



Prenuptial Agreements/Binding Financial Agreements – Important Facts

- These are lawful in Australia and can be entered into by parties (de facto or married) prior to entering into a relationship, during the relationship or after separation.
- The agreements deal with how property settlement and spousal maintenance is to be dealt with upon separation and they do not come into effect until the parties separate.
- Both parties need a lawyer to sign an independent legal advice certificate to make the agreement binding.
- The agreements need to be carefully drafted so that they comply with legislative requirements and existing current case law.
- If the agreements are drafted carefully with cooperation by both parties with expert legal advice and due diligence undertaken, then the agreements have good prospects of standing up to any future challenge.
- There are grounds to set aside these agreements and expert advice from a specialist family lawyer should be sought in relation to such issues.
- The agreements are not registered with the Court.
- The agreements are an effective tool for parties to use if they do not want to go through the pain, cost and stress that can be associated with contested property settlement proceedings and often they can save parties substantial time, money and stress in the event that they do separate.