

Landmark reforms are being planned to enable couples to sign legally binding pre-nuptial agreements for the first time in Britain.

If the reforms - being planned by ministers - become law it is expected pre-nups will become commonplace in the UK as they are abroad. But the Government face a backlash from those who believe making it easier for couples to walk away from marriage will lead to a spike in the divorce rate. Any contract would allow engaged couples to protect wealth - houses, savings and other assets - if the marriage were to fail. Post-nup agreements would also be allowed, meaning inheritance gained during a marriage could be kept by one spouse, rather than split in half by a divorce settlement.

Ministers believe the reforms - being drawn up by the Ministry of Justice - are needed following a series of court battles.
German heiress Katrin Radmacher opened the way for the review after a court victory against her former husband Nicolas Granatino last October. He had tried to block the pre-nup the couple had signed before their marriage in London in 1998, which said neither husband nor wife would benefit from the property of the other in the event of a divorce. But the Supreme Court ordered the deal should be honoured, and backed an earlier legal decision to slash his divorce settlement from £5 million to £1 million.



Ministers have now asked the Law Commission to draw up detailed proposals that will form the basis of a new law. Increasing numbers of couples are choosing to sign them and changing the law would give the agreements official legal protection.

The Law Commission’s proposals will be published in the next few weeks, in a consultation covering pre- and post-nups.
The Government is free to ignore the recommendations, but it is thought ministers now believe that a new law is necessary. 'Ultimately, Parliament has to take a view because this is too important an issue,' one source told the London Evening Standard. 'There are only so many judgments that you can have. So we have asked the Law Commission to look at all the issues and produce some recommendations.'

Any legislation would be likely to allow a person entering a divorce to retain assets they owned prior to marriage, and which had been obtained without assistance from their spouse. But account would be taken of the need to support any children that the couple might have had.

Post-nup rules are expected to cover cases where a spouse gains a windfall their partner had no role in obtaining. Safeguards are likely to counter the risk that a spouse, most often a woman, might be pressured into signing away her rights, and to ensure that a non-working partner's contribution to a couple's wealth is recognised fully.

Currently, pre-nups are not legally binding in Britain, but can be taken to account by judges in certain cases. Most big London law firms offer a pre-nup, with the bill typically between £5,000 to £7,000.