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Money

For richer, for poorer: the rise of break-up financial planning

The Guide The death of romance, or prudent provision? **Mark Bridge** examines the pros and cons of the prenup

The prenuptial agreement has long been the norm not only in Hollywood, but also in much of continental Europe. Now more couples in Britain, are drawing up these documents before they tie the knot.

Matrimonial lawyers report that the prenup is becoming particularly popular among one group: farmers. The aim is to prevent the sale of acreage that could leave a large farm unviable in the event of a divorce. The prenup began to gain popularity after the highly publicised divorce of Katrin Radmacher, the £100 million German heiress. In 2010 the UK Supreme Court ruled that decisive weight should be given to the agreement signed by Nicolas Granatino, her former husband, before they married that he would make no claims on her fortune.

The size of settlements being given to wives in the courts has also made more spouses willing to consider this unromantic but increasingly effective means of safeguarding the assets of the richer partner.

Michael Drake, a partner at Collyer Bristow, the solicitors, says: "The divorce courts are not a good place to be if you are the wealthier party. Prenups are much more legally effective now and we are seeing a great deal more interest in them."

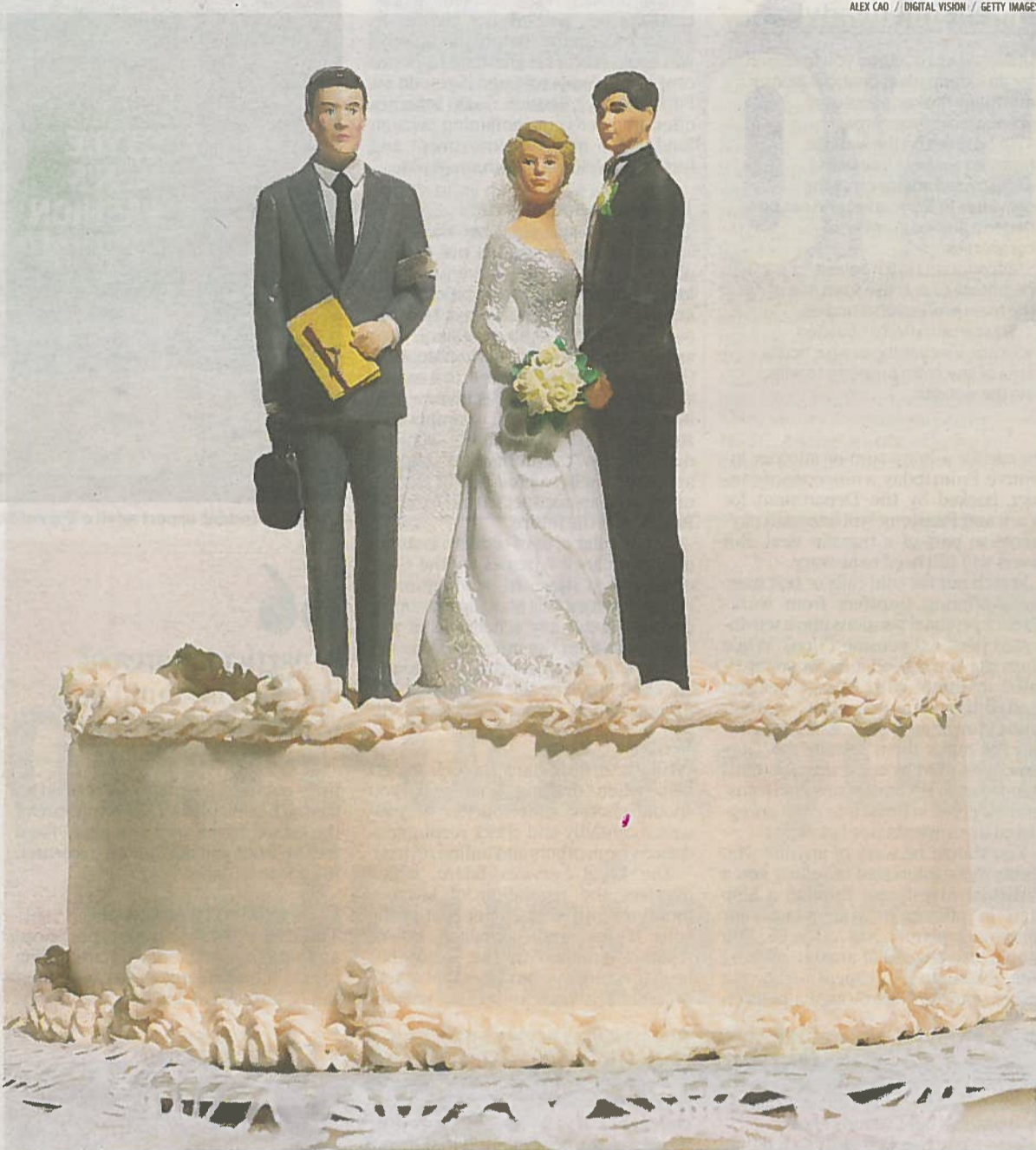
So, should the prenup — the document must be signed at least 21 days before the wedding — be the next step after the engagement party? We answer your questions.

What are prenups?

A prenup is an agreement made by a couple before their marriage or civil partnership that sets out how their assets will be split in the event of divorce or dissolution.

A postnup is the same species of agreement, made after the marriage or civil partnership.

The agreements are not binding under UK law, but experts say that, after the Radmacher decision, courts will go along with them, provided they are considered fair. The Law Commis-



Prenuptial agreements may not be romantic but can prevent the stress of a later legal battle and provide peace of mind

sion is consulting on making prenups binding.

Who should consider one?

Solicitors say that most couples signing prenups are highly affluent but an increasing number of ordinary people

whose biggest asset is the family home are also seeking the reassurance that a prenup seems to provide. Mr Drake says that many of the trickiest disputes are between warring spouses of modest means where the value of the small number of asset matters more. There is

also an unsurprising trend for people who have already been through messy divorces to get a prenup. Parents may pay for a prenup if they are going to use their own precious savings to buy a property for their child or if that child stands to inherit a large sum.

What happens to assets without one?

If you divorce without a prenup, you can hope to agree an amicable settlement with your spouse. Failing that, you can apply for a financial order (or "ancillary relief"), which is intended to provide a fair split of assets. The courts will first look to meet the needs of both parties and those of any children. After that, they will generally be sympathetic to each spouse keeping hold of property acquired before the marriage and any inheritances. The remainder will tend to be split approximately 50:50.

What are the advantages of a prenup?

One in three UK marriages breaks down by the fifteenth anniversary, and divorce can be lucrative for both lawyers and some ex-wives. Even investment firms are getting in on the act — there is now a fund that lends up to £250,000 to cover upfront legal costs for spouses short of cash but in line for big payouts. A prenup can prevent the stress of a later legal battle and provide peace of mind on particular concerns.

Prenups can be used to ring-fence specific assets, such as a house or family business, and to state general principles; for instance, that the parties will each keep their pre-existing assets and split those acquired during the marriage.

What are the downsides?

Prenups are not cheap, costing several thousand pounds at least. Mr Drake says: "Some prenups will provide for the arrival of children, but many will include a provision for a review if and when this happens."

But prenups cannot provide a silver bullet. For example, a man could not use one to keep his business intact if that means leaving his wife of 20 years without proper provision.

What should you factor in?

Stala Charalambous, a partner and head of family law at Silverman Sherlikier, the City law firm, says that for a prenup to be upheld, both parties must provide full disclosure of their financial position and receive independent legal advice, and the agreement must be fair and entered without coercion.

Mr Drake adds that the process will be easiest (and cheapest) where couples have worked out at the outset an outline with which they are both happy.

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