



## The Times, They Are A-Changin'

Many would remember this famous song "The Times, They Are A-Changin'" composed by Bob Dylan. Our social attitudes will forever be changing. This, of course, will also be reflected in our laws as governments attempt to put into place legislation that reflects social attitudes.

Recently, in a Sydney newspaper, there appeared an article noting the death Michelle Triola. Michelle Triola lived in a de-facto relationship with actor and academy award winner Lee Marvin. Upon taking up residence with him she changed her name to Marvin and they lived as husband and wife however they never married. They had an acrimonious separation. She sued Lee Marvin for half his earnings whilst they lived together. The matter received worldwide publicity. The action was described as "Palimony". There was no real precedent for such an action and ultimately Michelle Triola Marvin was unsuccessful in her claim.

Whilst it is not necessary in this article to outline the history of the legal recognition of de-facto relationships we are all aware that state laws gradually acknowledged the property rights of de-facto partners.

However, since 1 March 2009 this year, amendments to the Family Law Act came into force for spousal maintenance and the division of property for people in de-facto relationships. The Family Law Act now applies to both married and de-facto couples as well as same sex couples (with the exception of the states of South Australia and Western Australia).

The "new law" only applies when the de-facto relationships break down after 1 March 2009. If the break down took place before that date claims, would continue to be dealt with under the state legislation. There is provision, should parties agree after obtaining legal advice, they may have their matter determined under the new Family Law Act amendments.

A de-facto relationship is defined under the Act. The criteria includes:

- The parties have resided in a de-facto relationship which is at least two years in duration.
- There is a child to the relationship.
- The de-facto relationship has been registered in a state or territory with laws for the registration of relationships.
- One of the parties has made a substantial financial or non-financial contribution to the property or as a home maker or parent and a serious injustice to that party would result if no order was made in their favour.

There has been a degree of attention to the amendments in the media as to whether a "mistress" may seek a property settlement.

Before the Family Court may exercise jurisdiction the legislation requires that circumstances of the relationship be considered. In some cases you may find that a person although he or she is married and has an intimate relationship with another, that other person can seek relief the new provisions of the Act.

Indeed, recently News Limited reported that a mistress of twenty years settled a claim under the Family Law Act against her former lover, "a cheating husband". The settlement was over \$100,000.00.

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