

PRE-NUPTIAL AGREEMENTS
In the aftermath of a recent UK case

A recent decision of the UK Supreme Court in the case of Katrin Radmecher and Nicolas Granatino gives further impetus to the notion that intended spouses should be allowed to set out their financial affairs in advance of their marriage with a view to deciding what should happen in the event that the relationship breaks down.

In Ireland there has always been a public policy objection to pre-nuptial agreements. However it is increasingly possible that this may change. Undoubtedly the decision in the Radmecher case may be persuasive but what is also interesting is the fact that the recent introduction of the Civil Partnership and Certain Rights and Obligations of Co-Habitants Act 2010 actually facilitates co-habitants in regularising their financial matters by entering into a co-habitation agreement with a view to deciding what will happen if the relationship breaks down.

It will be interesting to see if recommendations made by a Government working group on pre-nuptial agreements will be implemented. These include the following recommendations: -

- (a) That any agreement should be entered into only after both parties have obtained independent advice.
- (b) It should be entered into only after full financial disclosure has been made by both parties.
- (c) It should be entered into at least earlier than 28 days before the marriage
- (d) It should be clear that there has been no undue pressure on either party to enter into the agreement.

At the very least the entering into prenuptial agreements will set out what assets are owned by each party at the outset. This can often be the source of much debate at a later stage.