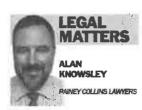
Contracting Out Agreements – an option to protect your assets

Division by 50-50 split the norm

f you are in a relationship you

may want to consider protecting your assets from a relationship breakdown.

In New Zealand, the general rule about property division between separating couples is that once you have been in a rensionship (de facto, marriage or civil union) for three years or more, upon separation all of your relationship property is to be div-ided equally. relationship (de facto, marriage or



If you separate, all property (which includes assets and debts) owned by you or your partner will need to be classified as either "relationship property" or "separ-

ate property.

The property that forms part of the relationship property pool is the property that will be subject to equal division (in most circumstances, though there are some exceptions).

Separate property is just that – it belongs to the owner and does not form part of the relationship

not form part of the relationship property pool.

Relationship property includes the home you live in (if it is owned by either or both of you!, regardby either or both of you!, regard-less of when it was acquired; all family chattels in the home, including motor vehicles, again whenever they were acquired; jointly owned property; property acquired in contemplation of the relationship and during; income during the relationship; contribu-

regations and auring, income during the relationship; contribu-tions to superannuation or savings during the relationship. It could also include debts, such as a mortgage, credit card debt, hire purchases and, in some cases, student learns student loans.

inherited funds or assets (so long as they are kept separate); gifts; some assets that are owned before a relationship; and distributions from a trust.

Separate property, in particular the increase in value of separate property can become relationship property in some situations.

Our courts also have a dis-cretion to treat separate property as relationship property if they consider it is just in the circumstances to do so.

If you do not want these general rules to apply to your assets (or your partner's assets or debts) you should consider entering into a

Contracting Out Agreement.

An agreement of this nature allows you and your partner to agree on whether assets and/or

debts owned by either of you are to be relationship or separate property and how those assets/ debts should be divided in the event that you separate or either/ both of you die.

A Contracting Out Agreement does require the agreement of your partner as the agreement needs to be in writing and signed

needs to be in writing and signed by both of you.

For such an agreement to be binding, you must both have inde-pendent legal advice as to the effects and implications of the agreement and your lawyers must sign and certify the agreement to confirm they have advised you.

■ Column courtesy of Rainey Collins Lawyers, phone 0800 733484. If you have an inquiry, email Alan on aknowsley@raineycollins.co.nz.