

# Pre-Nuptial Agreements

## A Snapshot



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Under Australian Family Law, what many of us colloquially know as "pre-nup" agreements are in fact entitled Binding Financial Agreements, and are commonly referred to by lawyers as BFA's. They are completely private agreements between you and your partner (or ex-partner as the case may be) which protects your property pool including financial assets, resources and support, in the event of a marriage bust up. These agreements stipulate how the property pool will be dealt with if the relationship breaks down, and can be made:-

- Before entering into a Marriage/De Facto Relationship (known as "pre-nuptial agreements"); or
- During the course of a Marriage/De Facto Relationship; or
- After a Marriage/De Facto Relationship has broken down.

BFA's are not filed in court and, accordingly, the Family Court has no say in how you divide your property pool once your relationship ends, because the property split is governed by the terms of the agreement. In effect, the BFA is a safety

precaution making property settlements less complicated and relatively inexpensive.

Because these agreements are made outside the court's jurisdiction, there are strict requirements circumscribing them, and that is why you need to ensure that you obtain sensible and expert independent legal advice.

Usually, a client will attend our office and ask our Family Law Division to prepare a Binding Financial Agreement 'because I just wanna make sure I'm protected in case the relationship breaks down'. In such circumstances, our job is to prepare a BFA that reflects the wishes and intentions of the parties allowing for whatever may come before, during or after the relationship. At the Nyst Legal we ensure that the agreement strictly complies with the technical legal requirements imposed, so as to be certain it will be legally enforceable and in turn protect your assets when the crunch time comes. That way you save time, money and stress, creating some level of certainty in the event the relationship ends.

Alternatively, our Family Law Division can also help clients who receive an agreement from their partner and want to understand what it all means for them. In that case, we can assist by reviewing the proposed agreement and advising on:-

- How the terms affect your personal rights;
- The advantages and disadvantages of such terms ; and
- Whether the agreement is fair to both parties.

If you would like Nyst Legal's Family Law Division to help you with Binding Financial Agreements please contact our office to arrange an initial conference with our Director, Chris Nyst and our Senior Associate, Rohan McAdam.

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