



Prenuptial Agreements

With spring just around the corner, our gardens will start looking more colourful, the weather should start feeling a bit warmer and the British wedding season will kick off in earnest. In the UK we spend an estimated £10 billion on weddings each year (according to a survey of thousands of newlywed couples by hitched.co.uk). Newlyweds are the biggest spenders, typically parting with a little over £36,000, including everything from the engagement ring through to the honeymoon.

The accepted idea of a 'perfect wedding day' is constantly changing, and 'alternative' weddings are becoming increasingly popular.

With weddings no longer restricted to churches and registry offices, recent years have seen couples tying the knot in submarines, treehouses, whisky vaults and space museums!

And it's not just the choice of wedding venues that's becoming less 'traditional'. Recent years have seen a big change in couples' attitudes towards their finances. No longer just for celebrities, the number of couples adding 'get a prenuptial agreement' to their pre-wedding checklist is on the rise.

So regardless of whether you or loved ones are having a traditional white wedding, glamping it up at a wedding festival or eloping to Vegas, this newsletter should help you to figure out if a 'pre-nup' is right for you or your children/grandchildren.



What is a prenuptial agreement?

A premarital or prenuptial agreement (also known as a pre-nup) is a formal, written agreement between two partners prior to their marriage.

It sets out ownership of all their belongings (including money, assets and property) and explains how it will be divided in the event of the breakdown of their marriage.

Are pre-nups legally binding in the UK?

Following precedent set in the 2010 ground-breaking case of *Radmacher v. Granatino*, prenuptial agreements are heavy evidential weight within the UK Family Court, unless considered to be unfair.

The case involved German heiress Katrin Radmacher and French investment banker Nicolas Granatino, who married in the UK in 1998. To help Radmacher protect her £106m fortune in the event of a marriage breakdown, the couple signed a prenuptial agreement which stated neither party would benefit financially if the marriage ended.

When the Judges found in favour of Radmacher, it was the first time that prenuptial agreements were recognised as enforceable under British divorce law.

However, while British courts recognise prenuptial agreements, they also still have the discretion to waive any pre- or postnuptial agreement, especially if it's deemed to be unfair to any children of the marriage.

Why get a prenuptial agreement?

Money can be an extremely emotive topic in a relationship, especially if you have different attitudes towards spending and saving. A prenuptial agreement provides a clear agreement that can lead to peace of mind for both parties.

You might think about getting a prenuptial agreement for the following reasons:

- There are assets and/or property that would be hard to split 50/50.
- You, and/or your partner, have children from a previous relationship and want to ensure certain assets are reserved for them and protect their inheritance rights. (It is also crucial to make a Will for the same reason).
- You want to protect inherited money or assets.
- You want to safeguard substantial savings or expected future inheritance.
- You want some say in how financial issues would be resolved in the event of a marriage breakdown (especially if you've suffered unfairness in divorce courts previously).
- Either party own a business over which they would like to retain control.

If your partner has outstanding debt, a prenuptial agreement with a 'debt clause' can protect you from being liable for that debt.



PRENUPTIAL AGREEMENT
BE IT KNOWN, this Agreement is entered into on
_____, 20____, by and between _____ ("Prospective Husband")
and _____ ("Prospective Wife") (collectively, the "Parties").
WHEREAS, the Parties contemplate legal marriage, and it is their mutual desire
to enter into a marriage and control their own property and interests by

What should be included in a prenuptial agreement?

Every prenuptial agreement is tailored to a couple's particular circumstances. However, it will usually contain an inventory of each partner's assets, and details of how they are to be dealt with in the event of a marriage breakdown.

It may also set out post-divorce financial arrangements for children, particularly in marriages where one or both partners already have children from previous relationships.

Courts will pay particular attention to any matters relating to children, and are unlikely to support any terms in the agreement that are deemed to be harmful to the interests of a child.

What happens to the assets if a marriage with no pre-nup ends in divorce?

In the UK, the court sees the couple's respective roles as "economic provider and child carer/homemaker as of equal value to the welfare of the family".

This means that without a pre-nup, the starting point for the division of property and assets will generally be equality of assets between both parties.

While this is generally the fairest distribution of a couple's assets, if any of the reasons for getting a pre-nup outlined above apply to you and your partner, then a 50/50 split may feel unjust.

Pre-Nup checklist

There are a number of factors that need to be in place when you enter into a prenuptial agreement. This is because, when considering if the agreement is fair and should be upheld, the court will look at things such as whether both parties understood it properly and if they had enough time to review it before signing.

Here is a simple checklist to help your prenuptial agreement have the best chance of being upheld in divorce court:

- To comply with UK law, the pre-nup must be drawn up by a qualified solicitor.
- Both parties must have separate solicitors to avoid any claim of conflict of interest.
- Both parties must fully understand the agreement and voluntarily agree to it.
- Both solicitors must confirm it was entered into freely and knowingly.
- The prenuptial agreement should be signed at least 21 days before the marriage.
- All assets and property must be fully disclosed by both parties.

Market data

Market	Value at start of 2019	Current situation	Comments
Interest Rates (BOE base rate)	0.75%	0.75% at 28/02/19	The official bank rate is 0.75%.
House Prices (Nationwide)	House prices increased by 2.5% in 2018	House prices up by 0.4% at 28/02/19	After a slow start in January, prices rose by 0.4% in February.
UK Share Prices (FTSE 100)	7142.83	7074.73 at the close on 28/02/19	The FTSE 100 continues to increase steadily.

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