



Extra Considerations for a Second Marriage

If you are heading down the aisle for a second marriage or perhaps contemplating remarrying in the future, there are some legal implications you should be aware of before saying the words “I do”. This article will provide you with an overview of some of the matters you need to consider before remarrying:

- It is a criminal offence in England and Wales to have two spouses at the same time; otherwise known as ‘bigamy’. You therefore must make sure that your first marriage has been ended by divorce. It is important to note that a marriage will only legally be dissolved by obtaining a final order (formerly decree absolute). Once the final order has been granted you will be free to remarry.
- The effect of a re-marriage can have serious implications on the financial claims you have against your former spouse. If you divorce and then remarry without first having made a claim for a financial order or resolved financial matters in the form of a legally binding order, then your ability to make certain financial claims against your former spouse will be lost. This is commonly known as the ‘remarriage trap’. Upon entering into a new marriage, you are no longer entitled to seek an order for spousal maintenance, property adjustments, or a lump sum in relation to the assets arising from your first marriage.
- Even when a financial order has been obtained from the Family Court in relation to your first marriage then, a second marriage for either you or your former spouse can still impact the terms of your previous financial settlement. The implications may differ depending on whether you are the payer or recipient of spousal maintenance or if any provisions in the financial settlement are triggered by a remarriage. You should therefore carefully check the terms of any financial order to see how a remarriage may affect you. Remarriage would not end any maintenance obligations in relation to a child from a previous marriage.
- Once married you may consider whether you and your new spouse should blend your financial resources or keep them separate. [Part one of our Marriage Checklist series](#) sets out the legal implications of getting married and the impact this has on assets such as joint bank accounts.
- Financial circumstances may be more complex in second marriages and in particular when it comes to pre-acquired assets and wealth. If you have already gone through a divorce you may be familiar with the associated stress and frustration of dividing your assets and understandably the protection of your assets may be a priority for you. To help ease these worries, you could consider obtaining a prenuptial agreement. The benefits of entering into a prenuptial agreement can be found detailed in [part two of our Marriage Checklist series](#).

- Remarriage will have an impact on your existing [Will](#) and therefore the distribution of your estate in the event of your death. On remarriage, your assets will automatically pass to your new spouse with any existing Will becoming void. If you have children from a previous marriage and wish for them to inherit from your estate upon your death then it is important that you create a new Will.

If you have any concerns about what the legal implications of remarriage could mean to you and your financial claims or assets, please give our Family Team a call on 01202 786153 or email online.enquiries@LA-law.com.