



PRENUPS SIGNED *sealed* DELIVERED

You're madly in love but one of you is way richer. Could a prenup be the answer? Anna Tyzack investigates this new trend

Between dress fittings and hair appointments in the run-up to her wedding, Samantha Groves will be visiting her solicitor to sign a prenuptial agreement. The 25-year-old and her fiancé Adam Rice, 29, who live and work in Manchester, were inspired by an episode of *Sex and the City*. 'It was the one where Charlotte and Trey discuss prenups,' she says. 'Afterwards, Adam asked me what I thought about them and we decided to consider it. That was before he'd even proposed.'

Since getting engaged last November, Adam and Samantha have agreed to go ahead and sign a prenup before they marry in France in September 2012. 'My parents divorced and both remarried; it's been drummed into me that it's important to look after yourself and not be naïve about marriage,' says Samantha, who is a solicitor. 'Plus, Adam, an IT manager, earns considerably more than I do so it's important that he knows I'm with him for all the right reasons.'

Essentially a prenup is a written agreement entered into by a couple before their marriage to establish how they will divide their assets, or how their children will be provided for, if they divorce. Prenups are not uncommon in the US, particularly among wealthy celebrities. Hilary Duff and Mike Comrie are the latest in a long line of A-listers to sign on the dotted line, while Jessica Simpson stated she 'definitely wants' a prenup when she marries her fiancé Eric Johnson. Until recently, they were rarely enforced in British courts but that looks set to change. Thanks to a Supreme Court ruling in October 2010 (*Radmacher vs Granatino*), they now carry significant weight on the basis that couples should be free to arrange their financial affairs in a way they see fit.

'It's now only a matter of time before prenups become commonplace in Britain,' says Hannah Field, a family law solicitor at Russell-Cooke

in London (russell-cooke.co.uk). Indeed, a poll by the *Guardian* last year – before the landmark ruling – suggested that 62 per cent of British women would consider signing a prenup. 'Most women now have their own careers and assets that they've worked hard for,' says Hannah. 'It makes sense to protect that investment.'

But when the Harvey Nichols store in Manchester (harveynichols.com) began offering prenuptial advice along with the wedding-dress service last autumn, the response from brides-to-be was tepid. So far not one woman has taken them up on the advice service. This begs the question: are prenups ever going to become popular in Britain?

Let's face it, there's something decidedly wrong about the notion of planning your marriage and divorce at the same time. Bel Mooney, the *Daily Mail* commentator, asks: 'Isn't it the case that a prenuptial agreement exists only because one or both parties presume – or even expect – that the marriage will fail at some point?'

Sarah Blakelock, 30, a vice president at an investment bank from Truro in Cornwall, says she 'absolutely wouldn't' have considered signing a prenup when she got engaged to her husband Harry, a vice president at an insurance company, last year. 'Dividing up assets before you're even married makes me question if you're in it for the long haul,' she says. 'Plus, at this stage we don't have two pennies to rub together so there's no point.'

Prenups are most suitable for couples where one party is richer than the other, or has family wealth, either inherited or in trust. Katrin Radmacher, whose divorce prompted the change in the way courts view prenups, has liquid assets equivalent to £54 million along with further family company assets. When Samantha met her fiancé Adam, she was an impoverished student, while he had considerable savings. 'The →

prenup protects what we brought to the relationship. What we had before our marriage will return to its owner, but the proceeds of the house will be split 50/50. After our marriage, everything will be shared,' she says.

Prenups are also appropriate for those entering second or third marriages who want to protect assets for the benefit of children from their first marriage. 'A spouse merely hoping for a second bite of the cherry is now likely to be disappointed,' says Hannah Field.

But she advises anyone who wants financial certainty if their marriage broke down to consider a prenup. The unavoidable truth is that roughly one in three marriages ends in divorce; that's 140,000 marital break-ups each year. What's wrong with wanting to safeguard what you had before you married? 'If you've been paying a mortgage on a flat there's nothing wrong with wanting to protect that if it's what you came into the marriage with,' says Lisa Kemp, head of family law at Dennison Greer (dennisongreer.com), the solicitors working with Harvey Nichols in Manchester.

This is the view held by Becky Oldman, 30, a freelance copywriter from London, who got engaged in November 2010. 'While the idea of a prenup is not romantic per se, having something in place in case everything goes wrong seems reasonable,' she says. 'There may be a chance of having an amicable split without lawyers – so much better if we have children than ending up fighting for every last toothpick.'

It's never going to be an easy subject to discuss along with flowers and bridesmaid dresses. 'A lot of people will see our prenup as unromantic and I do understand that,' says Samantha. 'But it could be considered romantic that I'm with Adam for who he is and not for his money.'

Don't be surprised if your fiancé, initially at least, doesn't see it this way and instead takes great offence to you suggesting a prenup. But equally don't be afraid to ask. 'If your relationship is as strong as you think it is, you will be able to talk about this,' says Meredith Thompson, a solicitor with Mills & Reeve in London (mills-reeve.com). 'Bring it up when you're both sober. Ask your partner what they plan to do if things fall apart. And then together work out a way to divide what you've got. And if you're the one who wants a prenup, offer to foot the legal costs.'

It's important to remember, says Lisa, that signing a prenup doesn't imply there's anything wrong with your relationship. 'So far, all the prenups I've arranged have been signed by couples who are madly in love and fully committed to each other,' she says. 'They simply want to enter a new part of their relationship feeling totally secure about each other and without fear of the financial consequences.'

This is how Samantha regards her prenup and she's not going to let it spoil the more romantic aspects of her wedding. 'We want to get it out of the way as soon as possible and then hopefully it can be put to the back of the drawer forever. It's like an insurance policy.' **B**

MAKE IT LEGAL

A prenup is worth considering if:

- You're tying the knot for the second time and want to protect wealth for the children from your first marriage.
- You have family wealth that you are keen to safeguard.
- You have possessions or savings that you would like to remain in your name.

A prenup is less relevant if:

- You are childless and still saving for a deposit on your first home. Otherwise you may struggle to draft an agreement with so many unknowns stretching out before you.
- It's drafted before you have children. What appears 'fair' between you at the time of your nuptials may well change in the future – particularly if you have children. Courts are unlikely to uphold any agreement that fails to provide adequately for children.

How do you make it official?

- A prenup must be drafted by a family law solicitor if it is to carry full weight in court. You need to have entered it without undue influence or pressure, and both sides should seek independent legal advice and fully appreciate the implications.

What issues should you discuss?

- As well as finances, you can include child maintenance, who is going to have the pets and penalties for infidelity. The prenup could simply refer to one aspect: your inherited wealth or a sculpture you bought.

Will your prenup be completely binding?

- If your circumstances change between your wedding and your divorce, the court may decide it's unfair and not follow the prenup, or only follow certain parts of it.

When should you get a prenup?

- Talk to your future spouse about the prenup as soon as you can, though perhaps not just after the proposal! The contract should be signed at least three weeks before the wedding, so start the whole process at least six to eight weeks beforehand.

How much does a prenup cost?

- A prenuptial agreement costs anything from £500; the more complex your criteria, the longer it will take to put together and therefore the more expensive it will be. Make sure your lawyer gives you an estimate up front.*

FAMOUS PRENUPS

THOSE WHO DID

- Catherine Zeta-Jones is guaranteed \$2.8 million for every year of marriage to Michael Douglas, *below right*, plus a \$5 million bonus if he is caught cheating.
- Smart blonde Britney Spears made hubby Kevin Federline, *above right*, sign a prenup that reportedly awarded him less than \$1 million of her estimated \$120 million in assets when they divorced in 2006.
- Director Steven Spielberg thought he'd be safe as he signed a prenup before marrying Amy Irving in 1985. But reportedly a judge ruled it was invalid because it was written on a napkin, and she was awarded \$100 million following their divorce in 1989.



THOSE WHO DIDN'T

- Ellen DeGeneres and Portia de Rossi, *left*, married in 2008 without a prenup because Ellen, who's worth around \$65 million, considers prenups unromantic.
- When prenup-less Mel Gibson and Robyn Moore divorced in 2009, after 28 years of marriage, Robyn was eligible for half of Mel's estimated \$900 million.
- Reese Witherspoon and Ryan Phillippe didn't have a prenup and divorced in 2005. Reese, who made \$15 million–\$20 million a movie at the time, was reported to have split her wealth 50/50 with Ryan, who made about \$2.5 million per movie.
- Madonna and Guy Ritchie didn't have a prenup, despite Madonna's \$325 million (£205 million) estimated wealth. She allegedly paid Guy between £48 million and £60 million in the divorce.
- Paul McCartney chose not to get a prenup when he married Heather Mills – despite being urged by family. When they divorced she got £24.3 million.