

# What you need to know before signing a Hong Kong prenuptial agreement

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It is a common assumption that premarital agreements in Hong Kong are entered into by everyone with significant assets. In fact, they are usually signed up in situations where one party has significantly higher wealth than the other. Often the party with the money simply will not marry for fear of divorce.

A premarital agreement can sometimes take the pressure off a relationship in these situations. By signing, the financially weaker party is showing that they are marrying for love, not money. The other party might consequently feel it will not be necessary to look over their shoulder about a potential divorce. The pressure and stress is reduced. The fact their partner is prepared to sign is reassuring.

An agreement can limit the potential for dispute in the event of divorce. It should spell out a key aim – in case of a breakdown of marriage, they do not wish to engage in litigation to resolve any disagreements.

Premarital agreements usually take two or three weeks to complete. Some will take months to negotiate. In any case, these agreements should never be done in a hurry. The initial contact usually comes from a parent of either the bride or groom. Occasionally, this happens even before the subject has been broached with the couple and I will be asked to assist in that process right from the start.

Careful and sensitive discussions follow, including a meeting with the couple together. Reassurance is given that they will both be receiving independent advice. Early on, it is important to establish that both parties are prepared for discussions on topics such as what the financial arrangements might be if there are children.

As an adviser, you monitor the process as the couple move forward. If there are any major signs of unhappiness about proceeding, the lawyer may need to bring discussions to a halt, because there must not be any duress. It may be many days before any document is drafted.

For families with assets and connections in different countries, it will be necessary to consult lawyers in different jurisdictions.

Unlike some that are drafted in the United States, agreements in Hong Kong will not deal with arrangements regarding life during the marriage. I've seen a number of Californian agreements which divide up the household chores – even setting down terms about who walks the dog.

It is important to start the negotiations early. Avoid signing up on the eve of the wedding.

The lawyers on both sides need to be able to work well together and be able to pick up the telephone and sort out any hitch, sensitively and constructively.

Romantic they may not be, but if they are diplomatically negotiated, premarital agreements do not automatically damage a marriage before it has started, as some people may think.

Most couples start out with the heartfelt hope and belief that their marriage will be successful and happy.

Given the high divorce rate in Hong Kong, many also realistically recognise that their optimistic hopes and beliefs might not be fulfilled – there is a risk that their marriage might break down.

Consequently, they see the sense in attempting through an agreement to limit the potential for disputes.

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