

# Legalquotes *News*

PROVIDED BY RANKIN NATHAN LAWYERS

## I'VE JUST SEPARATED – WHAT NOW?

The breakdown of a long term relationship, either marriage or de facto, is often a very emotional and stressful time. Many people are unsure about what they need to consider and how various issues can be resolved.

The main issues that need to be considered following separation are:

### PARENTING MATTERS

The ongoing parenting arrangements for children is one of the most important issues that needs to be addressed following the breakdown of a relationship. The law recognises that, in the vast majority of cases, it is important for children to maintain a close and continuing relationship with both parents after separation. Trying to make the decisions about the future parenting arrangements however, can be very difficult when the emotion surrounding the breakdown of the relationship is still very real.

Parents are able to utilise a number of services, including mediation, to assist them in formulating the parenting arrangements for their children following separation. Indeed parents are now required to attend mediation to attempt to resolve any disputes about the arrangements for their children, except in some limited circumstances.

There are a number of ways in which the ongoing parenting arrangements for children can be formalised; including through private agreement, Parenting Plans, Consent Orders and Court proceedings. Some options may be more suitable than others depending on the nature and complexity of the parenting arrangements that are contemplated. It is important for parents to obtain advice and carefully consider the parenting arrangements that are in the best interests of their children.

### FINANCIAL MATTERS

The division of property following the breakdown of a



relationship requires the consideration of a number of issues, including:

1. The nature of the relationship, either a marriage or de facto relationship, and the length of that relationship.
2. Whether there are any children of the relationship.
3. The assets and liabilities of the relationship, regardless of in whose name the assets are owned.
4. The contributions of a financial, non-financial and homemaking and parenting nature each party has made toward the acquisition, conservation and improvement of those assets.



**Rankin Nathan Lawyers**  
**1300 727 813**

NEWCASTLE • SYDNEY • PERTH • CANBERRA

© Rankin Nathan Lawyers 2010



5. The needs of each party for the future, including any difference in income and earning capacity and any health difficulties.
6. Whether the overall proposed division of property is fair in all of the circumstances.

Again, the division of assets following the breakdown of a relationship can be finalised in a number of ways including through private agreement, Consent Orders, a Binding Financial Agreement and Court proceedings. Significant enforceability and taxation issues can arise depending on how assets are divided and the manner in which this is done. It is important to obtain advice about the appropriate division of assets and, if there is an agreement, how this can best be implemented.

#### **CHILD SUPPORT**

For the vast majority of parents the provision of financial support for their children is managed, at least to some extent, through the Child Support Agency.

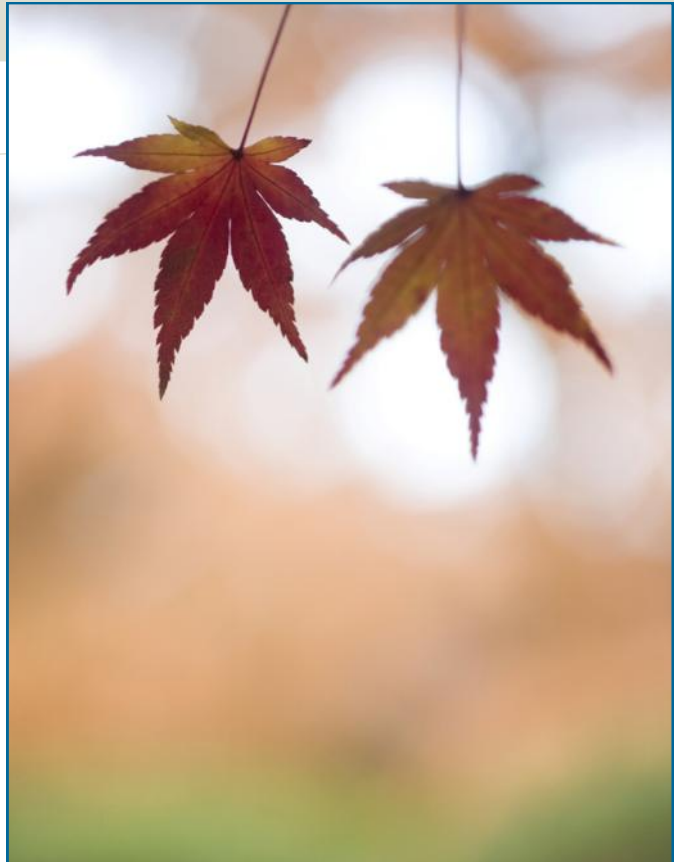
The formula used by the Child Support Agency to calculate the amount of Child Support that is payable takes into account the income of both parents, the number of children and the ages of those children and the number of nights the children spend with each parent.

There are other options available to parents besides the administrative assessment administered by the Child Support Agency, including Limited Child Support Agreements and Binding Child Support Agreements. These may be more suitable in some situations and parents should obtain advice about the child support option that best suits their circumstances.

#### **DIVORCE**

Divorce is often the first thing people consider after they separate but it is generally the last thing that is actually done.

A Divorce cannot be obtained until you have been separated for at least twelve months and one day. To successfully obtain a Divorce you must be able to establish to the Court that you were married, that you



have been separated for the required period of time, that your spouse has been given at least 28 days notice of the Divorce Application and that proper arrangements have been made for any children.

Relationship breakdown can raise a number of important issues and the best way to deal with those issues will vary depending on your particular circumstances. For advice about the issues arising from the breakdown of a marriage or de facto relationship and to discuss the options that best suit your circumstances contact our Family Law Team on 1300 727 813.