

Talking Law Article – October 2010

When are you in a De Facto Relationship?

A defacto relationship arises when two people live together on a genuine domestic basis, irrespective of gender. The parties cannot be legally married to each other or be related by family. Interestingly, a de facto relationship can still exist between two parties even if one of the parties is legally married to someone else or in a separate de facto relationship.

In order for legal rights and obligations to be created the court must then be satisfied of either one or more of the following:

1. The period of the de facto relationship has been for at least 2 years; or
2. There is a child of the de facto relationship; or
3. If one party has made substantial contributions and not recognising such would lead to a serious injustice; or
4. The relationship is or was registered under a prescribed law of a State or Territory.

Once one or more of the above requirements are established, de facto couples are largely treated in the same way that married couples are treated under the law, giving the Court a wide discretion as to the entitlement of each of the parties to the assets of the relationship.

It is thus of great importance to “regulate” your relationship through a Financial Agreement. Should the relationship later break down, a Financial Agreement may assist the parties in finalising their affairs, without the need for costly court intervention.

This article is for general information and is not to be taken as specific legal advice. For more information on de facto relationships and your rights and obligations please contact Karen Manning at our Shepparton office on telephone 5820 0200.

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