



BINDING FINANCIAL AGREEMENTS

Since December 2000 couples prior to or during the marriage can now enter into a Binding Financial Agreement under the Family Law Act 1975. A Binding Financial Agreement can set out how their assets will be distributed upon divorce or separation.

In order for the agreement to be binding there must be a full disclosure of assets and each party must obtain independent legal advice and the solicitor for each party must certify that he or she is satisfied that each party fully understands the legal effect of the agreement.

We are observing that especially people entering into a second marriage and/or couples with separate assets or interest in family businesses such as farmland are entering into Binding Financial Agreements to set out the following:-

- (a) The property of each person
- (b) The assets that can be treated as joint assets and that will be divided equally on divorce or separation
- (c) Some agreements include some set clauses where they are to be reviewed say every five to ten years
- (d) Some agreements provide that if there is a divorce or separation the partner who assumes everyday responsibility for the kids will take ownership of the family home subject to certain conditions
- (e) The agreement can also specify terms and conditions upon which a spouse can be paid out.

We urge couples to consider tying a financial knot around their relationship before taking the plunge into married life. Pre-nuptial or binding financial agreements should be viewed as positive moves within a relationship and addressed long before a couple's big day.

Often people get caught up in the moment and give little thought to their individual situations which will change after their marriage and could affect them long after the honeymoon is over.

It is the one time when couples should sit down during their pre-wedding planning and let their head rule their hearts in the best of interest of themselves and their families.

"Nobody plans to fail ... but we shouldn't fail to plan"

The last thing anyone wants to do is take away the romance of this very exciting time for couples, but sometimes it just takes a little outside influence to help get a few of these things sorted early and put some plans into place.

A binding financial agreement should be likened to having a fire extinguisher or burglar alarm in the house..... They are important to have around the house even though we hope we never have to use them.

Why Not Have A Disaster Plan In Place When People Are Thinking Clearly Rather Than Wait Until The Proverbial Hits The Fan?

Binding Financial Agreements Are Not To Be Viewed As Negative Documents But Rather As People Planning For The Worst And Hoping For The Best.