

CONTRACTING OUT AGREEMENTS

The law about Relationship Property

The Property (Relationships) Act 1976 applies to any couple in a relationship – whether it is a marriage, civil union or de facto relationship. Same sex relationships are included.

Generally, it starts to apply after the relationship has lasted longer than three years. However it can apply earlier; for example if there is a child or children involved (whether it is a child of both partners or of only one of them) and there would be “serious injustice” if the Act didn’t apply.

The Act creates a presumption that all relationship property will be divided equally after the three year time period is met.

This presumption can only be avoided in very exceptional circumstances. It is not enough simply that one party paid for more of the assets, or that it was only registered in their name.

Some assets will be regarded as separate property, not relationship property and therefore will not be presumed to be shared equally. This can include assets that are owned before the relationship began, and assets that are inherited. But there are exceptions to this, so it is important that you get legal advice and don’t assume property is separate.

If you don’t want the equal sharing law to apply

You can choose to have a contracting out agreement, where both parties agree that the Act will not apply.

The Agreement sets out who both partners agree should be the owner of each asset (including future assets bought either jointly or separately) and in what proportions.

It will cover what happens if you separate or if one of you dies.

It can also cover issues such as who covers living costs, and any debts that you may individually or jointly have.

How do I get a contracting out agreement?

Your solicitor will be able to draft an agreement for you once what you want to cover has been discussed with him or her.

By law, each party has to get separate legal advice, so one partner will need to see a different solicitor to get advice and sign the agreement. This is to ensure that both partners get professional advice about what is best for that person.

32 The Terrace, Wellington 6011
P: 64 4 472 6904
E: info@brandons.co.nz
www.brandons.co.nz

Disclaimer: the content of this document is general in nature and not intended as a substitute for specific professional advice on any matter and should not be relied upon for that purpose.

