

Property Law and the PRA

INTRODUCTION	1
1. COMPARING THE MATRIMONIAL PROPERTY ACT 1976 TO THE PROPERTY (RELATIONSHIPS) ACT 1976	3
What are the "key" changes?	3
<i>Coverage</i>	3
<i>Debts</i>	4
<i>Presumption of equal sharing</i>	4
<i>Contracting out</i>	4
Other changes include	4
2. OUTCOME FOR PRACTITIONERS	5
Rule No 1	5
Rule No 2	6
Rule No 3	6
Rule No 4	6
Lessons not learnt	6
<i>Example No 1</i>	7
<i>Example No 2</i>	7
Overview	8
3. PROPERTY TRANSACTIONS AND THE PRA	9
The adviser's role	9
Relationship property	9
Separate property	10
Property	11
<i>Real property</i>	11
<i>Personal property</i>	13
<i>Family chattels</i>	13
<i>Insurance – superannuation</i>	14
<i>Partnership interests</i>	15
<i>Goodwill</i>	16
<i>Interests in companies</i>	16
<i>Interest in a joint venture</i>	17
<i>Interests in trusts</i>	17
<i>Life interests</i>	17
4. PRA AND THIRD PARTY RIGHTS	19
5. CONTRACTING OUT WITHIN THE PRA	23
Procedural requirements	23
Independent legal advice	24
Sanctity of contract	24
PRA – s 21 – serious injustice	26
Existing agreements	27

CASE STUDY 1 – MOTHER, CLIENT AND DE FACTO	29
6. MISCELLANY OF NOTABLE DEVELOPMENTS	31
Dispositions to trusts and companies	31
Separate property acquired from trusts	31
Estate and gift duties amendment	32
Wills	32
Is survivorship paramount?	33
Presumption on death	33
Claims against estates	33
Administration Act and Family Protection Act	34
CASE STUDY 2 – THE FARM, THE HOME IN THE CITY, AND THE SECOND RELATIONSHIP	35