

UK-FAMwed01

Prenuptial agreement

This deed is dated []

It is made between:

[Name 1] []

and

[Name 2] []

Background:

The parties intend to enter into marriage or a civil partnership shortly. Before they do so, they intend by this deed to make irrevocable arrangements in respect of their financial affairs.

It is now agreed:

1. Definitions

These definitions apply in this agreement:

"Capital" means the value of Total Assets.

"Child / Children" means a Child or Children of

"Financial Assets" means shares, financial investments, pension rights, other rights, intellectual property and all other intangible things. It includes

"Home" means the Property which the parties consider to

"Marriage" includes civil partnership and any comparable union recognised by the law of the United Kingdom. "

"Property" means real property - land and buildings.

"Possessions" means personal property and goods.

"Family Company" means a company limited by shares, in which a party to this agreement owns at [40] %

"Separation"	means any legal termination of the relationship, whether by divorce, judicial separation or any other process recognised in
"Sum Due"	means the sum due by the richer party to the
"Total Assets"	means all Property, Financial Assets and Possessions.
"Total Income"	means the average income, after payment of tax, as declared in a tax return, over

2. Interpretation and basis of agreement

This agreement shall be interpreted as

- 2.1. This is intended to be a contractual document to record arrangements made both during the Marriage and after Separation. However, no cause of action shall lie for a breach of this agreement until after the parties have separated
- 2.2. A reference to one gender shall include any or all genders and a reference to the singular may be interpreted
- 2.3. A reference to a paragraph or schedule is to a paragraph or schedule to this agreement unless the context
- 2.4. The headings to the paragraphs and schedules (if any) to this agreement are inserted
- 2.5. A reference to the knowledge, information, belief or awareness of any person shall be deemed to include the knowledge, information,
- 2.6. This Agreement and its schedules / attachments are to be taken together so as to give effect to all of them as far as possible with each

document helping to interpret the others. But if there is any conflict or

- 2.7. This agreement is made only in the English language. If there is any conflict in meaning between the English language version of this agreement and any version or translation of this agreement in any other language, the English language version shall prevail. If a version of this agreement

3. Effective dates

- 3.1. This agreement is conditional upon the marriage or civil partnership taking 28
- 3.2. The provisions of this agreement shall apply from the date of marriage or civil partnership and shall continue

4. Considered and true intention

- 4.1. Each of the parties has made this deed with the intention of being bound by
- 4.2. Each of the parties states that he/she enters into this agreement of his/her own free

5. Entire agreement

- 5.1. This agreement contains the entire agreement between the parties and supersedes all
- 5.2. Each party acknowledges that, in entering into this agreement, he does not rely on any representation, warranty, information

5.3. As an exception to the last previous sub paragraph, the parties do rely

:

[Enter list of other docs and dates

]

6. Arrangements for the Home

6.1. The arrangements in this paragraph shall be effective

:

6.1.1 immediately;

6.1.2 *[date]* *[provided we*

];

6.1.3 the date when we buy a Home together;

6.2. We agree that we shall or do hold the beneficial interest in the Home as tenants in common in equal shares and if the form of transfer of the Home to us already provides for ownership by us as beneficial joint tenants, then this agreement now serves as notice from

,

.

OR

6.3. We agree that we shall hold the beneficial interest in the Home as tenants in common in the proportions in which we have contributed to the

.

OR

6.4. If the Home is now owned exclusively by one of us, that one now declares that from today, he holds it on trust for both of us in equal shares and that we each have all the rights

50 %

- . [

].

OR

6.5. *[Enter name]* is the sole beneficial owner of the Home and *[name]* will not acquire any

.

7. Separate Property and Possessions

- 7.1. The Property of each party is listed and valued
- 7.2. The values given to each item of Property are approximate estimates made by the
- 7.3. All Property listed in Schedule one or Schedule two shall remain the Property of the owner alone. Any income or
- 7.4. So far as either party inherits money or Property or given any gift, that money
- 7.5. Neither party will interfere in any way with the Property of the other, nor deny the right of the owner to it, nor represent to

AND / OR

8. Separate ownership of Total Assets

Each of us shall remain sole owner of our respective Total Assets and the other of us may not interfere with our ownership by

9. Personal property

- 9.1. "Personal property" means all loose physical property of any sort, such as cutlery,
- 9.2. Personal property owned by one party before today / before the parties first started to live
- 9.3. Except to the extent that he may have made gifts to the other of them, each party shall remain the sole owner of all Property which now belongs to
- 9.4. Each party shall continue at all times to have the full right and authority, in all respects as if he had not married, to use, sell, enjoy, manage,

give

9.5. Attached to this agreement are two lists: one list for each of us

9.6. Personal property acquired by either of us after the date of this agreement shall continue to

[/
/

].

9.7. Personal property acquired jointly by

10. Banking and cash arrangements

10.1. We will maintain a joint bank or building society account ("The Joint Account"). We will pay

[]

[]

10.2. The money in the Joint Account shall belong to us

10.3. Any money in any bank or

11. Living expenses

11.1. "Living expenses" means:

11.1.1 maintenance of

;

11.1.2 mortgage payments or rent;

11.1.3 other agreed joint financial obligations;

11.1.4 household insurance and maintenance;

13. Children arrangements now

If and when

13.1. We accept that we have a full and joint responsibility for

13.2. We shall share legal custody

13.3. We agree that our Children shall be [/ / / /]

OR

13.4. We agree that our Children shall be brought

13.5. Neither of us may take any Child out of the United Kingdom without the

The following provisions apply specifically

14. Each shall keep own Total Assets

Except as otherwise specified below,

[Below is a]

15. Our Home

15.1. If, at the date of Separation, the Home is

15.2. Neither party shall claim to remain

OR

15.3. The parties agree that from the date of Separation, they shall hold the beneficial interest in the Home in the proportions in which they have

(
).

OR

15.4. [name] is the sole beneficial owner of the Home and regardless of any contribution

[], []

15.5. The Home will be sold and

OR

15.6. The lease on

15.7. If we Separate, either we shall agree a sale between ourselves, one to the other, or we shall sell in the open market. If a

, []
[5 %].
[]% [] ,

15.8. [Enter name] is the sole beneficial owner of the Home. Upon a sale, he / she []

[] , [] .

16. Children arrangements after Separation

We accept that if any Child or Children is born to both of us,

16.1. The above provision preventing either of us

16.2. The Children

OR

16.3. The Children will live

16.4. We shall

;

16.5. The Home shall not

OR

16.6. The Home shall be sold within [six] months of the date of , [] %

16.7. If reasonably possible, all Children shall live in the same

[12],

[6] ;

16.8. There shall be no presumption that

[]

]

;

16.9. If [name] gives up work to have and subsequently care for ,

[18] .

16.10. [her name] shall find employment or

[].

16.11. The parties irrevocably agree to accept joint care and custody of our Children and that

17. Financial support of Children

17.1. [name 1] shall pay to [name 2] a monthly sum equal
[25 %] /

]

£ [

17.2. The cost of maintaining the

17.3. The amount of money payable by

17.4. Maintenance payments shall be made for

[18 / 21] .

18. Maintenance of wife / husband / partner

In the , :

All of this paragraph is a menu

18.1. The provisions in this

18.2. Neither party shall have any claim against the other for

OR

18.3. The prospective Total Income of each party shall

18.3.1 the extent to which future income is secure;

18.3.2 how far the amount

18.3.3 how far and for how long, one

18.3.4 If [name] has day to day care

[3],

18.4. If a party has not worked in the last preceding three years to the full extent / ,

18.5. Each party is deemed to be capable of earning a salary commensurate / ,

18.6. So far as concerns Total Income, the Total Income of each party shall be calculated and if the

[20] %

18.7. If the Total Income of the richer party exceeds the Total Income of the poorer [20] %,

/

18.8. Maintenance payments shall be paid monthly by any

18.9. Maintenance payments shall be increased each year by

18.10. Maintenance payments shall cease if

18.11. Maintenance payments shall cease [5]

18.12. Maintenance payments shall be reduced on a graduated basis starting
[number]

[20 %]

[]

18.13. Maintenance payments shall not be

18.14. After seven years maintenance

[]

18.15. If at any time, the party paying maintenance can

/

[20] %,

18.16.

[]

19. Family Company of one party

19.1.

,

,

[100 %]

19.2.

,

,

19.3.

19.3.1

19.3.2

19.3.3 the net asset value of the company;

19.3.4 []

20. Family Company of both parties

20.1.

20.2.

20.3.

20.4. []

20.5. [] / / ,
[] / , [12]
[] /

20.6. : []
].

21. Capital payment by one party to the other

21.1. []

21.2.

21.3.

21.4.

21.5.

[50 %]

21.6.

[50 %],

21.7.

[]

:

Duration of marriage	% of difference to be transferred
Under five years	05
Five to ten years	10
Ten to fifteen years	15
Fifteen to twenty years	20
Over twenty years	25

21.8.

21.9.

22. Confidential information

22.1.

22.2.

23. Death of a party

23.1.

23.2.

23.3.

23.4.

23.5.

24. Miscellaneous matters

24.1. () -

) 1999 , (.

24.2.

24.3.

24.4.

- ,

,

24.5.

24.6.

,

,

,

24.7.

,

24.8.

,

24.9.

, [/ /]
[/ /].

25. Statement of understanding

, []
- -]

Signed

, []
[- -]

Signed:

Signed as a deed by [\[name\]](#)

Signature:

Witness: Name:

Address:

Signed as a deed by [\[name\]](#)

Signature:

Witness: Name:

Address:

Schedule 1 List of assets of Mr [name]

Schedule 2 List of assets of Ms [Name]

Explanatory Notes:

Prenuptial agreement

General notes

1. What this document sets out to achieve

As you will be aware, at the date of drafting, there is no certainty as to whether or when a pre-nuptial agreement will become binding in law. It is our opinion that it will become binding, but only subject to provisions as to its making and to specific rules as to fairness.

The main point that a judge will take into account will be fairness. That does not mean equality of money or lifestyle. It means what any

The second point is that no matter what, the court will always retain the right to make provision for children if the provisions you have made

Remember above all that you may have no need of this document, even if you separate. Even if you were to need to rely on it, there will be no reason why you should not settle some or

2. Working out what to put in this document

No two people have the same joint circumstances as any other couple. We have prepared this document as the basis - a framework if you like - for a sensible deal. It is totally flexible. You can change the terms as you wish. However, we strongly advise that you first “play” with different scenarios and different sets of figures. You can use

Consider what might happen under circumstances of complete change: financial disaster, critically sick child, pension loss, and also large inheritance, fast

The purpose of an agreement such as this is as much to remind the parties what should be in it as to cement their rights in the event of issues arising. It is therefore important to take a dismal and pessimistic view at

Finally, do check carefully the remaining

3. Witnesses, duress and challenges

Most pre-nuptial agreements are carried out exactly as intended. Only a tiny minority challenge an agreement. You need legal aid or a deep pocket to do so.

4. Future compliance

To comply with any proposed new law:

- 4.1. this document must be signed as a deed. That means you need a witness; nothing more. The witness is merely the name of a person who sees
- 4.2. both of you should have taken independent legal advice - though that would be difficult to verify after the passing of years. However, to be safe, see a solicitor. Use this document as your
- 4.3. you will have to be able to show that there was no coercion in the
- 4.4. it must have been signed no more than 28 days before you marry or

5. If you should die

On death, the panoply of law takes over. Representatives and trustees will be appointed and assets will be distributed according to the law, not according to this document. It is therefore most important that the parties use this occasion to make a will,

6. Openness is critical

We cannot over emphasize the importance of openness in setting out assets at this time - right now. At divorce, any judge will take the view that the paying party is likely to have failed fully to disclose an asset. Value is less important than listing. So remember to include that dormant company, or a tiny pension from a former employer,

Consider carefully where liability to tax might fall. Today, a transfer of value under an order of the Court is not a taxable transfer for CGT purposes, and any transfer between former spouses as part of a divorce settlement

However, a transfer of assets to comply with this provision might cause more problems than it solves. If it is essential that shares are sold to a cousin and not transferred between you, tax may be very relevant. We are not tax experts and we know nothing of

Paragraph specific notes:

1. Definitions

Change any definition if you wish. It is best to complete your agreement then to return to the beginning and check carefully to be sure that each defined

2. Interpretation and basis of agreement

Consider the first sub-paragraph carefully. It means that if you want to claim in court, you have to be able to say the marriage is at an end. It also means that if the marriage does end. You cannot bring up dead

3. Effective dates

We strongly advise you not to change

4. Considered and true intention

This provision is to strengthen your claim to a judge,

5. Entire agreement

Leave in place.

6. Arrangements for the Home

Even if you rent, you may buy a

We have provided a number of alternatives for home ownership and division. The first thing to consider is the basic legal proposition

() ,
, .
The "trust" may be for them as tenants in common or joint tenants. The difference is as follows: when a joint tenant dies, his share passes automatically to the other joint tenant with no "legal" .

Tenants in common can own property in any shares they like.

Whenever two or more people jointly own property there is a legal presumption that any owner can demand a .

If you own a house now, this is your opportunity to decide what happens if one of you

7. Separate Property and possessions

It is very important that the property of each of you is listed accurately and completely.

This and the next two paragraphs provide ideas for you to follow or .

8. Separate ownership of Total Assets

We have placed this as a separate paragraph because it is an alternative to the 7 9 .

9. Personal property

This is a simple way to record who owns what. Include only those items where an ,

10. Banking and cash arrangements

Remember that if you are named on a banking agreement you are jointly liable.

11. Living expenses

A menu of alternatives -

12. Finance and borrowing arrangements

Common sense provisions, so

13. Children arrangements now

You may have children unexpectedly, so we advise that you consider this paragraph on the basis that children do "arrive". The Law with regard to the welfare of children has not yet caught up with the fact that many people have children without marrying. As a result,

The following provisions apply specifically from the date

14. Each shall keep own Total Assets

Do not touch or move this important provision.

15. Our Home

We have provided several alternatives for home ownership and division. The first thing to consider is the basic legal proposition that where land (real property) is held by two or more people, technically, they hold as trustees. They are usually trustees for themselves. The "trust" may be for them as tenants in common or joint tenants.

You are bound by real property law, so we have given you alternatives open to you. You select. Remember that, in law, a joint owner of

16. Children arrangements after Separation

More important points. Choose from this

You will probably agree that if any problem were to arise, the local authority and the court will be interfering in your children's lives before you can say "Net Lawman". It is therefore very much in the best

17. Financial support of Children

This is a provision the court will look

18. Maintenance of wife / husband / partner

The word "maintenance" has connotations of court and

We hesitated to include this provision because it is now unusual for the appropriate order

Most divorce settlements now provide for a capital sum to replace an entitlement to maintenance. A

" ?"

Other problems to discuss are: what happens to the income of the mother ?

?

?

Remember to provide how

19. Family Company of one party

We think this is the right provision when a couple first

Judges find it difficult enough to decide what is fair at the time of a divorce,

In our experience this is an emotive area which can cause enormous anguish at divorce. In the writer's opinion the problem

Reference may be made to a specific business or company when arrangements are under consideration.

20. Family Company of both parties

We

21. Capital payment by one party to the other

We have provided a simple framework. You decide what

22. Confidential information

A confidentiality provision is rare in a family law document.

23. Death of a party

Most importantly,

On the death of a party to an agreement like

()
1975

In any event, either

This paragraph is a series of

24. Miscellaneous matters

A number of

Some are relevant to particular paragraphs in

These are just as valid in

Dispute resolution

There are many ways to settle a dispute. But an action in court is the least desirable because it takes a long time

”
.

25. Statement of understanding

This is important to demonstrate that

,

Execution As you see, this document

Schedule 1 []

Schedule 2 []