

BARKER GOTELEE

S O L I C I T O R S

Post-nuptial Agreements

Traditionally, agreements as to how assets are to be divided in the event of a divorce have been entered into before marriage. However, agreements entered into after the marriage ceremony has taken place are becoming increasingly important.

It has long been the case in the UK that financial agreements made prior to marriage will not, as a matter of course, be upheld by a Court, as they have traditionally been considered against public policy. However, in recent times the Court has shown an increasing willingness to consider carefully financial arrangements made by parties and, if fair and reasonable in all the circumstances arising at the time of the divorce, will ratify them. This is similarly the position with post-nuptial or post-marriage agreements.

The recent case of NA v MA illustrates how seriously a Court may be willing to take a financial agreement entered into after marriage. The parties were married for six years and had two small children. After an indiscretion by the wife the husband said that he would not continue the marriage unless the wife entered into a post-nuptial agreement giving her 7.5% of the marital assets in the event of divorce. Although the Court eventually, for reasons peculiar to that case, awarded the wife a greater share, it clearly stated that in each case where a post-nuptial agreement was in place it would consider carefully whether such an agreement could be upheld on divorce.

Post-nuptial agreements, provided they are properly thought out and entered into, may be a useful tool in a wealthy party's armory in the event of a divorce.



NICOLA FURMSTON qualified as a lawyer whilst working in London and has practiced in the field of family law for fifteen years, the last five of which have been spent in Suffolk. She is an expert in resolving all family and couple issues that arise on the breakdown of a relationship.

Nicola is also able to advise on pre- and post-nuptial agreements and financial planning to avoid the worst consequences of divorce. She is a qualified mediator.

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