

# Are Prenuptial Agreements legally binding?

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Prenuptial agreements are an increasingly popular option for UK couples. Whilst no one enters a marriage expecting to separate, more and more pragmatic spouses are choosing to enter prenuptial agreements (sometimes known as 'prenups').

In doing so, they hope to reduce the risk of an acrimonious or protracted divorce should they ever separate. But what is a prenup and why would you need one?

In the UK, a prenuptial agreement (or prenup) is a legal agreement that sets out how assets should be divided between a couple in the event of a divorce.

This legal contract is entered into before marriage. It sets out a couple's rights regarding property, income, debt and other assets acquired individually (such as inheritance) or together (such as joint purchases).

The intention of a prenuptial agreement is to provide clarity and certainty around the arrangements in the event of a breakdown of a marriage, to save the uncertainty, time and stress of arguing about the finances at a later stage. Most commonly a prenuptial agreement is used to protect particular assets so that they can be ring-fenced and prevented from being shared.

A common question is 'are prenuptial agreements enforceable in the UK?', or to put it more accurately, 'are prenuptial agreements legally binding in the UK?'.

A prenup in UK law is not automatically legally binding but will be upheld by a court so long as it meets the qualifying criteria, which have been set by the Supreme Court and further reviewed by the Law Commission:

- The agreement must be freely entered into.
- Both parties must understand the implications of the agreement.
- The agreement must be fair.
- The agreement must be contractually valid.
- The agreement must have been made at least 28 days before the wedding.
- There should be disclosure about the wider financial circumstances.
- Both parties must have received legal advice.
- It should not prejudice any children
- Both parties' needs must be met

Prenuptial agreements aren't suitable for everyone. They are particularly used when one half of the couple has, or is likely to have, significantly more assets than the other. This may be the case for people who have a large inheritance, or are land owners, business owners, or people marrying in later life or after a previous marriage.

A prenup must be signed before marriage. When a couple have already married but still want some protection, they can have a postnuptial agreement instead. This has the same legal treatment as a prenuptial agreement – the only difference is the timing of it.

If you would like any further information regarding the above or would like to book an appointment to discuss the same, please do not hesitate to contact the Family Law Department on 01384371622 or email [post@wjclaw.co.uk](mailto:post@wjclaw.co.uk) and we will be more than happy to assist you.

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