



Family Matters

THE NEWSLETTER OF BERRY FAMILY LAW: WINTER 2013



Berry
Family Law

A new look for Berry Family Law

Welcome to our new look Newsletter. We felt it was time to refresh our image and with the assistance of some wonderful talent we now have a new website as well.

We invite you to take a look at
www.berryfamilylaw.com.au

Scan the QR code with your smart phone



Welcome to Valerie Yiannikopoulos

We are pleased to announce that Valerie Yiannikopoulos has joined the firm which means that we have 13 family lawyers.

Valerie has been practising as a family lawyer for 8 years and has worked for city and suburban firms during that time. She is currently located at our Williamstown office but is available for meetings at both of our offices.

"Valerie understood family law early on - the law, precedents and technicalities. It's her rare skill in things that can't be taught that are at the heart of her family law artistry. This enables her to craft cases and command tailored outcomes for her clients".



Berry Family Law

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Financial Agreements – Before Marriage



Financial Agreements prior to marriage (often referred to as “pre-nuptial agreements”) can be made under section 90B of the Family Law Act. This legislation also provides for Financial Agreements to be made prior to the commencement of a de facto relationship under section 90UB of the same Act.

Parties usually seek to enter a financial agreement prior to marriage (or de facto relationship) for the purpose of “protecting” or segregating assets which they have already obtained. Agreements can deal with such assets in a variety of ways. The monetary value of an asset at the relevant time can be fixed and segregated in any subsequent settlement, or the asset itself can be segregated, including any increases to its value. Careful consideration should always be given as to the fact that the length of any relationship may be unpredictable.

A Financial Agreement should always be constructed on the basis that a marriage (or defacto relationship) can last for months, years or decades.

Finally, in discussions with a partner or fiancée about a prospective agreement, it should always be remembered that an agreement prepared to protect one party’s assets will, by definition, be financially adverse to the other party. In the context of the legal advice which must be provided for an agreement to be valid, this point will certainly be made. Therefore, it is always advisable to ensure that both parties are aware of the general consequences of any agreement prior to incurring the costs of preparation and formal legal advice.

Berry Family Law can assist with the preparation of, and advice involving, Financial Agreements.

When is a person a parent for the purposes of child support?

When a parent or non-parent carer makes an application for child support through the child support agency the registrar must be satisfied that the people to be assessed are parents of the child. There are a number of situations which will satisfy a registrar that a person should be assessed. These include:

- That the person’s name is entered in a registrar of births;
- That the child has been adopted by the person; or
- That the person is or was a party to a marriage and the child was born to the person, or the other party to the marriage, during the marriage.

There is no internal basis for review of a registrar’s decision if an assessment is refused on the basis that the registrar considers that the person to be assessed is not a parent.

If a registrar will not make an assessment because they are not satisfied that a person is a parent, an application can be made to a court for a declaration that the person should be assessed as the parent of the child. An application in this regard must be filed with the Federal Circuit Court within 56 days of the relevant party being served with the notice refusing an application for an assessment. If a court then makes a declaration the party will be able to receive child support from the date that the original refusal was made.



Berry Family Law

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