

INTRODUCTION

The Family Law Team at Munro & Noble is housed within the Court Department and was established in 1984. Since then the team has gone from strength to strength and are now able to provide a wide range of advice and assistance within the field of Family Law.

PRENUPTIAL & POSTNUPTIAL AGREEMENTS

A prenuptial or ante-nuptial agreement is a document agreed by a couple prior to their marriage which affords couples the security and comfort of planning ahead. It will also help regulate matters in the worst-case scenario of separation and/or divorce/dissolution.



The whole idea of a "pre-nup" or "post-nup" can be a delicate issue which requires careful handling. We have experience in dealing with the subject in a sensitive manner.

Prenuptial agreements are becoming more and more common in Scotland. For those who wish to either:

1. Ring-fence certain assets to exclude them from being available for division; or
2. Make specific provision for the division of assets in the unfortunate event of separation or divorce."

SENSIBLE FINANCIAL PLANNING

Q. Why would you consider entering into such an agreement?

A. The main advantage of entering into an agreement such as this is that it affords you peace of mind. It also makes it clear at the outset how you have agreed arrangements and further, what would happen if things do not work out between you.

Prenuptial Agreements are particularly popular for clients with considerable assets and/or those wishing to protect assets established before the marriage or civil partnership. Others may wish to protect assets for their children of a previous marriage.

Q. What could I put into a prenuptial agreement?

A. The content depends upon your wishes and usually includes details on any aliment to be paid during or after the breakdown of the marriage, together with provisions for the subdivision of property. Furthermore, it is

becoming common for people to attempt to ring-fence certain property, or protect business assets, or assets which have been passed from generation to generation, or to make a specific provision for what one party should receive or identify a particular asset and provide for its transfer to one person.

It is understandable that people desire certain assets to be protected for their children of any previous marriage. You may also wish to include your wishes in terms of the rights of succession in the unfortunate event of your death.

Q. Are prenuptial agreements legally enforceable?

A. There is some conflicting law regarding prenuptial agreements. However, they are generally thought to be enforceable within Scotland, if they are carefully and accurately drafted.

There are a number of high profile English cases which suggest that prenuptial agreements are unenforceable and contrary to public policy.

However, the Scottish Courts have always been reluctant to interfere with an Agreement entered into between two adults of sound mind and it should be anticipated that whatever is contracted for, will be binding and enforceable.

MEET THE TEAM

Mary Nimmo (Senior Partner), leads our Court Department and brings extensive experience in litigation at both Sheriff Court and Court of Session level. She advises clients across a broad range of matters, including family law. Mary can provide clear, expert guidance on the preparation and negotiation of prenuptial agreements, combining her skills as an advanced Collaborative Lawyer with her strong litigation background. Whether you are seeking an amicable agreement or require more formal court involvement, Mary's practical and professional approach ensures you are in safe hands.

Sarah Windsor is a highly experienced solicitor with over fifteen years experience specialising exclusively in family law. Based between our Inverness and Dingwall offices, Sarah can expertly assist with the preparation of prenuptial agreements, ensuring your interests are protected as you enter into marriage. She approaches all matters with a focus on achieving amicable solutions but is also a skilled litigator should more formal court proceedings be necessary. With a strong track record across courts throughout the Highlands, Islands, and beyond, Sarah offers practical, clear advice tailored to your individual circumstances.

GET IN TOUCH

Here at Munro & Noble, we have an experienced team who are available to guide you and your family through the unexpected as well as the expected. We are here to help with all family matters and also to assist you in planning for the future.

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Published by Munro & Noble
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PRE-NUPTIAL AGREEMENTS



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