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## LawTalk Blog



# I'm in a relationship but not married, do I need a relationship contract?

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Many couples are in a de facto relationship and stay that way for a long time. Some may take the leap into married life and others remain unmarried for the entirety of their relationship.

Under the *Family Law Act 1975* both parties to a marriage or a de facto relationship are able to make a claim for property settlement and spousal maintenance if they separate. Each party should obtain independent legal advice after a separation as to their ability to make a claim and their entitlements.

If you are in a de facto relationship and you separate, the Family Law Act stipulates the factors to be considered to determine each party's entitlements. The Law sets out the process by which a party's property settlement entitlements are determined. This means that the parties have limited control over the outcome and it may not align with their values or beliefs. There are however ways to get around this, which can be done with a Binding Financial Agreement.

## Can unmarried couples enter into Binding Financial Agreements?

Just like married couples can enter into Binding Financial Agreements (also known as Prenuptial Agreements), parties to a de facto relationship can also enter into a Binding Financial Agreement (BFA) to protect their assets in the event of separation. By entering into a BFA, the parties intend to exclude the Family Law Courts' jurisdiction to deal with financial issues arising between the parties.

No one can ever predict the future and therefore it is crucial for both parties to understand their legal rights and entitlements. It is a legal requirement that both parties obtain independent legal advice before entering into a BFA. As BFAs are complex documents, legal advice should be obtained from someone who specialises in drafting those types of agreements.

If you are entering into a BFA is it important to make sure the agreement includes:-

- The purpose of the agreement;
- The legislation under which the Agreement is made pursuant to;
- Details of each party's current financial position, including details of all assets, liabilities and financial resources;
- Specifics as to how the property owned by the parties at that time will be dealt with in the event of separation;
- Specifics of how any property acquired in the future by either party, individually or jointly, will be dealt with in the event of separation;
- Specifics as to how liabilities will be dealt with in the event of separation;
- How will superannuation be dealt with in the event of separation;
- Whether the parties intend to marry, and if so, whether the agreement is still binding in the event the parties are married;
- Whether any maintenance will be paid at the time of separation;
- Resolution process to resolve any disagreements that arise in respect to enforcing the agreement.

Andersons Solicitors can assist you with drafting a BFA. [Contact](#) our [Family Law](#) team to find out more.

This blog post was written by [Rebecca Lucas](#) and settled by [Ryan Thomas](#).

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