

# Did you know?

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## MARRIAGE AGREEMENTS

"I love you dear, but please sign here." This used to be the kind of double message given in connection with marriage agreements. Today, marriage agreements are often being used in second marriages where expectations are more realistic. As well, people have usually accumulated more wealth and they are anxious to protect it. If there are children of the first marriage, couples want to protect those children's inheritance rights.

### What is a Marriage Agreement?

**It is a written document between two people who are already married, or planning to marry. Its purpose is to:**

- Clarify who will be responsible for managing family assets or other property while the marriage lasts.
- Sort out each party's rights and responsibilities if and when the marriage breaks up.

### Common terms you may find in an agreement:

- Each spouse may manage his or her own assets during the marriage.
- Each spouse's right to own the property they brought into the marriage and its increase in value during the marriage is protected.
- Each spouse is responsible for certain household chores.

**and that, on separation:**

- Who will have custody of the children.
- The amount of spousal and child support.
- What percentage of family assets (property) each spouse is entitled to.
- A release of further claims against each other's property.

### The court will not enforce

- Custody or guardianship provisions where the person entitled to custody on separation is not a fit parent.
- A contract to remain childless.
- A contract to end the marriage after a certain time period.
- Terms regarding household chores. A court will not force a spouse to do dishes or laundry, for example.

### An agreement may be set aside if

- It is signed under duress or force.
- It is so unfair that it "shocks the conscience of the court."
- Financial disclosure was so incomplete or misleading that the complaining party would not have signed it if the truth were known.
- One of the parties did not receive independent legal advice when they signed the agreement.