

FOREWORD

In the preface to the second edition of *Unlocking Matrimonial Assets on Divorce* the authors referred to the law and practice of ancillary relief as 'dynamic' – little could they know just how dynamic the law and practice would be between editions of their excellent book. In the interim even the name of the legal process which provides for the division of the assets following divorce has changed – no longer ancillary relief but now, with the advent of the Family Procedure Rules 2010, financial remedy proceedings.

Fundamental to the focus of this book with its emphasis on 'unlocking' the matrimonial assets, is the impact of *Imerman* on the so-called 'Hildebrand rules', informal 'rules' which had, over the years, increasingly held a central place in issues of disclosure in the more complex cases. Courts and lawyers are still finding their way in the post-Hildebrand world, but fortunately the early fears that *Imerman* would be a charter for non-disclosure seem to have been overstated.

Imerman is not the only major development since the last edition: *Radmacher* is the decision which attracted the most media attention as the Supreme Court turned its attention to ante-nuptial contracts; but also of considerable significance is *Jones v Jones* and the developing law on pre-acquired assets. The sands upon which financial remedy proceedings rest continue to shift not least in relation to the finding, protecting and 'unlocking' of matrimonial assets in a world where worldwide economic conditions continue to be uncertain at best.

With so many fundamental changes in the law, together with the necessity of determining all cases against the procedural backdrop of the new rules, the third edition will undoubtedly be greatly valued by all those who have benefited from the earlier editions.

The Honourable Mrs Justice Eleanor King

July 2012

PREFACE

At the start of the preface to the second edition of this book we stated that 'The law and practice of ancillary relief is truly dynamic'. What we hadn't realised then was that it was so dynamic that it would cease to exist by the third edition. Instead of ancillary relief we now have the law and practice of financial remedies and a new set of family procedure rules to keep us on our toes. The search for certainty has been recently described as the family lawyer's Holy Grail per Wall LJ (as he then was) in Grey (No 2). The Holy Grail of certainty, searched after by some, less sought after by others, has dominated recent guidance on non-matrimonial property. We are also pleased to record the birth of autonomy – a new sibling for needs, compensation and sharing. Your gestation was long and your birth complicated; but we believe you will grow to be a principle of substance in the years to come. Three years ago we had all understood the Hildebrand rules – although apparently incorrectly. Much then has changed in the three years that have passed since the last edition of this book, although section 25 has throughout been a constant and valued friend (some might say an undervalued friend). The aim of this book, of which the third edition is no different, is to assist family lawyers source and develop arguments to help them unlock assets for their clients. As ever, we hope that we have achieved our aim.

We believe that our aspirations for the book are assisted enormously by the contributions made by David Liddell, David Lockett, Sir Peter Singer and Mark Renouf. Our clerks at 1 Garden Court and 36 Bedford Row have as ever given the third edition of this book their wholehearted support. We thank them all for the sympathetic and skilful way in which they have assisted us in both running a practice and trying to keep to publishing deadlines. Once again we would like to express our thanks for the help, encouragement and commitment given to us from all at Jordan Publishing, but especially Greg Woodgate and Kate Hather. We would also like to thank Tracy Robinson for her work in turning our words into a book. Most of all, however, perhaps appropriately as family lawyers, we would like to thank our families. They have put up with the demands made upon our free time without complaint. We have endeavoured to set out the law as at 1 June 2012.

Simon Sugar

Andrzej Bojarski