



Do You Need a Prenup?

A plain-English self-assessment for New Zealand couples: engaged, married, or moving in together. Twenty questions to work through with a cup of coffee, an honest guide to reading your answers, and a way to start the conversation that is kinder than you think.

What a prenup actually is

The day you marry, or reach three years living together, the law writes a property contract for you. Most couples never read it.

The proper name for reading it, and setting your own terms instead, is a **contracting out agreement**, made under section 21 of the Property (Relationships) Act 1976. The Act contains a default rule for couples: after a qualifying period, most property acquired during the relationship, and the family home, even if one of you owned it first, is shared equally if the relationship ends, whether by separation or death.

For many couples, equal sharing is exactly right. A contracting out agreement exists for the couples for whom it isn't: it replaces the Act's default with rules you choose yourselves, setting out what stays separate, what is shared, and what happens when life changes.

You don't need to be getting married. After about three years of living together, de facto couples are generally covered by the same equal-sharing law as married couples. Many people discover this only when the relationship ends. If you are moving in together and either of you owns property, this guide is already for you.

Deciding while you agree

A prenup conversation is not a plan to separate, any more than a will is a plan to die. It is two people deciding, while they are on good terms and thinking clearly, what should happen to what they have, instead of leaving those decisions to a statute written for everyone, applied at the worst possible time. Couples who have the conversation almost always describe it afterwards as easier than they feared, and clarifying for both sides.

How to use this guide

If you are reading this together already, work through the twenty questions in the self-assessment and tick every box that is true, or partly true, for either of you. Then turn to "Reading your answers, honestly" for what your ticks mean, including the possibility that you don't need an agreement at all. If you are reading this alone and wondering how to bring the subject up, the next page is written for you.

How to raise it with your partner

For most people the hard part is the moment of raising the subject, and the fear of what raising it might seem to say. So it is worth being clear about what an agreement actually is before you open your mouth.

A contracting out agreement is something you can only make together. The law requires both of you to sign, each with your own independent lawyer, each with the full picture. That makes it different from almost every protective step one person can take alone. Raising it is an invitation to decide something important jointly, while you are happy and thinking clearly, and a well-drafted agreement can protect the partner with less just as much as the partner with more.

On romance. Working out how you will handle money, houses, children and the unexpected is planning a life together. Couples who can have this conversation early tend to be the ones with the strongest foundations, because it proves they can handle hard subjects as a team. The genuinely unromantic option is the default one: leaving those decisions to a statute written in 1976, applied by strangers, at the hardest moment of your lives.

When to raise it

Early, and when nothing is forcing it. An agreement raised months before a wedding, a purchase, or a move is a conversation; the same agreement raised the week before is an ultimatum, and agreements signed under time pressure are among the most vulnerable to later challenge. The easiest openings are the milestone conversations you are already having: moving in together, buying a home, getting engaged, planning children, receiving family money.

Words that work

You do not need a speech. Couples who have this conversation well tend to open it simply:

- ☐ **“I found out the law already decides how our property is shared once we hit three years. I’d rather we decided ourselves. Can we look at it together?”**

This is the strongest opening because it is true: the question is never whether you have an agreement, only who wrote it.

- ☐ **“Mum and Dad are helping with the deposit, and I want to do that properly, for both of us.”**

Family money is often the least personal way in: documenting it protects the couple as much as the parents.



“I want us to sort the money questions now, while everything is easy, so we never have to sort them when things are hard.”

This names the real purpose: you are deciding while you are at your best, so the decisions never have to be made at the worst possible time.

What makes it go badly

Almost every prenup conversation that goes wrong goes wrong the same few ways. Arriving with a finished document your lawyer has already drafted, so your partner is reacting rather than deciding. Tying the agreement to a wedding date, so it feels like a condition. Framing everything around your assets, when the agreement should deal with both of your futures, including what happens to careers, children and the home. And treating your partner's questions as resistance: they are entitled to test it, and the law gives them their own lawyer for exactly that purpose. Their lawyer's scrutiny is what makes the final agreement solid, so welcome it.

If you are the one being asked

Being on the receiving end of this conversation can sting for a moment. Before it does, remember what the document is: rules you help write, in place of rules already written for you. You will have your own lawyer, whose only job is your interests, and the agreement can and should protect you too, including provision if you step back from work or if the relationship ends after many years. It is also common for the partner who raises the agreement to offer to cover the cost of the other's independent advice. Ask.

If the answer is “let me think about it”

That is a good answer. An agreement only works if both of you arrive at it willingly, and a partner who wants time to read, ask questions, and take advice is doing exactly what the law intends. Hand over this guide, agree to talk again in a few weeks, and let the timeline stay unhurried. Pressure is the one thing that reliably damages both the conversation and the agreement.

The self-assessment

A: WHAT YOU'RE EACH BRINGING IN

- ☐ **One of you owns a home or other property already.**
If it becomes the family home, the Act generally treats it as shared: ownership before the relationship does not protect it.
- ☐ **There is a significant gap in savings or KiwiSaver between you.**
KiwiSaver contributions made during the relationship are generally shared, whatever name the account is in.
- ☐ **Family money is helping with a deposit or purchase.**
Whether parents' money was a gift or a loan becomes a very different question years later. It should be documented now.
- ☐ **One of you expects a significant inheritance.**
Inheritances start as separate property but rarely stay that way once they are used within the relationship.

B: CHILDREN AND CAREERS

- ☐ **You plan to have children, and one of you may step back from work.**
Career breaks change earning power for decades. An agreement can decide now how those years are recognised.
- ☐ **There is a large difference in your incomes.**
“Each keeps their own” means something different when one of you earns three times what the other does.
- ☐ **One of you is supporting the other through study, retraining, or building a business.**
Today's support creates tomorrow's earning power, and the Act may not divide that the way you would expect.
- ☐ **Either of you has children from a previous relationship.**
Blended families are where relationship property law and inheritance expectations most often collide.

The self-assessment, continued

C: SECOND RELATIONSHIPS AND ESTATES

- ☐ **Either of you has been through a separation or divorce before.**
You already know what the Act's defaults feel like in practice, and whether you want them again.

- ☐ **You want certain assets to pass to your children rather than your partner.**
Without planning, the Act and your will can pull in opposite directions on exactly this point.

- ☐ **Either of you was widowed and holds assets from that earlier life.**
Those assets often carry intentions, and other people's expectations, that deserve to be recorded.

- ☐ **There is a meaningful age gap, or different retirement timelines.**
One partner retiring while the other works changes income, care, and estate questions all at once.

D: BUSINESS, TRUSTS AND DEBTS

- ☐ **Either of you owns a business, a farm, or shares in a company.**
Growth in a business during the relationship can be shared even where the business itself is separate.

- ☐ **There is a family trust anywhere in the picture.**
Trust assets are not automatically out of reach. The agreement, the trust and your conduct need to tell one story.

- ☐ **Either of you carries significant debts, or gives guarantees.**
Guarantees are invisible until called on, at which point they can consume assets you thought were protected.

- ☐ **You expect significant growth in what you own.**
An agreement drafted only for today's values ages quickly. Growth is exactly what careful drafting anticipates.

E: LIVES THAT CROSS BORDERS



Either of you owns assets overseas.

Different countries divide property differently, and not all of them will simply follow a New Zealand agreement.



You may live overseas during the relationship.

An agreement can be drafted with an eye to where it may one day need to work.



Either of you has married, or holds property, under another country's rules.

Earlier regimes and foreign marriages can follow you, better mapped now than discovered later.



Either of you is in New Zealand on a pathway that might change: residency, work, family.

Immigration plans and property plans are more connected than most couples realise.

Reading your answers, honestly

This is the part where a law firm's guide usually tells you that everyone needs its services. Here is the truth instead.

Few or no boxes ticked

You may not need a contracting out agreement. If you are starting out with broadly similar positions, no earlier families, no businesses or trusts, and you are comfortable with equal sharing, the Act's defaults may already match your intentions, and an agreement would simply restate them at a cost. For most couples in this position, wills and enduring powers of attorney matter far more, and we will tell you exactly that if you call.

Ticks clustered in one group

You have one live issue rather than a general need: a home owned before the relationship, say, or a single family trust. Sometimes that is solved by an agreement; sometimes by a simpler step, like documenting a parental loan properly. This is exactly what a short conversation can sort out before you spend anything.

Ticks across several groups

The Act's one-size default is unlikely to produce the outcomes you both intend, and the more moving parts your lives have, the more an agreement is worth its cost. Your answers are also, usefully, the exact agenda for the drafting conversation. Bring this guide with you.

A note on timing. A contracting out agreement is never urgent, until a wedding, a purchase, or a move suddenly makes it so. Agreements signed under time pressure are among the most vulnerable to later challenge, so the best time for this conversation is when nothing is forcing it. If you are reading this with a date already set, start the conversation now.

What to talk about together

Before either of you speaks to a lawyer, one honest evening's conversation will do more for your agreement than anything else. The seven topics below are the ones that decide whether an agreement keeps working over decades; they are distilled from our website series *Drafting for Today vs Drafting for the Life of the Agreement*. You do not need final answers to any of them. Agreeing on what you both want is your job as a couple; turning it into a document that holds is legal work, and each of you will have your own lawyer for that part.

☐ **1. What each of you is bringing in, and what should stay separate.**

Homes, savings, KiwiSaver, vehicles, family money, expected inheritances. Real numbers, both directions. Every agreement is built on full disclosure eventually, so honesty now simply gets you there first.

☐ **2. The home you will live in.**

If one of you owns it, the Act generally treats the family home as shared regardless. Decide what you both think is fair: it stays separate, it becomes shared gradually over the years, or the other partner builds a defined share. There is no single right answer, only the one you choose together.

☐ **3. Children and career breaks.**

If one of you steps back from work to raise children, those years change earning power for decades. Talk about how they should be recognised: a growing share of property, provision for the partner at home, or something else. This is the topic couples most often skip, and the one that matters most twenty years on.

☐ **4. Money day to day.**

What gets pooled, what stays individual, who pays for what, and what happens when separate money is spent on shared things. Separate property that is mixed with shared property tends to stop being separate. An agreement works best when it matches how you actually plan to run your accounts.

☐ **5. Death, wills and each other's families.**

What should happen if one of you dies first, especially where there are children from earlier relationships. An agreement and two wills that tell the same story protect everyone; documents that pull in opposite directions invite a dispute. Decide the intentions together, then each of you should have your own will checked against the agreement.

☐ **6. Growth and change.**

Businesses grow, houses are sold and replaced, windfalls arrive. Talk about what should happen to growth in something one of you brought in, because growth during the relationship can be shared even where the asset itself is separate. An agreement drafted only for today's values ages quickly.

☐ **7. Lives that may cross borders.**

Overseas assets, family abroad, a possible move. Different countries divide property differently, and an agreement drafted with an eye to where it may one day need to work is far cheaper than one repaired later.

What you do not need to decide

You do not need to know how the Act defines separate property, what section 21 requires, or how certification works. That is what the lawyers are for. If the two of you can answer, even roughly, what feels fair in each of the seven areas above, you have done the hard part. Everything after it is craft.

Coming prepared. Your ticked self-assessment plus your notes from this conversation are the exact agenda for the first meeting with a lawyer. Couples who arrive having talked these topics through spend less, decide faster, and end up with an agreement that actually reflects them. That preparation is also the answer to the romance question: the agreement simply records, while you are at your best, how you have chosen to look after each other.

If you do need one: what happens next

A brief, honest picture of the process, so there are no surprises.

It starts with a free 15-minute call

You tell us your situation; we tell you whether an agreement makes sense, what it involves, and the exact fixed fee, agreed before any work begins. Both sides get to confirm the fit. If you don't need an agreement, that is what we will say.

You will each need your own lawyer

The law requires it: for the agreement to be valid, each of you must receive independent legal advice, and each signature must be certified. This protects both of you: it means neither of you can later say you didn't understand what you signed. We act for one of you and will gladly suggest experienced practitioners for the other.

Honesty on paper

The agreement is built on full disclosure, each of you setting out what you own and owe. An agreement built on an incomplete picture protects no one.

Drafted for the life of the agreement

Our drafting philosophy is simple to state: an agreement should not just be valid on signing day: it should keep reflecting your intentions as your lives change. So we draft for the foreseeable future as well as the present: children and career changes, death and your wills, property being sold and replaced, businesses growing. It is why our agreements take longer and cost more than a minimal document, and why they are built to last decades rather than years. If you would like to see how a specialist thinks about this, our six-part series *Drafting for Today vs Drafting for the Life of the Agreement* is free on our website.

About PK Law

PK Law is an Auckland firm practising relationship property and private client law: contracting out agreements, separation agreements, wills, enduring powers of attorney, trusts and estates. Polina Kozlova, the firm's director, has spent ten years in this field and holds the STEP Advanced Diploma in Trusts and Estates and the STEP Advanced Certificate in Cross-Border Estates. Because we practise relationship property and estate planning together, your agreement and the wills that must work alongside it are drafted as one exercise. We draft these agreements on fixed fees, agreed before we start.

“Polina is an outstanding expert in relationship property. She identified all the potential risks and engaged in extensive negotiations with my partner's lawyer until we reached an agreement that truly worked in my favour. She anticipated every detail.”

OLGA, CONTRACTING OUT AGREEMENT

Not sure what your ticks add up to?

Start with a free 15-minute introduction call. You'll get an honest answer on whether you need an agreement, what it would involve, and the exact cost, and we both get to confirm we're the right fit. In an area of law this personal, that matters in both directions.

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This guide is general information about New Zealand law, current at August 2026. It is not legal advice, and completing the self-assessment does not create a lawyer-client relationship. The questions are prompts for reflection, not a legal determination of your position. Before acting on anything in this guide, take advice on your specific circumstances.