

MEMORANDUM ON SEPARATION AGREEMENT FOR CLIENT

General

A separation agreement should be prepared when the marriage has come to an end. It can be done only if the parties consent. If there is disagreement court proceedings should be commenced. Considerable costs can be saved if the parties are able to agree on issues and give instructions to one lawyer to prepare the agreement and independent lawyer should advise the other spouse.

Divorce

One year after the separation the parties can commence divorce proceedings. The terms of the separation agreement can be incorporated into the Divorce Petition.

Matrimonial Home

The house in which the parties have resided should be divided equally between the two spouses regardless of the person in whose name legal title was taken.

Assets

Generally most of the assets acquired during the marriage are divided between the spouses equally under the net family property concept under the Family Law Reform Act. The parties should set out in the separation agreement how they wish to divide the assets.

Maintenance

The spouse with greater income may have to support the spouse with lower income. Children's support should be generally in accordance with the guidelines prepared by the government.

Children

The legal obligation to support the children is until the age of sixteen or longer if they are attending school or if there is some disability requiring support. The separation agreement should set out who will have custody and the rights of access of the other spouse and the obligations of support.

Wills

Each spouse may change his or her will to appoint children or others as beneficiaries. This will be a separate document and is not a part of the separation agreement.

Financial disclosure

Each spouse must make full financial disclosure to the other spouse of his or her assets and income.

Fees

You can minimize your fees if you can agree on all the issues and ask the lawyer to prepare the agreement and the other spouse should have independent legal advice.

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