

Preparing a Financial Agreement





Things to think about when preparing a Financial Agreement

A Financial Agreement is commonly known as a “prenuptial agreement”. Both de facto and married couples can enter into Financial Agreements either before they commence living together or get married, or afterwards.

Financial Agreement can make provision for how the assets and financial resources of the parties will be dealt with during the relationship and following separation.

Commonly, parties enter into Financial Agreements when they want to avoid expensive and acrimonious litigation if they separate, or to ensure that their hard-earned assets are preserved for their children.

There is no one size fits all approach. A Financial Agreement must be tailored to suit the individual needs of the parties.

Before moving in together, you and your partner might want to discuss the following points:

HOW WILL YOU PAY YOUR EVERYDAY LIVING EXPENSES? Will you have a joint bank account and each contribute equal amounts into that account for groceries, entertainment and holidays? Will you split the bills equally?

RENT/MORTGAGE REPAYMENTS If you will live in a house owned by one party, will the other be required to pay rent or contribute towards the mortgage? What about rates or maintenance on the property? If you rent, will you both be on the tenancy agreement?

WHAT IF YOU BUY PROPERTY JOINTLY? Will you contribute equally to the purchase price and any outgoings on that property? What if you separate? Will you divide the property equally between you, or just in accordance with the proportions that you contributed to the purchase price?

WHAT HAPPENS IF YOU ARE STILL TOGETHER AND ONE OF YOU DIES? Do you want the other party to have the first option to buy out your share of any house? Will they have a right of residence in that property for a period of time before it is sold? Will they receive anything pursuant to your Will? What about joint property?

DO YOU INTEND TO HAVE CHILDREN? If so, will one of you be a stay-at-home parent? How will that stay-at-home parent support themselves financially?

WHAT ABOUT ANY INHERITANCES? If either of you receive an inheritance at any time in the future, do you want the other person to share in that inheritance? What about lottery wins or any other windfalls?

HAVE YOU GOT A BUSINESS? What will happen to your business and any entities that you own if you separate? Will the other person work in that business? Will they have any entitlements?

WHAT ABOUT SICKNESS OR INJURY? What happens if either of you experience any losses or negative life events such as serious illness, disability or bankruptcy? Do you have life insurance? How will you support yourselves?

DO EITHER OF YOU HAVE CHILDREN FROM A PREVIOUS RELATIONSHIP? Will you be sharing the costs for those children?

ARE YOU BRINGING ANY SIGNIFICANT DEBTS INTO THE RELATIONSHIP? Is there any chance of the other party being held accountable for those debts?

These are the types of things that you should consider when deciding what you would like in your Financial Agreement. Once you have had this discussion, your lawyer will be able to draft up a Financial Agreement to give effect to your wishes. Your lawyer can also suggest options which might be suitable for your circumstances.

LeachLegal

Divorce & Family Lawyers

To discuss further options and obtain advice as to your rights and entitlements, please telephone Leach Legal on 08 9486 9733 to book your initial consultation.

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