



**T**he Committee was asked to recommend a standard form of wording to be included in Declarations to deal with the Family Law Act on the basis that typically this is dealt with by the addition of a Clause into a Declaration being furnished under the Family Home Protection Act.

The Committee suggests the following wording.

“The above property is not affected by the provisions of Section 5 of the Family Law Act, 1981 by virtue of the fact that I have never agreed to marry any person”<sup>1</sup>.

The Committee emphasises that while this wording will cover the majority of cases it only applies to people who have never entered into an agreement to marry any person and that obviously care should be taken by Practitioners to explain to clients that they are not being required to declare this unless it is true. If the person in question was engaged then certain other enquiries need to be made to make sure that the other party to the engagement has not made any contribution to the property which might create an interest therein which could have priority to the Purchaser or Mortgagee. The other party should furnish a Declaration stating that the agreement to marry has not terminated and, if it be the case, has not made any contribution which might create an interest. If such other party has made a contribution, an acknowledgement would be necessary postponing any such interest in favour of the Mortgagee. In such a case it would be advisable to have such other party retain independent advice. Obviously the Clause dealing with the Family Law Act would have to be retailored to suit the facts. The Committee emphasises that the key factor in relation to the Family Law Act is the question of contribution<sup>2</sup>.

## **FAMILY LAW ACT, 1981**

*Published in Law Society  
Newsletter, 1986. JC*

*1. Please note the new  
wording used in the current  
precedent Family Law  
Declarations at pages A1.3 to  
A1.26 hereof*

*2. Please note the  
clarification of Section 5(1)  
of the Family Law Act 1981  
provided by Section 48 of the  
Family Law Act, 1995*