

JUST SEPARATED?

March, 2004

With more than half of all marriages and defacto relationships resulting in separation and divorce you would like to think that most people have some understanding, either from personal experience or from the experience of friends or family, of how the legal process for divorce and separation works.

With the rapid legal changes that are occurring and are planned to occur you may be surprised by how little most people know.

Test your knowledge, with these questions:

- Does the Family Court do Divorces?
- Is “custody” a legal term?
- Is there a presumption of a 50%/50% division in Property Settlements?
- Is there a presumption of shared parenting for children?
- Are school fees included in the Child Support Formula?

You may be surprised to find that the answer to all of these questions is, no.

In the last few years there have been extensive changes in the law. New legislation has commenced in Queensland setting out what constitutes a defacto relationship and how a defacto Property Settlement is to be effected. (Note: This only relates to defacto couples who separated prior to 1 March, 2009.) There has been legislation introduced enabling married couples to enter “pre-nuptial” Binding Agreements. The Domestic Violence legislation has been expanded to include a far wider group of potential applicants, the Federal Magistrates Court has been created, Superannuation is now included in Property Settlements under the Family Law Act and these are just some of the changes.

Things are not about to change, the Federal Government’s Standing Committee on Family and Community Affairs recently handed down its report encouraging shared parenting, and many other far reaching reforms. If that isn’t substantial enough, the Rules of practice in the Family Court, that have stood for 28 years have been re-written and will come into operation at the end of March. (2004)

Confused? You should be, most lawyers can’t keep up.

Separation and divorce is accepted as being one of the most stressful events in a person’s life and the rapid changes in the law aren’t doing much to lessen that stress.

You simply can’t rely on what happened to someone else. Not only are circumstances always different, but it is more than likely today that the law, the terminology and possibly even the Court, have all changed.

Now, more than ever before you have to get legal advice, and quickly. Not to get advice is foolhardy. It’s like trying to make your own medical diagnosis. You simply wouldn’t do it..

To assist in easing the stress of separation Michael Lynch Family Lawyers, one of the largest Specialist Family Law practices in Queensland, have published a book entitled “A Guide to Family Law – everyday answers”.

From years of working with clients in Family Law we have identified the areas that need simple clarification. Information is everything and the sooner people have an understanding of the law, the more at ease they will feel.

The booklet was originally designed for clients, but has been found to be popular with a broad cross-section of the community including other professionals that have contact with people during separation. There is always someone who knows someone that is involved in divorce and separation.

The Guide is not a DIY booklet, nor is it a substitute for legal advice.