
Family Provision in Australia, 5th ed
John de Groot & Bruce Nickel
LexisNexis
688 pp
Reviewed by Geoff Maguire

With our ageing population and rising costs of living ‘Family Provision’ claims are on the rise across our great land (including this southern island outpost).

John de Groot and Bruce Nickel have produced a work which will prove a particularly useful companion to those practicing in this ever-evolving area of law. The text commences by taking readers to where it all began many centuries ago in Ancient Rome. It outlines the evolution of the law through England and then to our forefathers in the Australian colonies. Whilst it may not be information to be regularly included in one’s submissions to the courts, it certainly provides the reader with a brief and interesting insight into where it all began and sets the scene for what is to follow.

The text then proceeds to dive straight into the practicalities of modern day applications in this jurisdiction. The authors have executed with great effect their goal to publish a book which would be relevant to practitioners Australia wide. Each chapter addresses with sufficient depth the legislation as it is found in each state and its day to day practical application. The authors’ views and contentions are well supported and comprehensively referenced to relevant case law throughout each chapter - with the table of cases running to some 31 pages. The text is also prefaced by a table of statutes for each jurisdiction.

Particularly helpful in this work are the comparative tables showing outcomes for particular applicants over time. From family farms to step-children and same-sex partners the tables offer a comprehensive reference for the practitioner looking for a starting point as to the court’s approach in particular cases (with the age-old rider that each case turns on its own facts).

This work also delivers in spades what others sometimes lack – a thorough exposition of the practical procedure to be followed in each jurisdiction. It supplements this with handy precedents which cover all the basics and are sure to assist one in avoiding embarrassing, and potentially expensive, situations. A useful checklist is also contained within which can be easily adapted to help focus the mind of the busy practitioner. The legislation for each state is also contained within the covers and, though we all have access to the “web” these days and easily locatable legislation galore at our fingertips (thanks Austlii), it will no doubt be a blessing to those whose technology becomes subject to Murphy’s Law in the courtroom.

It is clear that the authors of this text are among the leaders in their field. It is easy to read, a pleasure in fact, and for one seeking to obtain a solid foundation in this area is the perfect starting point. Though it doesn’t contain all the answers (what text will?) it provides an at your fingertips launchpad to point you in the right direction for those matters which may be a little more involved or obscure. It is a book well worthy of space on the bookshelf of any practitioner in this field.