



BRIESE LAWYERS FACTSHEET

Binding Financial Agreements (BFAs)



Financial issues can be a source of stress and tension in a marriage or relationship, particularly where there is a significant difference in contributions or extended families are involved. This need not be the case if parties discuss such matters upfront and enter into an Agreement to record their expectations and regulate their financial affairs.

Financial Agreements are available to facilitate a couple planning their financial future together and are commonly used to protect assets acquired before a relationship or independently of it, such as family gifts or inheritances. In addition to quarantining assets, they may also be used determine the ultimate division of assets in the unfortunate event of a breakdown of their relationship.

As Financial Agreements are binding upon Estates, they may also be a useful Estate Planning resource, particularly for second marriages which may include step children.

A Financial Agreement can be varied or terminated by the parties to the Agreement by further written document. They may be set aside by the Court in certain circumstances.

BINDING FINANCIAL AGREEMENT (BFA)

Legislation allows parties to a marriage to enter into a Binding Financial Agreement which may override the jurisdiction of the Court, except for the purposes of enforcement.

A BFA may be made before, during and/or after a marriage, and after a Divorce. It can be used as an interim arrangement, after separation, or to record a final division of assets.

Recent changes to the *Family Law Act* now allow parties to a de facto relationship to also enter into a Binding Financial Agreement before and during the de facto relationship, or after separation as a means of formalising property settlement.

There is no requirement for Court approval or registration of a Financial Agreement, however certain legal requirements must be met including both parties receiving independent legal advice, and the Solicitors signing Certificates to that effect.

A BFA can make provision for how, in the event of the breakdown of a marriage, the property of either or both parties is to be dealt with and set out the maintenance of either of the parties during or subsequent to the marriage.

Further details with respect to Financial Agreements may be obtained by contacting one of our lawyers, who can offer practical legal advice and guidance, ensuring that your interests are protected.

Liability limited by a scheme approved under professional standards legislation



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