



Family Law

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The term 'Pre-nup' stands for 'prenuptial agreement' and is also called a Domestic Contract, which can be a marriage or cohabitation agreement. The agreement sets out the rights and responsibilities of each party while they are together and after separation, including who keeps what and whether spousal support will be paid. Most commonly, people with significant assets or entering a second marriage, or marrying later in life, elect to complete such an agreement.

A pre-nuptial agreement is considered a contract under the law, and as such it needs to follow the rules and laws in order to be legally binding. The courts will typically honour the contract if it has been drawn up properly, is as fair as possible to both parties,

and the contract wasn't signed under duress. Enforceable contracts have to be based on complete and open disclosure so both parties must reveal all of their assets and their debts. Each person requires Independent Legal Advice, which helps lessen the risk of the contract being challenged later by either party claiming that they didn't understand the agreement.

There are certain obligations that you cannot contract out of, such as child support. You also cannot contract for things like sex, remaining childless, and future determination of custody or access.

The best time to complete a marriage contract is well before the proposed marriage date, not on the eve of the wedding.

Your friends at Shank Law.



Heather J. McKnight
LAWYER

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What is a 'Pre-Nup' and Do I Need One?



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