, the case law suggests that courts will consider whether the dog's reaction was proportionate to the provocation.¹⁴

If a client is leaving a violent home, can they legally take their animals with them?



Animals are typically considered personal property in Australia.¹⁵ Ownership of domestic pets is established by registration and microchipping, the specific requirements for which can be found in the respective acts for dogs and cats (*Dog Act 1976* and *Cat Act 2011*).¹⁶ No specific legislation dictating ownership and registration of other domestic pets has been sourced. The 'owner' of a pet will generally be the person who ordinarily keeps the pet or who is shown on the relevant register as the owner of the pet.¹⁷ A dog owner may also have an issued 'dog owner number'.¹⁸ The ownership of farm animals is similarly determined by microchipping and registration.¹⁹ A client may legally take their animals with them when leaving a violent home provided that they can demonstrate their ownership of the animal.

What rights do renters experiencing DFV have when it comes to keeping animals?



In legislation governing lease arrangements, animals fall into two categories: pets and assistance animals.²⁰ 'Assistance animals' are trained and accredited to assist a person with a disability, while 'pets' includes all other animals.²¹ Pets can only be kept with consent from the lessor, but assistance animals can be kept without consent.²² Consent for pets can only be refused by landlords for specific legal reasons, such as if keeping a pet would contravene a law.²³ Landlords can still impose certain conditions on keeping pets.²⁴ A tenant may apply online to the Commissioner for an order that conditions imposed on the consent are unreasonable, and the Commissioner must order the lessor to consent unless ownership would contravene a law.²⁵

How are pets treated in family law disputes, especially where there has been violence?



Western Australian law does not specify how pets are treated in family law disputes, other than as personal property with may be addressed in a property settlement as noted above. The most comprehensive legislation regarding pets in family law disputes and custody settlements is the Federal *Family Law Act 1975 (Cth)*,²⁶ amended by the *Family Law Amendment Act 2024 (Cth)*.²⁷ This framework establishes a new category of 'companion animals', which includes any animal kept by the parties to a marriage or de facto relationship, excluding assistance and working animals.²⁸ Under this legislation, companion animals are dealt with differently than other property, recognising the emotional importance of a pet to a person in a distressing situation. Under the new framework, the court can order that one party have sole ownership of a companion animal, that it be transferred to another person with their consent, or that it be sold.²⁹

What protections exist for assistance animals and their owners in DFV contexts?



Assistance animals are accredited and trained to assist a person with their psychiatric, intellectual, physical, sensory, cognitive or neurological disability.³⁰ Assistance animals do not require the consent of a landlord to be kept on a rental property.³¹ If a client can make a case of physical or emotional damage from DFV to the extent that they have substantially reduced capacity of the person for communication, social interaction, learning or mobility,³² their pet may be able to be accredited as an assistance animal.

It is unlawful to discriminate against someone on the basis of disability or impairment.³³ Section 66A of the *Equal Opportunity Act 1984 (WA)* establishes that discrimination includes treating someone less favourably based on 'a requirement that the aggrieved person be accompanied by ... any palliative device'.³⁴ 'Palliative device' is not defined in the *Equal Opportunity Act*, but it is unlikely that a living animal would be considered a 'device' per the ordinary meaning. Persons who are 'blind, deaf, partially blind or partially deaf' cannot be discriminated against for possessing or being accompanied by 'a guide dog or hearing dog'.³⁵ Persons with a guide dog are, however, liable for all injury, loss or damage caused by the dog, despite these provisions.³⁶ Other animals are not mentioned in the *Equal Opportunity Act*.

The Federal *Disability Discrimination Act 1992 (Cth)* defines 'assistance animal' more broadly and specifies that it may be a 'dog or any other animal'.³⁷ Western Australian legislation neglects to specify what kind of animals are included in its definition, save for specifically mentioning dogs.³⁸



What if animals on a farm or in the wild are harmed during a DFV incident?



Farm animals (including bees, buffalo, cattle, camels, deer, donkeys, emus, goats, horses, ostrich, pigs, sheep, camelids and poultry) can be owned and registered per the *Biosecurity Regulations*.³⁹ Registration of farm animals with the Department of Primary Industries and Regional Development (DPIRD) makes it clear who is the owner. A person 'must not own or purchase stock unless the person is a registered owner of stock',⁴⁰ making registration a requirement for farm animals. 'Ownership' is not strictly of the animals themselves, but of the property which they graze on, and the identifiers used in farming practices for animals.⁴¹ While animals are generally considered property and are not afforded protections under FVROs,⁴² abuse of any animals (domestic or farm) that are the property of a person may be evidence of DFV against that person as per the *Restraining Orders Act*.⁴³

Wild animals are protected by legislation against animal cruelty just as pets are, per the *Animal Welfare Act 2002* (WA).⁴⁴ The RSPCA is a key organization in Western Australia for reporting and investigating animal cruelty. RSPCA general inspectors may seize and deal with animals if they reasonably believe that an offence under the *Animal Welfare Act* is being or has been committed.⁴⁵ Wild animals are generally considered property only of the Crown (an abstract ownership that mainly involves the ability to regulate and manage wildlife).⁴⁶ As a result, wild animals cannot avail of protections as property of a victim such as have been described under the *Restraining Orders Act*. The *Animal Welfare Act* and Criminal Code provide comprehensive protections against cruelty to *all* animals, including wild animals, through prohibitions on torture, mutilation, and other forms of abuse (with some key exceptions for hunting, etc).⁴⁷ No case law that specifically recognises wild animals as victims of DFV has been identified.

Endnotes

1. *Animal Welfare Act 2002* (WA) s 19(1) ('*Animal Welfare Act*'); *Criminal Code Compilation Act 1913* (WA) ss 181, 370, 382, 384, 459 ('*Criminal Code*').
2. *Holding v Parkin* [2012] WASC 113, 130 ('*Holding*').
3. *Restraining Orders Act 1997* (WA) ss 3, 7 ('*Restraining Orders Act*').
4. *Family Court Act 1997* (WA) s 9A(2)(e) ('*Family Court Act*').
5. *Restraining Orders Act* (n 3) s 5A(2)(f).
6. *Ibid* s 5A(1)(b). See, eg, *Western Australia v David Michael Filmer* [2020] WADC 72 [192], [193]; *Holding* (n 2).
7. *Family Court Act* (n 4) ss 5, 9A(1), 9A(2)(f).
8. *Restraining Orders Act* (n 3) pt 1B.
9. *Ibid* s 7.
10. *Ibid* s 10G(1)(c).
11. *Ibid* ss 3, 9A(2)(f).
12. *Dog Act 1976* (WA) s 3 ('*Dog Act*').
13. *Dog Act* (n 12) s 3.
14. See, eg, *Martin v Stirling City* [1990] 20 WA 1.
15. *Blackstone's Commentaries on the Laws of England: Book the Second* (1766) ch 25 p 391. See generally *Property Law Act 1969* (WA). See *Restraining Orders Act* (n 3) ss 3, 7.
16. *Dog Act* (n 12) ss 7, 14(1), 15, 16(1), 16A(1), 21, 23(1); *Cat Act 2011* (WA) ss 5, 6(1), 8, 12(1), 14 ('*Cat Act*').
17. *Dog Act* (n 12) ss 3(1), (3); *Cat Act* (n 16) ss 4(1), (2).
18. *Dog Act* (n 12) s 13B(1).
19. *Biosecurity and Agriculture Management (Identification and Movement of Stock and Apiaries) Regulations 2013* (WA) ss 3, 4, 6, 7, 13(1), 16(1), 36, 37(1), 47(1), pt 3 div 3 subdivs 1, 2 ('*Biosecurity Regulations*').
20. *Residential Tenancies Act 1987* (WA) ss 3, 50A(2), (3). See also *Dog Act* (n 12) ss 3, 8.
21. *Residential Tenancies Act* (n 20) s 3. See also *Dog Act* (n 12) ss 3, 8.
22. *Residential Tenancies Act* (n 20) ss 50A(2), (3).
23. *Ibid* ss 50D(a), (c).
24. *Ibid* s 50C.
25. *Ibid* ss 50G, 50H.
26. *Family Law Act 1975* (Cth) ('*Family Law Act*').
27. *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*').
28. *Family Law Act* (n 26) s 4 (definition of 'companion animal').
29. *Amendment Act* (n 27) ss 79(6), 90SM(6).
30. *Residential Tenancies Act* (n 20) s 3.
31. *Ibid* s 50A(3).
32. *Ibid* s 3.
33. See generally *Equal Opportunity Act 1984* (WA) pt IVA.
34. *Ibid* s 66A(1)(d).
35. *Ibid* s 66A(4).
36. *Ibid*.
37. *Disability Discrimination Act 1992* (Cth) s 9(2).
38. *Residential Tenancies Act* (n 20) s 3.
39. *Biosecurity Regulations* (n 19) pt 2.
40. *Ibid* s 7(1).
41. *Ibid* s 3. See also s 6(1)-(2).
42. *Restraining Orders Act* (n 3) ss 3, 7.
43. *Ibid* ss 5, 9A(2)(f).
44. *Animal Welfare Act* (n 1) s 19(1).
45. *Ibid* ss 33, 37(1)(a), 42(1)(a).
46. See *Yanner v Eaton* (1999) 201 CLR 351.
47. *Animal Welfare Act* (n 1); *Criminal Code* (n 1).



Can legal protections be extended to animals in DFV situations?



Yes, legal protections can be extended to animals in DFV situations. While existing legislation in South Australia does not explicitly protect animals in DFV situations, two avenues for protection exist.

Firstly, general protections against animal cruelty may operate to protect animals in certain DFV situations. Ill treatment of animals is currently governed under the *Animal Welfare Act 1985* (SA) ('AWA 1985').¹ Once in operation, the *Animal Welfare Act 2025* (SA) ('AWA 2025') will repeal the AWA 1985.² The exact date the AWA 2025 will come into operation is not yet set, but it will be determined and announced later in 2025. Under the AWA 1985, ill-treatment of animals (all vertebrata, excluding humans and fish) is prohibited.³ This includes (amongst other things) intentional, unreasonable, or reckless causation of unnecessary harm, or killing the animal in a manner causing unnecessary pain. If the person is the animal's owner, ill-treatment also includes failure to provide adequate living conditions, failure to reasonably mitigate harm and/or neglect causing harm.⁴ Where a person that is *not* the owner has caused the animal harm, failure to take reasonable steps to mitigate harm also constitutes ill-treatment.⁵ Such conduct enables the imposition of fines up to \$50,000 and/or up to 4 years imprisonment.⁶ Maximum penalties will rise to fines of up to \$250,000 and/or up to 10 years imprisonment, once the AWA 2025 comes into effect.⁷ Under the AWA 2025, intentional, unreasonable, or reckless causation of unnecessary harm, or killing the animal in a manner causing unnecessary pain will continue to define ill treatment of animal.

Secondly, if it can be shown that the animal is the personal property of the protected party, the court may issue intervention orders ('IOs') that effectively prohibit harming such an animal.⁸ The *Intervention Orders (Prevention of Abuse) Act 2009* ('IO Act') recognizes that causing an animal's death or injury could cause 'emotional or psychological harm' to a person, which could amount to abuse.⁹ If the court reasonably suspects that this might occur, it is empowered to issue an IO to protect such person(s).¹⁰

However, animals themselves cannot be named as 'protected persons' under IOs.¹¹ Instead, owners will need to rely on personal property protections under the IO Act to protect animals as their personal property, subject to ownership being proven. Although the IO Act does not explicitly define 'personal property', historically, animals have been recognised as such.¹² When applying for an IO, the applicant may seek protection of personal property, alongside personal protections, including for example, an IO prohibiting the perpetrator of DFV from damaging specified property and/or for the victim to take possession of the animal as specified personal property reasonably needed by them as a protected party. An IO may include a requirement that the perpetrator must return the animal, as specified property, to the victim.¹³ The victim may inform the court if there are property orders and/or agreements on the division of property relating to the animal. If informed, the court must consider this when determining the IO's conditions.¹⁴

Nevertheless, these are not the only relevant considerations. Under the IO Act, there are a broad range of mandatory considerations, including (but not limited to) the primary importance of preventing abuse,¹⁵ principles by which intervention ought to be designed,¹⁶ how the IO would affect contact between the protected individual, the defendant, and any children,¹⁷ the income, assets and liabilities of the protected person and the defendant,¹⁸ other legal proceedings,¹⁹ and any other factor it considers relevant in the circumstances.²⁰

If a client is leaving a violent home, can they legally take their animals with them?



Whether a client can take animals with them when leaving a violent home will depend on whether they are the owner of the animal. Although there is no clear way of determining ownership of an animal, it is usually established by examining receipts, invoices for care of the animal, registration and other documents. Where the client cannot prove ownership, there is no legal right for a person to rescue or take an animal with them.

While there is no explicit right to take an animal when escaping DFV situations specifically, action might be permitted through an IO (as discussed in Q1), or the court may make orders which allow a client to legally take and keep their 'companion animals' (as discussed in Q4).

What rights do renters experiencing DFV have when it comes to keeping animals?



Under the *Residential Tenancies Act 1995* (SA) ('RT Act'), renters, regardless of whether they are experiencing DFV, must seek permission from their landlord to keep pets on the rental premises—only 'exempt animals' such as assistance or therapeutic animals are excused from this consent requirement.²¹ Landlords may only refuse consent on certain grounds including but not limited to: where the premises are unsuitable for keeping the animal; where the pet would pose an unacceptable risk to the health and safety of the person; or, where keeping the animal would contravene law.²² Although there are particular protections for victims of DFV under the RT Act (including protection from eviction and less onerous termination rights for the affected renters), there is no requirement for DFV to be taken into consideration if a victim of DFV applies to keep a pet on a rental premises.

Nevertheless, if a person is experiencing domestic family violence, it is possible to obtain (upon application to the Tribunal) a combination of orders effectively removing the perpetrator of DFV from the lease. A victim of DFV who is a tenant, may apply to the Tribunal for an order terminating a residential tenancy of the perpetrator from a specific date.²³ Thereafter, the Tribunal may, on application of a party to the proceedings (including the applicant, the landlord, or a tenant) grant an order requiring the landlord to enter into a new residential tenancy agreement, for the remainder of the term of the (original, now-terminated) tenancy,²⁴ with the tenant(s) under the terminated agreement and/or a person ordinarily residing at the property, for whose protection an IO is in place, or against whom a tenant has committed domestic abuse.²⁵

The Tribunal may make an order terminating the lease if it is satisfied that there is an IO in force against a person residing at the property, which exists to protect the applicant, or someone who ordinarily resides at the property.²⁶ Even in the absence of an IO, the Tribunal may make such an order if the Tribunal is satisfied that a person residing at the property has committed domestic abuse against the applicant, or someone who ordinarily resides at the property.²⁷

It is important for the landlord to indicate, during the proceedings before the Tribunal, that they would consider it unreasonable for an order to be made, requiring entry into a new lease with the ex-tenant perpetrating the DFV. If this has occurred, an order to enter into a replacement rental tenancy agreement cannot be ordered in respect of a person against whom there is an active IO, or a person whom the Tribunal is satisfied has committed domestic abuse against an applicant.²⁸

If a new rental tenancy agreement is entered into pursuant to the orders above, it must be on the same terms and conditions as the terminated tenancy agreement, barring any changes determined by the Tribunal.²⁹ This suggests that if the renter had already obtained approval to keep animal(s) on the premises, this right would not be affected. However, if there was no existing right to keep animal(s), then the renter experiencing DFV would have to go through the ordinary process of seeking permission, as discussed in Q3 [1].



How are pets treated in family law disputes, especially where there has been violence?



In South Australia, the *Family Law Act 1975* (Cth) ('*Family Law Act*'),³⁰ amended by the *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*'),³¹ is the primary legislation regulating family law disputes. Animals are generally considered personal property, however, under the *Amendment Act*, 'companion animals' are treated as a special type of property separate from other property. A 'companion animal' is an animal kept for companionship. It does not include: (i) an assistance animal; (ii) an animal kept as part of a business; (iii) an animal kept for agriculture; and (iv) an animal kept for use in laboratory testing.³² If an animal serves dual purposes (e.g., assisting with farming and providing companionship), the court will evaluate the primary role of the animal. If the primary role falls under excluded categories set out in (i) – (iv), it will be treated like other property.

If an animal is determined to be a companion animal, the court is permitted to make any one of the following orders:

- that only one party to the marriage is to have ownership of the companion animal; or
- that the companion animal be transferred to another person who has consented to the transfer; or
- that the companion animal be sold.³³

The court may not make any other kind of order in respect of ownership of the companion animal, such as joint ownership or shared custody. The considerations a court takes into account in making this determination include, but is not limited to, (i) the circumstances that the animal was acquired; (ii) ownership or possession of the animal; (iii) the extent to which a party cared for, and paid for maintenance of, of the animal; (iv) whether a particular party has abused the animal; and (v) any family violence.³⁴

What protections exist for assistance animals and their owners in DFV contexts?



The *Equal Opportunity Act 1984* (SA) ('*EO Act*') protects assistance animals and their owners from various forms of discrimination. Critically for DFV contexts, this prohibits discrimination in the provision of accommodation.³⁵ The *EO Act* states that treating a person with a disability unfavourably because the person possesses, or is accompanied by, an assistance animal, or because of a related matter, or is accompanied by an animal of the same species as the assistance animal, constitutes discrimination.³⁶

An assistance animal is defined as 'a dog that is an accredited assistance dog under the *Dog and Cat Management Act 1995* or an animal of a class prescribed by regulation'.³⁷ Consequently, a person seeking accommodation with an assistance animal cannot be offered accommodation on less favourable terms, be refused accommodation, or have their application for accommodation deferred or accorded a lower priority, on the basis of their assistance animal. This also protects owners of assistance animals from being treated unfavourably after being granted accommodation— i.e., being evicted because they own an assistance animal.³⁸

What if animals on a farm or in the wild are harmed during a DFV incident?



There is no specific statutory protection for animals on a farm or in the wild harmed during DFV.

However, ill treatment of animals (all vertebrates, excluding humans and fish),³⁹ is prohibited under the *AWA 1985*. This includes (amongst other things) intentional, unreasonable, or reckless causation of unnecessary harm, or killing the animal in a manner causing unnecessary pain.⁴⁰ If a farm animal or an animal in the wild is harmed during a DFV incident this may amount to ill treatment of the animal and charges may be brought under the *AWA 1985*.

As set out in Q2, charges under the *AWA 1985* can lead to the imposition of fines up to \$50,000 and/or up to 4 years imprisonment.⁴¹ Maximum penalties will rise to fines of up to \$250,000 and/or up to 10 years imprisonment, once the *AWA 2025* comes into effect.⁴²

Endnotes

1. *Animal Welfare Act 1985* (SA) ('*AWA 1985*').
2. *Animal Welfare Act 2025* (SA) ('*AWA 2025*').
3. *AWA 1985* (n 1) s 3 (definition of 'animal').
4. *AWA 1985* (n 1) s 13(3)(b). Under the *AWA 2025*, this will be set out in s 7(4).
5. *AWA 1985* (n 1) s 13(3).
6. *Ibid* s 13(1).
7. *AWA 2025* (n 2) s 7.
8. *Intervention Orders (Prevention of Abuse) Act 2009* (SA) ('*IO Act*').
9. *Ibid* s 8(2)(b).
10. *Ibid* ss 8(4)(d), 6(a), 7.
11. *Ibid* s 7(1).
12. See, eg, *Family Law Act 1975* (Cth) s 79(6) ('*Family Law Act*'); Butterworths, *Halsbury's Laws of Australia*, vol 1(2) (March 2005) 20 Animals [5].
13. *IO Act* (n 8) s 12. See also National Domestic and Family Violence Bench Book s 7.5.
14. *IO Act* (n 8) s 10(2)(c).
15. *Ibid* s 10(1)(c).
16. *Ibid* s 10(1)(d).
17. *Ibid* s 10(2)(b).
18. *Ibid* s 10(2)(d).
19. *Ibid* s 10(e).
20. *Ibid* s 10(4).
21. *Residential Tenancies Act 1995* (SA) s 66C(1) ('*RT Act*').
22. *Ibid*, s 66D.
23. *Ibid* s 89A(1).
24. *Ibid* s 89A(3).
25. *Ibid* s 89A(4).
26. *Ibid* s 89A(1)(a).
27. *Ibid* s 89A(1)(b).
28. *Ibid* s 89A(5).
29. *Ibid* s 89A(8).
30. *Family Law Act* (n 12).
31. *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*').
32. *Ibid* sch 1 pt 1 div 1 s 1 (definition of 'companion animal').
33. *Ibid* sch 1 pt 1 div 1 s 24(6).
34. *Ibid* sch 1 pt 1 div 1 s 24(7).
35. *Equal Opportunity Act 1984* (SA) s 77 ('*EO Act*').
36. *Ibid* s 66(c).
37. *EO Act* (n 35) s 5, referencing *Dog and Cat Management Act 1995* (SA).
38. *EO Act* (n 35) s 77(c).
39. *AWA 1985* (n 1) s 3 (definition of 'animal').
40. *Ibid*, pt 3 s 13(3).
41. *Ibid*, pt 3 s 13(1).
42. *AWA 2025* (n 2) pt 2 s 7(1).



Can legal protections be extended to animals in DFV situations?



The *Family Violence Act 2004* (Tas) (the 'FVA') defines family violence as any conduct that causes the death or neglect of, or injury to an animal that directly or indirectly causes mental harm or intimidates the [violent] person's spouse or partner.¹ 'Animal' is not defined here nor is it relevant whether the animal is owned by the affected person or another person or is domesticated or not.² This allows legal protection with respect to both pets and wild animals alike. However, it should be noted that the protections referred to below are to the family member who is the affected person, not the animal itself.

Under the FVA, a court may make a Family Violence Order ('FVO') which can restrict contact between individuals or impose conditions on their behaviour for 12–24 months, if satisfied that a person has or will commit family violence.³ Police officers can also make a Police Family Violence Order ('PFVO') under the same suspicions as an FVO, which typically lasts 12 months.⁴ Lastly, an Interim FVO is an emergency order made in urgent cases, where it is necessary to protect a person or their property, i.e. 'companion animals'.⁵ Such orders direct the perpetrator to stop committing further violence or threats of violence, to not enter into the victim's home, and can prohibit them from contacting or approaching the victim.⁶

Under the *Animal Welfare Act 1993* (Tas) ('AWA'), a person who has the care or charge of an animal has a duty to take all reasonable measures to ensure the welfare of the animal and refrain from methods of management which are likely to result in unreasonable and unjustifiable pain and suffering to the animal.⁷ Failure to do this is an offence under AWA leading to hefty fines up to \$40,400 or imprisonment of up to 5 years.⁸

If a client is leaving a violent home, can they legally take their animals with them?



Ownership of animals is governed by the *Dog Control Act 2000* (Tas) ('DCA') and the *Cat Management Act 2009* (Tas) ('CMA').⁹ Under the DCA, the 'owner' of the dog is the person in whose name the dog is registered under or in the case of an unregistered dog, the person who ordinarily keeps the dog.¹⁰ Similarly, under the CMA, the 'owner' of the cat is the person whose name is entered into the microchip database or if un-microchipped, the person who ordinarily keeps the cat.¹¹ The case of ownership becomes tricky for animals that are not dogs or cats.

The *Family Violence Amendment (Protecting People and Their Pets) Act 2024* (Tas) does not define 'owner',¹² and the *Family Law Amendment Act 2024* (Cth) ('Amendment Act') refers to 'companion animals' (defined as animals kept in marriage/de facto relationships for the purpose of companionship i.e. pets), as property.¹³ This was confirmed in the case *Grunseth & Wighton*, which held that that 'animals are property and are to be treated as such'.¹⁴ From 10 June 2025, the Amendment Act allows courts to treat companion animals as a special category of property in property settlements.¹⁵ Courts can make specific orders awarding sole ownership to one party, transferring the animal to another consenting person or ordering its sale.¹⁶ However, upon making such orders, the Court must consider any animal abuse, including threatening behaviour as a form of family violence and the attachment of each party, or children of the relationship to the family pets.¹⁷ Establishing ownership may involve presenting documentation such as purchase receipts, veterinary records, microchip registration, and proof of who has been responsible for the animal's care. If a victim of DFV can show this as well as any history of actual or threatened cruelty or abuse towards the companion animal, they can legally take their animals with them when leaving a violent home.

When dealing with farm animals, the *Animal (Brands and Movement) Act 1984* (Tas) ('ABMA') uses the term 'person in charge' instead of 'owner'.¹⁸ The same principles apply here as the DCA and CMA, where ownership pertains to the person who the animal is registered to (either by tag, body-brand, or permanent identification device).¹⁹

What rights do renters experiencing DFV have when it comes to keeping animals?



Renters/tenants (including those facing DFV) have no automatic right to keep pets. Landlord consent is required under the *Residential Tenancy Act 1997* (Tas).²⁰ Courts can grant DFV victims a replacement lease, whereby the court may terminate the original tenancy agreement and establish a new agreement for the benefit of the affected person.²¹ However, pet restrictions still apply unless permission is granted by the owner of the premises.

However, it is unlawful to discriminate in accommodation based on a person's reliance on a guide dog (considered a form of disability discrimination).²² Tasmania does not currently recognise other types of assistance animals (e.g., psychiatric support animals or emotional support pets). This means that renters affected by DFV who rely on a non-traditional assistance animal may not be protected under current Tasmanian law.

How are pets treated in family law disputes, especially where there has been violence?



As mentioned in Q2, from 10 June 2025, the Amendment Act allows courts to treat 'companion animals' (defined as animals kept in marriage/de facto relationships for the purpose of companionship) as a special category of property in property settlements.²³ Courts can make specific orders awarding sole ownership to one party, transferring the animal to another consenting person or ordering its sale.

Recent expansion to the definition of family violence now includes harming or threatening animals when used to control, intimidate or cause fear.²⁴ Courts can make FVOs or PFVOs that include protections for pets, such as barring the perpetrator from approaching the animal or awarding care of the animal to the victim.²⁵ Courts must consider a broader range of factors when deciding ownership, including who cared for and paid for the animal, any history of abuse or cruelty, the attachment of children to the animal and each party's ability to care for the animal independently.²⁶



What protections exist for assistance animals and their owners in DFV contexts?



There is no definition for 'assistance animal' under Tasmanian legislation. The *Anti-Discrimination Act 1998* (Tas) itself is restrictive as it only recognises guide-dogs as assistance animals, which fails to take into account any other assistance animal.²⁷ Beyond a guide dog (and likely other kinds of specialised, trained assistance dogs) currently, it is not clear in Tasmania what other kinds of animals benefit from the same legal protections.

However, guide-dog owners will have additional legal protections spanning a wide range of scenarios. For example, when applying for a rental property, a landlord cannot discriminate against a prospective tenant based on the presence of a guide-dog, nor can they impose tenancy terms related to the animal.²⁸ While no specific laws address guide-dogs in a DFV context, the extensive rights afforded to their owners by virtue of them being assistance animals mean protections in a DFV context are greater than that afforded to household pets.

If an owner and their guide dog are subject to a DFV context, they should, if able, contact the relevant agency or charity that provided their guide dog for additional support. Any harm to the assistance animal in a DFV context will then be covered by the *FVA* and *AWA* discussed in Q1 by virtue of them being an 'animal'.

What if animals on a farm or in the wild are harmed during a DFV incident?



There is no specific law relating to DFV harm applying to either applying to farm or wild animals. However, since the *FVA* and *AWA* (i) do not clearly define 'animal' as being one that is domesticated and (ii) state that it is irrelevant whether the animal is owned by the affected person or another person or is domesticated or not, it seems that the law is far reaching and extends to farm and wild animals.²⁹

This is even more so as under *AWA*, an animal means '(a) any live vertebrate animal other than a human being; or (b) any other creature prescribed for the purposes of any or all of the provisions of this Act'.³⁰ Here, we see a broad definition applied with no distinction between domesticated and undomesticated animals, meaning offences including 'cruelty to animals' and 'aggravated cruelty to animals' under sections 8 and 9 of the *AWA* will apply to farm and wild animals alike.³¹

Endnotes

1. *Family Violence Act 2004* (Tas) s 7(1)(d) ('FVA').
2. *Ibid* s 7(1).
3. *Ibid* s 16.
4. *Ibid* s 14.
5. *Ibid* s 23. See *Family Law Act 1975* (Cth) ('Family Law Act'), as amended by the *Family Law Amendment Act 2024* (Cth) ('Amendment Act').
6. *Ibid* s 16(3).
7. *Animal Welfare Act 1993* (Tas) s 8(1) ('AWA').
8. *Ibid*.
9. *Dog Control Act 2000* (Tas) ('DCA'); *Cat Management Act 2009* (SA) ('CMA').
10. *DCA* (n 9) s 6.
11. *CMA* (n 9) s 4.
12. *Family Violence Amendment (Protecting People and Their Pets) Act 2024* (Tas).
13. *Amendment Act* (n 5) sch 1 pt 1 div 1 s 1, 79(3); *Family Law Act* (n 5) s 4(1) (definition of 'companion animal').
14. *Grunseth v Wighton* [2022] FedCFamC 1A 132, [63].
15. *Amendment Act* (n 5) s 79(6).
16. *Ibid*.
17. *Ibid* s 79(7).
18. *Animal (Brands and Movement) Act 1984* (Tas) s 3 ('ABMA').
19. *ABMA* (n 18) ss 9, 11, 12; *DCA* (n 9); *CMA* (n 9).
20. *Residential Tenancy Act 1997* (Tas) s 64B.
21. *FVA* (n 1) ss 17(1A)(a)–(c).
22. *Discrimination Act 1998* (Tas) ss 3, 16.
23. *Amendment Act* (n 5) sch 1 pt 1 div 1 s 1, 79(3); *Family Law Act* (n 5) s 4(1) (definition of 'companion animal').
24. *Amendment Act* (n 5) s 4(1).
25. *FVA* (n 1) s 16.
26. *Amendment Act* (n 5) s 79(7).
27. *Anti-Discrimination Act 1998* (Tas).
28. *Ibid*. Note the inclusion of 'guide-dog' in the definition of 'disability' at s 3.
29. *FVA* (n 1) s 7(2).
30. *AWA* (n 7) ss 6, 7.
31. *Ibid* ss 8, 9.



Can legal protections be extended to animals in DFV situations?



Under the *Family Violence Act 2016* (ACT) ('FVA'), the definition of 'family violence' includes the act of harming an animal.¹ However, the protections are afforded to the family member who is the affected person, *not* the animal itself. Instead, the law prohibits and seeks to prevent harm to the animal as a means of intimidating the family member.

Under the FVA, a court may make a Family Violence Order ('FVO') which can restrict contact between individuals or impose conditions on their behaviour for 12–24 months, if satisfied that a person has or will commit family violence.² Police officers can also make a Police Family Violence Order ('PFVO') under the same suspicions as an FVO, which typically lasts 12 months.³ Lastly, an Interim FVO is an emergency order made in urgent cases, where it is necessary to protect a person or their property, i.e. 'companion animals'.⁴ Such orders direct the perpetrator to stop committing further violence or threats of violence, to not enter into the victim's home, and can prohibit them from contacting or approaching the victim.⁵

The *Animal Welfare Act 1992* (ACT) ('AWA') identifies acts of cruelty or failure to provide appropriate care to an animal as an offence which is punishable by imprisonment up to 3 years and hefty fines up to \$61,500.⁶ An animal is defined under the AWA as a live member of a vertebrate species, including amphibians, bird, fish, mammals, reptiles, live cephalopod and crustaceans.⁷ With such a broad definition, these protections then extend to domestic, assistance, farmed and wild animals. Cruelty is defined as 'causing or likely to cause, injury, pain, stress or death to the animal that is unjustifiable, unnecessary or unreasonable'.⁸ What constitutes injury, pain or stress in the legislation is quite broad, ensuring that a wide range of harmful behaviours, such as kicking or hitting animals or negating to provide appropriate food and water, are covered and offers utmost protection.

If a client is leaving a violent home, can they legally take their animals with them?



The *Domestic Animals Act 2000* (ACT) ('DAA') is the main piece of legislation that mandates property and ownership issues for animals in the ACT. The DAA is quite odd in the sense that there are specific sections dedicated to dogs, cats and assistance animals only.⁹ The DAA gives a list of examples of domestic animals which are cats, dogs, pigs, horses, pigeons, rabbits, and goats.¹⁰ Clearly not exhaustive, this legislation does not protect other domestic pets such as guinea pigs, birds, reptiles etc. Regulation of other animals may then fall under local council regulations— victims of DFV should consult their local council to see if their animal is protected.

Further, the DAA does not define 'owner', and so we look to the definition of 'companion animals' under the *Family Law Act 1975* (Cth) ('*Family Law Act*') as amended by the *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*').¹¹ This Act refers to 'companion animals' (defined as animals kept in marriage/de facto relationships for the purpose of companionship i.e. pets) as property.¹² This was confirmed in the case of *Grunseth & Wighton* which held that 'animals are property and are to be treated as such'.¹³ From 10 June 2025, the *Amendment Act* allows courts to treat companion animals as a special category of property in property settlements.¹⁴ Courts can make specific orders awarding sole ownership to one party, transferring the animal to another consenting person or ordering its sale.¹⁵ However, upon making such orders, the Court must consider any animal abuse, including threatening behaviour as a form of family violence and the attachment of each party, or children of the relationship to the family pets.¹⁶ Establishing ownership may involve presenting documentation such as purchase receipts, veterinary records, microchip registration, and proof of who has been responsible for the animal's care. If a victim of DFV can show this as well as any history of actual or threatened cruelty or abuse towards the companion animal, they can legally take their animals with them when leaving a violent home.

Under the *Stock Act 2005* (ACT), for farm animals, ownership is attributed to the 'mark' or 'brand' given to the animal.¹⁷ These marks are then registered with the local council and can be relied upon when asserting ownership.

What rights do renters experiencing DFV have when it comes to keeping animals?



Renters/tenants can keep animals at a rental property if they obtain the landlord's written consent.¹⁸ A landlord is not allowed to unreasonably refuse this request unless they first get approval from the ACT Civil and Administrative Tribunal (ACAT). Landlords may also impose reasonable conditions (e.g. limiting the number of animals or requiring extra cleaning), but these conditions must be approved by ACAT.¹⁹ Tenants remain responsible for any damage or extra maintenance caused by their animals.²⁰ For renters experiencing domestic and family violence, ACAT has specific powers to approve or vary animal-related tenancy terms to ensure safety and wellbeing. This is especially important given the role pets often play in DFV dynamics.

Assistance animals are treated differently. A landlord cannot refuse accommodation or impose special conditions because a tenant relies on an assistance animal, as this would amount to unlawful disability discrimination.²¹ No permission is needed to keep a qualified assistance animal.

How are pets treated in family law disputes, especially where there has been violence?



From 10 June 2025, the *Amendment Act* allows courts to treat 'companion animals' as a special category of property in property settlements.²² Courts can make specific orders awarding sole ownership to one party, transferring the animal to another consenting person or ordering its sale.²³

Courts must consider a broader range of factors when deciding ownership, including who cared for and paid for the animal, any history of abuse or cruelty, the attachment of children to the animal and each party's ability to care for the animal independently.²⁴ These factors are especially important in family violence cases. The recent changes allow courts to make orders to protect victims of domestic violence and family violence, which can also give protections to pets— by helping to prevent abusers from using pets as tools of coercion, control or intimidation.



What protections exist for assistance animals and their owners in DFV contexts?



1.

Assistance animals are not considered household pets in the ACT—they are trained animals that provide essential services to individuals with disabilities.²⁵ An assistance animal is one that has undergone specialist training (usually by an accredited organisation) which their owner relies on to alleviate a disability.²⁶ Under the *Discrimination Act 1991* (ACT), 'animal' is not defined, widening the scope of assistance animals beyond dogs. A person cannot be discriminated against because they have an assistance animal.²⁷ For instance, when applying for a rental property, a landlord cannot discriminate against a prospective tenant based on the presence of an assistance animal, nor can they impose tenancy terms related to the animal. This is not due to DFV situations but rather is governed under the various laws relating to disabilities.

While no specific laws address assistance animals in a DFV context, the extensive rights afforded to their owners by virtue of them being assistance animals mean protections for them in a DFV context are greater than that afforded to household pets. If an owner and their assistance animal are subject to DFV, they should, if able, contact the relevant agency or charity that provided their assistance animal for additional support. Any harm to the assistance animal in a DV context will then be covered by the *FVA* and *AWA* discussed in Q1 above by virtue of them being an 'animal'.²⁸

What if animals on a farm or in the wild are harmed during a DFV incident?



6.

There is no specific law relating to DFV harm applying to farm animals and wild animals. Any harm to a farm animal or wild animal in a DFV context would be covered under the *AWA*.²⁹

In relation to DV custodial matters, if farmed and/or wild animals are exposed to DFV, courts have the authority to disqualify individuals from keeping animals if they are convicted or found guilty of an animal welfare offence under the *DAA*.³⁰ A court's decision to disqualify an individual can be based on several factors, including the nature of the offence and any prior convictions related to animal welfare within the last ten years.³¹

Endnotes

1. *Family Violence Act 2016* (ACT) s 8 ('FVA').
2. *Ibid* s 16.
3. *Ibid* s 14.
4. *Ibid* s 23.
5. *Ibid* s 16(3).
6. *Animal Welfare Act 1992* (ACT) s 6A, 6B, 7 ('AWA'); *Crimes Act 1900* (ACT) ('Crimes Act').
7. *AWA* (n 6) sch 1.
8. *Ibid* s 7A.
9. *Domestic Animals Act 2000* (ACT) ('DAA'); *Family Law Act 1975* (Cth) s 79(6) ('Family Law Act').
10. *DAA* (n 9) s 143.
11. *Family Law Act* (n 9); *Family Law Amendment Act 2024* (Cth) ('Amendment Act').
12. *Amendment Act* (n 11) sch 1 pt 1 div 1 s 1; *Family Law Act* (n 9) s 4(1) (definition of 'companion animal').
13. *Amendment Act* (n 11) s 79(3) ('FLAA'); *Grunseth v Wighton* [2022] FedCFamC 1A 132, [63].
14. *Amendment Act* (n 11) s 79(6).
15. *Ibid*.
16. *Ibid* s 79(7).
17. *Stock Act 2005* (ACT) pt 3.
18. *Residential Tenancies Act 1997* (ACT) sch 1 s 74A ('RT Act').
19. *Ibid* s 71AE.
20. *Ibid* sch 1 s 74B.
21. *Discrimination Act 1991* (ACT) ('Discrimination Act').
22. *Amendment Act* (n 11) s 4(1).
23. *Ibid* s 79(6).
24. *Ibid* s 79(7).
25. *Discrimination Act* (n 21) s 3.
26. *Ibid*.
27. *Disability Discrimination Act 1992* (Cth) ss 8, 9. See also inclusion of 'assistance animal' in the *Discrimination Act* (n 21) s 7.
28. *FVA* (n 1); *AWA* (n 6).
29. *AWA* (n 6).
30. *DAA* (n 9).
31. *Ibid* s 138A.



Can legal protections be extended to animals in DFV situations?

Yes, legal protections can be extended to animals in DFV situations.



Under the *Animal Protection Act 2018* (NT) ('AP Act'), a person in control of an animal must provide the minimum level of care to the animal, and a person must not be cruel to an animal whether or not it is in their control.¹ The AP Act protects animals that are (1) live members of a vertebrate species (including amphibians, birds, mammals and reptiles), or (2) bony or cartilaginous fish, cephalopod or crustacean that is in a person's possession or control.² The 'minimum level of care' to that animal includes ensuring that the animal has sufficient food, water, accommodation and living conditions, is treated for disease or injury or when suffering, is exercised appropriately, is not abandoned, and is not used in an organised animal fight.³ The obligation to provide a minimum level of care only applies to animals within that person's control.⁴ A person in control of an animal is the owner of the animal, a parent or guardian of a minor who is an owner of an animal, a person who is in control of the animal or is supervising another person in possession of the animal, or a person in possession of the animal.⁵ The AP Act also prohibits cruelty towards an animal, which includes causing unjustifiable, unnecessary or unreasonable suffering of an animal, beating an animal, injuring or wounding an animal, being cruel towards an animal, not obtaining veterinary treatment for an animal, or intentionally imposing procedures on an animal such as tail docking or voice-box removal.⁶

Although DFV is not explicitly mentioned, protection under the AP Act would likely extend to animals experiencing or exposed to DFV. A person may not be cruel to any animal, including companion, assistance, farmed and wild animals. However, this regime is not comprehensive protection for animals that are bonded with victims of domestic and family violence but are not within that person's control. For example, a stray or wild animal with which a victim has a bond may not be protected under this legislation.

Under the *Domestic and Family Violence Act 2007* (NT) ('DFV Act'), in practice, animals may be protected to some extent where their owners are able to rely on legal protections in DFV situations as animals are considered as personal property under the definition of personal property.⁷ Legal protections under the DFV Act may extend to an animal when a person damages, or threatens to damage, another person's personal property (which includes their animals) without their permission;⁸ removes, or threatens to remove another person's personal property (which includes their animals) without their permission;⁹ or causes another person to reasonably apprehend damage, injure or kill an animal that is the person's property (intimidation).¹⁰ A police officer may, if they objectively and reasonably believe that it is necessary, remove a person to prevent imminent injury or death of an animal.¹¹

Domestic Violence Orders ('DVOs') (issued under the DFV Act) provide indirect protection to animals. For example, the DFV Act sets out that a DVO may include an order for the return of personal property to a protected person, which includes their animals.¹² Further, a protected person must be provided access to a premises subject to a premises exclusion order to retrieve their property (including their animals), with the accompaniment of a police officer.¹³ Under the *Personal Violence Restraining Order Act 2016* (NT) ('PVRO Act'), a person seeking protection, or a police officer may apply for a personal violence restraining order for protection against a person who has committed personal violence offences, including the injury to or death of animals.¹⁴

If a client is leaving a violent home, can they legally take their animals with them?



Whether a person can legally take their animals with them turns on a question of ownership as animals are considered property under NSW law. Although there is no clear way of demonstrating ownership of an animal, examining receipts, invoices, registration and other documents may give evidence of legal ownership.

Under the *Family Law Act 1975* (Cth) ('Family Law Act'),¹⁵ as amended by the *Family Law Amendment Act 2024* (Cth) ('Amendment Act'),¹⁶ in the case of determining ownership of 'companion animals' (which refers to animals kept by parties to a marriage or a de facto relationship for the purpose of companionship), the recently amended legislation introduced a requirement for courts to consider: (1) the circumstances in which the companion animal was acquired; (2) the extent to which each party cared for the companion animal; (3) any family violence to which one party has subjected or exposed the other party, and; (4) any history of actual or threatened cruelty or abuse by a party toward the companion animal.¹⁷ Once a determination is made, courts may order that one party is to have ownership of the companion animal, that the companion animal be transferred to another person, or that the companion animal be sold.¹⁸

What rights do renters experiencing DFV have when it comes to keeping animals?



Generally, tenants may keep pets at a rental property if notice is given to the landlord and the landlord does not object within 14 days of such notice.¹⁹ The landlord must make an application to the Tribunal to object to any proposed pet.²⁰ The Tribunal must consider certain criteria, such as the type of pet, the nature of the premises and any other matter the Tribunal considers relevant.²¹ However, the *Residential Tenancies Act 1999* (NT) ('RT Act') and other Northern Territory legislation is currently silent on the rights of tenants experiencing domestic and family violence to keep animals in residential premises. The Northern Territory currently has no crisis accommodation that caters to pets.²²

How are pets treated in family law disputes, especially where there has been violence?



Traditionally, pets have been considered personal property under Australian law, similar to other property assets such as cars and furniture. The Amendment Act came into effect on 10 June 2025 and provides a new framework for determining ownership of the family pet in divorce and separation proceedings. In particular, pets may no longer be recognised merely as property, but as 'companion animals'.²³ Under the amended Act, a 'companion animal' is defined as 'an animal kept by the parties to a marriage or either of them, or the parties to a de facto relationship or either of them, primarily for the purpose of companionship'.²⁴ The definition of 'companion animal' does not, however, include assistance animals pursuant to the meaning of the *Disability Discrimination Act 1992* (Cth) ('DDA').²⁵ Therefore, in most cases, pets will likely satisfy the definition of companion animals under the Amendment Act, although it will not apply to assistance animals. With this, family law courts must now consider animal abuse, including threats to harm pets, when deciding which partner is awarded ownership. When a marriage or de facto relationship breaks down, the court will consider any past cruelty towards a pet when deciding future ownership. Matters for consideration will include the extent to which each party cared for and paid for the maintenance of the companion animal, any family violence to which one party has subjected or exposed the other party, and any history of actual or threatened cruelty or abuse by a party towards the companion animal.



What protections exist for assistance animals and their owners in DFV contexts?



Under the *Anti-Discrimination Act 1992* (NT) ('*AD Act*'), reliance on assistance animals is classed as a disability, allowing persons with assistance animals to rely on the general anti-discrimination protections under the *AD Act*.²⁶ More specifically, the *AD Act* also prohibits discrimination of persons on the basis that they have an assistance animal.²⁷ The *AD Act* does not, however, specifically provide any protections for assistance animals independent of their owners, and does not offer any protection for victims of DFV as opposed to persons with disabilities broadly.

What if animals on a farm or in the wild are harmed during a DFV incident?



Northern Territory legislation offers very limited protections to animals independent of their owners. To the extent that a farm animal is owned by a person, they may be considered personal property under the *DFV Act* and their owners can potentially rely on certain protections for them in DFV incidents.²⁸ See Q1 for further details.

Both farm and wild animals are protected broadly under the *AP Act*, which prohibits animal cruelty in the Northern Territory.²⁹ Firstly, the *AP Act* requires someone who is in control of an animal to provide that animal with a minimum level of care.³⁰ A person may be found criminally liable for not providing a minimum level of care to an animal, including by:

- not providing sufficient food or water;
- not providing appropriate accommodation or living conditions;
- not providing medical treatment;
- not allowing appropriate exercise;
- handling the animal inappropriately;
- abandoning the animal; or
- using the animal in an organised fight.³¹

The *AP Act* also prohibits cruelty against animals more broadly. However, the Act limits the definition of 'animal' to vertebrate species (both in someone's control or wild) or fish, cephalopods or crustaceans that are in someone's control.³² Therefore, wild fish, cephalopods or crustaceans are not protected from cruelty under the *AP Act*.

Endnotes

1. *Animal Protection Act 2018* (NT) s 22 ('*AP Act*').
2. *Ibid* s 5.
3. *Ibid* s 6.
4. *Ibid* s 5.
5. *Ibid* s 24.
6. *Ibid* s 4.
7. *Domestic and Family Violence Act 2007* (NT) s 4 ('*DFV Act*').
8. *Ibid* s 5(2).
9. *Ibid* s 8(g).
10. *Ibid* s 6.
11. *Ibid* s 84.
12. *Ibid* s 21(c).
13. *Ibid* s 85AA.
14. *Personal Violence Restraining Order Act 2016* (NT) ss 4, 10 ('*PVRO Act*').
15. *Family Law Act 1975* (Cth) ('*Family Law Act*').
16. *Family Law Amendment Act 2024* (Cth) ('*Amendment Act*').
17. *Family Law Act* (n 15) s 79(7).
18. *Ibid* s 79(6).
19. *Residential Tenancies Act 1999* (NT) s 65A ('*RT Act*').
20. *Ibid* s 65B.
21. *Ibid*.
22. Cait Kelly, 'Seeing her hurt was more than I could bear: the family pets left in limbo amid Australia's domestic violence crisis', *The Guardian* (online, 30 May 2024) <<https://www.theguardian.com/australia-news/article/2024/may/29/seeing-her-hurt-was-more-than-i-could-bear-the-family-pets-left-in-limbo-amid-australias-domestic-violence-crisis-ntwnfb>>.
23. *Family Law Act* (n 15) s 4 (definition of 'companion animal').
24. *Ibid*.
25. *Disability Discrimination Act 1992* (Cth) ('*DDA*').
26. *Anti-Discrimination Act 1992* (NT) s 4 ('*AD Act*').
27. *Ibid* s 21.
28. *DFV Act* (n 7).
29. *AP Act* (n 1).
30. *Ibid* s 22.
31. *Ibid* s 6.
32. *Ibid*, s 5.

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