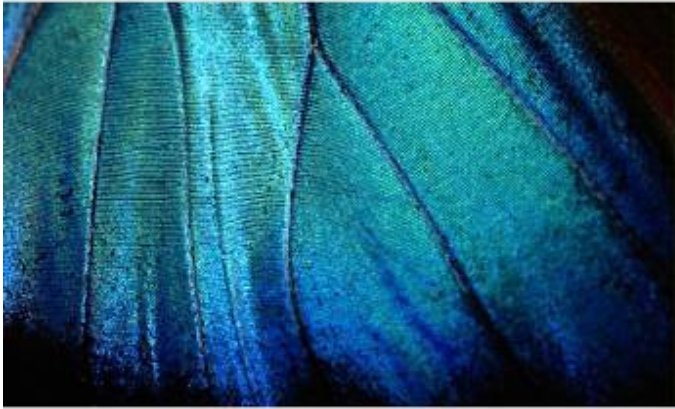


MCCANN FITZGERALD



The Role of Agreements in Today's Relationships

Audrey Byrne

Step Annual Conference | Radisson Hotel
27 May 2011

Lecture Topics

- Pre Nuptial Agreements
- Pre Registration of Civil Partnership Agreements
- Cohabitants Agreements

Pre Nuptial Agreements

Legal Issues

- Constitutional Protection of Marriage
- Proper Provision
- Enforceability

Pre Nuptial Agreements Recent Developments

Gramer –v- Radmacher

UK Supreme Court

October 2010

Pre Nuptial Agreements Drafting/Best Practice

- Independent Advice
- Financial Disclosure
- In Writing
- No Duress
- 28 Days before Wedding
- Review / Sunset Clauses

Pre Registration Of Civil Partnership Contracts

Legal Issues

- Consequences of Registration
- Rights same as spouse on Dissolution/ or Death
- Civil partners have no Constitutional status

Civil Partners Drafting/Best Practice

- Similar to pre nuptial considerations
- Consider in context of estate/taxation planning
- Transfer of shared home/property

Co-habitants Agreements

- 2010 Act specifically provides for Co-habitants Agreements
- Formalities must be followed
- “Opt out” Clause from Redress Provisions
- Language of Act should be used

Drafting Considerations

- Information needed from client-fact gathering exercise
- Agreement is a legal document and should only deal with legal/financial matters
- Usual contractual terms should be inserted
- Consider if financial disclosure is necessary

Conclusion

- Clients demand solutions – popularity of Agreements is on the increase
- Beware ‘ticking time bomb’ in the strong room
- Keep detailed notes and attendances on file
- Follow sensible drafting and execution protocols

Different situations require different tools



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