

The Legal effects of Marriage for the Woman

In Islam, Muslim men are given the position of authority in the household, as the provider of funds, and the wife's *qawwam* (protector and maintainer). The word 'guardian' is not a good translation, as it implies that the woman needs a person in authority over her, who is responsible for her and her decisions. In Islam, she is responsible to no-one except Allah, and if her husband expects her to do anything contrary to the known will of Allah, she is obliged to refuse him.

Allah, in the Qur'an, states: '*Men are the qawwam (protectors and maintainers) of women because Allah has made some of them to excel others, and because they support them from their means.*' (Surah 4:34).

Among other things, the newly married couple have a duty to maintain one another, to live together, and to share the same bed.

- **A new name?** On marriage, a woman may change her surname. This is only tradition, and there is no legal obligation upon her to do so, either in Islam or in UK law. She may retain her own name if she wishes. The normal social convention is to adopt the husband's name; if the wife does so, she is entitled to keep it even after he dies or if they divorce.

- **A new nationality?** No. Nationality is a political status of an individual, and this is not affected by marriage. A British national who marries a foreigner remains British.

- **A new domicile?** This is where a person has his permanent home or, if he is living abroad, where he intends to remain permanently. Residence is the place where a person happens to be living; a person can be resident in several countries at the same time, but can only have one domicile. At birth, a baby normally acquires its father's domicile, or the mother's if the father is dead. It is very difficult to change that before the child is sixteen, but thereafter the individual may choose. Although a wife may not acquire her husband's domicile on marriage, it is usually the case that she will live with him and plan to spend her life with him in his domicile. Thus she will normally acquire that new domicile.

- **A new passport?** The bride may obtain a new passport in her married name, and in practice often obtains one before the wedding takes place (if she is planning a foreign honeymoon), although she must agree to surrender it should the marriage be cancelled. An existing passport can be altered to her new name by sending it and the marriage certificate to the Passport Office. They will amend the passport to show her new name. The wife is not obliged to change her name. She may choose to continue with her existing passport until it expires. Then her new passport will give her married name, if she has chosen to adopt it and has not retained her original name.

- **A new bank account?** If the bride has adopted her husband's name, she should make sure that her bank changes her account name. The couple may consider opening a joint account, but it should be realised that if the marriage fails the money in it will quite likely be shared equally between the couple. If the wife is financially

dependent upon the husband, she would be advised to ask for a joint account, and vice versa.

- **A new home?** Married couples are obliged to live together and to give each other the benefit of their comfort and support; the legal phrase for this is '*consortium*'. However, the law regards either spouse as being free to leave if he/she wishes, but by doing so, that spouse will be in desertion and may be liable to be divorced and ordered to pay maintenance to the other. In practice, many women cannot just leave the home as they are financially dependent upon their husbands and need a home for themselves and their children.

Who chooses where to live? Normally, it is the need to be near the breadwinner's place of work that will decide the issue. In practice it is usually the man who has the final say, and if the wife refuses to move with him to a new workplace she may well be in desertion.

- **A new mortgage?** If a couple buy a house, it is advisable if it is in the name of both parties and fully insured – so that if one passes away, the house automatically becomes fully paid for, and remains in the name of the surviving spouse.

- **A new bedfellow?** By marrying, the couple agree to have sexual intimacy with each other. The concept of 'reasonableness' prevails in this matter, so, excessive demands for sex or a virtual refusal to have sex will be considered unreasonable and may justify a petition for divorce on the grounds of 'unreasonable behaviour'. It all depends on the circumstances. A refusal of sex by an invalid may be reasonable, but by a healthy virile person unreasonable. So also will be the insistence on always using contraceptives so that the couple will never have any children. If the marriage is never consummated, it may be annulled.

- **New in-laws?** Sometimes the new bride is expected to live with the bridegroom's parents, or vice versa. All Muslims concerned should think this through with kindness and compassion. Sometimes living with in-laws can cause enormous stresses and pressures, especially if there is not much room for everyone. It is not always a good idea for a new wife to be obliged to live in another woman's home, where she could feel little more than a servant. On the other hand, Muslims have duties to care for their parents. It is not compulsory, however, to live in the same house.

New Financial Effects of Marriage

Marriage may result in:

- **New tax arrangements.** There are different allowances for married persons, and the date of the marriage will affect that liability.

- **New entitlement to DHSS benefits.** The wife is normally eligible for national insurance widow's benefit and other benefits if her husband dies before her.

- **New inheritance rights.** If a married person dies without leaving a will, then most of his or her possessions will pass to the surviving spouse. If there is a will, but little or nothing is left to the spouse, the court can intervene and over-rule it. If a Muslim

couple wish to follow the *Shari'ah* guidelines for inheritance, then they should leave a will stating this, and their wishes will be upheld.

- **New credit rights.** A wife may be able to make her husband liable to pay some of the household bills she incurs. A good Muslim man should pay them anyway, as part of his duty.

- **New property rights.** Both husband and wife will be able to claim a share in their joint assets. Make sure the home is registered in the names of both husband and wife, and fully insured.

- **Maintenance.** In the UK both husband and wife are liable to maintain one another. In Islam, a wife is not obliged to maintain her husband, but occasionally circumstances are such that she ends up doing so. If this is done willingly and out of love, it is credited to her as *sadaqah*. It is becoming increasingly common in the UK for women to be the breadwinners, and men to become unemployed.

Marital Confidence and secrets

Most married people tell one another things they would not tell other people. If necessary, these marital confidences and secrets will be respected by the courts. Thus, in a criminal trial, the husband or wife of the accused cannot be called to give evidence for the prosecution, or compelled to give evidence for the defence. In civil cases, where spouses are subpoenaed to give evidence, the judge will excuse the spouse from answering questions if to do so would breach marital confidences.