



DAWSON

FAMILY LAW

APPLICATION FOR CONSENT ORDERS VS FINANCIAL AGREEMENT

Most of us have heard the expression “pre-nup” after years of watching Hollywood movies. People try to protect their assets before they get married by signing a written agreement.

In Australia, these agreements are called Binding Financial Agreements (BFAs). People are able to sign a BFA before, during or after their marriage/relationship. Some Lawyers do not prepare BFAs because of the possibility they may be set aside down the track.

Because of the risk that a BFA may be set aside later, our office does not prepare them. Our preference is for parties to reach an agreement following separation and document that agreement within an Application for consent orders (Consent Orders) which is approved by the Court.

»»» Benefits of Consent Orders

There are many benefits of Consent Orders, including:

1. they usually cost less than a BFA, or Court litigation;
2. the parties still maintain control of the outcome;
3. Consent Orders can only be set aside in limited circumstances; and
4. the Court must approve the proposed orders for them to be made, which involves an independent person assessing whether the agreement is ‘just and equitable’ (i.e: fair). This reduces the possibility of parties getting stuck with an unfair outcome.

Always get independent legal advice specific to your circumstances.



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A fresh start