



Hutchinson
Legal

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Section 27

AUTUMN 2022

Insight

Adapting at Autumn

As we continue to cope with the changing rules, restrictions and conditions which COVID has brought to our lifestyles and workplaces, the theme of this Newsletter is adaptation.

COVID has taught us new depths of flexibility and adjustment to change and an attitude of having to make the best of whatever circumstance we are facing.

We hope you enjoy the articles which follow, and that this new season brings its own rewards and resolutions to you and your families.

Vaccination of children

As the COVID-19 vaccine rollout has progressed such that children as young as 5 years old have now become eligible to be vaccinated, there has been a renewed focus on the question put to the Family Law Courts numerous times before:

WHAT HAPPENS WHEN SEPARATED PARENTS DO NOT AGREE ABOUT WHETHER THEIR CHILD IS VACCINATED?

According to the *Family Law Act 1975*, there is a presumption that it is in a child's best interests for their parents to have **equal shared parental responsibility** in relation to them, which means that parents are expected to consult one another and make a genuine effort to decide together on major long-term issues for the child, including issues relating to the child's health.

If the parties cannot agree on these issues, the matter may need to be determined in the Federal Circuit and Family Court of Australia, especially if Parenting Orders have been made previously which provide for the parents to have equal shared parental responsibility.

The answer to the above question is determined the same way regardless of which vaccine is being disputed, whether it be the COVID-19 vaccine or any (or all) routine childhood immunisations.

The non-vaccinating parent will need to demonstrate why, in the child's

particular circumstances, it is not in the child's best interests to be vaccinated. Such circumstances may include allergies, autoimmune conditions or other pre-existing conditions or predispositions that would place the child at greater risk than the general population of experiencing serious adverse effects.



In some cases, such as in the recent decision of *Makinen and Taube*, the Court has given sole parental responsibility on the discrete issue of vaccination to the vaccinating parent to avoid further dispute between the parents. In the matter of *Covington and Covington*, Orders were even made for the child, who usually lived primarily with the mother, to live primarily with the father and spend time with the mother until the child had received all of her vaccinations pursuant to the Victorian vaccination schedule.

To read the full article, please go to: <https://www.hutchinsonlegal.com.au/resources/vaccination-of-children/>

Please contact our Family Law Team on 9870 9870 if you require advice on this topic or any other Family or child-related matter.

Daylesford, Victoria

"The art of life lies in a constant readjustment to our surroundings"
KAKUZO OKAKURA

FAST FACTS

154

The number of pin oaks on Honour Avenue, Macedon. One of Victoria's best spots to see the autumn leaves change.

125-fold

The observed increase of Monarch Butterflies over the last year

1500AD

Prior to this date, Autumn was referred to as "Harvest".



Photo by Annie Spratt on Unsplash

Price gouging RAT tests

On 8 January 2022 the Minister for Health introduced new measures under the Biosecurity Act making it illegal for individuals to engage in price gouging of COVID-19 rapid antigen tests ("price gouging"). To engage in price gouging, one must have sold a COVID-19 rapid antigen test for over 20% of its original retail price.

The penalty for engaging in price gouging include fines of up to \$66,000, up to five years of imprisonment, or both.

The Australian Competition and Consumer Commission ("ACCC") has teamed up with the Australian Federal Police ("AFP") to narrow down on individuals or businesses that are price gouging. Consumers can report price gouging on the ACCC's website by providing contact details of the seller alongside a picture of the relevant receipt.

The ACCC has received hundreds of price gouging reports in the last few weeks with some reporting COVID-19 rapid antigen tests being sold for as much as \$100 for a single test. The AFP has begun investigations in Queensland and NSW into what is being called "beyond outrageous" activities.

Please contact our Litigation Team on 9870 9870 if you require advice on this topic or any other Consumer Law or Litigation matters.



To buy/sell or not to buy/sell?

Whether watching television, searching the internet or driving to work or to the shops, we are constantly reminded that the real estate market is booming. FOR SALE or SOLD signboards are popping up every day. One often misunderstood part of the sale process is the Section 27 Statement.

What is a Section 27 Statement?

A Section 27 Statement allows the vendor to request access to deposit funds paid by the purchaser prior to settlement.

A Section 27 Statement can be served when the Contract of Sale (Contract) is not subject to any conditions. This means that all the additional conditions to which the Contract may be subject (such as the approval of finance) have been satisfied and the "cooling off period" has expired. It is important to note that a property which is sold at auction is unconditional on the day of sale.

Obtaining access to the deposit early can provide the vendor with financial

assistance prior to settlement. The funds can be useful if, for example, the vendor wishes to purchase a property prior to settlement and requires additional funds to secure the property.

There are specific particulars that the vendor must disclose on the Section 27 Statement. These include details of any mortgage over the land and particulars of any Caveat lodged in respect of the land. If the purchaser is not satisfied by the particulars disclosed in a Section 27 Statement, they may object within 28 days of the Vendor issuing the Statement.

If the purchaser fails to provide a valid objection or fails to reply within 28 days of receiving the particulars, pursuant to Section 27(7) of the Act, they shall be deemed to have given authorisation to the early release of the deposit.

To read the full article, please go to: <https://www.hutchinsonlegal.com.au/resources/to-buysell-or-not-to-buysell/>

Please contact us on 9870 9870 to speak with our Property Lawyers who will assist you and answer your Property Law-related questions.

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