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# What it Means to Become a Spouse



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Popping the question and getting married is a huge step for any couple, and an extra ring on your finger isn't the only change a wedding will bring! The purpose of this article is to give you an overview of all the legal changes that will come with getting married.

## Common-law marriage?

There are many couples who do not want to take the next step and get married; they would rather stay as cohabitants. You may have even heard of the phrase 'common law marriage' suggesting that those who cohabit for a long time have similar rights and protections as a married couple. The reality is that no matter how long you cohabit, you cannot gain the same rights and protections as a married couple.

## Legal rights during marriage

- The phrase 'what's mine is yours and what's yours is mine' starts to ring true, and any asset acquired by either of you during the marriage may be treated as 'matrimonial property' should you separate.
- Before you were married, if you had a joint account with your partner, then a proportion of the balance would form part of your partner's estate were they to die. Following the wedding, the money would be seen as being held jointly and so it automatically belongs to the surviving spouse.
- Should your spouse die intestate (without leaving a will), you will inherit either all or some of the estate.
- Although you are taxed independently, you may be entitled to a £1,260 tax break known as the 'marriage tax allowance'. This allows you to transfer £1,260 of your personal allowance to your spouse if they earn more than you.
- As a married couple, if you are renting, you will both have the right to live in the 'matrimonial home', regardless of whose name the tenancy agreement is in. This also applies to owned property and you will also have the right to stay in the matrimonial home if you are the sole owner, joint owner or even

potentially if the house is in your spouse's sole name.

- If a child is born, both parents can have parental responsibility of that child, which means all the major decisions about their life, such as their health and schooling, will need to be made by both parents.

## Legal rights following separation

Many couples separate and obtain a divorce each year, with the number of divorces in England and Wales in 2020 totalling 103,592. One of the reasons some couples do not want to get married is because of the extra steps needed in order to separate following a marriage.

- Upon separation, you should obtain a divorce if you wish for your separation to be permanent. In addition to the divorce itself, you will also need to sort out your finances (even if you do not own any joint assets) to prevent future claims from being made by either of you. The divorce and financial process can be a lengthy process which means your separation may not be finalised for many months after you have made the decision to separate.
- As a spouse, you have a duty to support your other half. This means that if you are earning significantly more than your spouse, and you have supported them during the marriage, you may be required to continue this support by way of spousal maintenance.
- All of your assets, income and pensions will be considered during the divorce, including properties owned in your sole names. There may be some argument about whether an asset is considered a 'matrimonial asset', however, this will depend on the facts of the case.

## Prenuptial agreements

If you are thinking about getting married but want to give yourself some protection and certainty in case of a future divorce, you can consider obtaining a prenuptial agreement. The next article in our Marriage Checklist series will look at the benefits of prenuptial agreements in the UK and sets out a checklist of what to consider when entering into a prenuptial agreement.

If you have any concerns about what the legal implications of marriage will mean to you and your assets, please

give our [Family Team](#) a call on 01202 786153.