

7. The case will then be studied by three judges, qualified canon lawyers who, in view of all the information gathered, and based on the laws of the Church, make a decision to declare or not to declare nullity.

8. You and your former spouse will be notified by mail of this decision, and given a specific time period to appeal (to formally object to) this decision.

9. Each case, whether or not one of the parties formally appeals the first decision, is forwarded to the Canadian Appeal Tribunal (Ottawa). The Canadian Appeal Tribunal reviews every Catholic marriage nullity case in Canada, and either confirms the first Tribunal's decision, or renders a contrary decision.

10. Both parties are notified, again by mail, of the decision of the Canadian Appeal Tribunal. If the first affirmative decision is confirmed, the process is complete, and the parties are no longer bound by the first marriage. **It is important to note** that, even when a Declaration of Nullity is granted, there is no automatic permission for either party to remarry. The Church, entrusted with upholding and protecting the dignity of marriage, must be reasonably certain that any new marriage in the Catholic Church will not suffer from the same cause or defect which rendered the first marriage invalid, or from some new cause of defect.

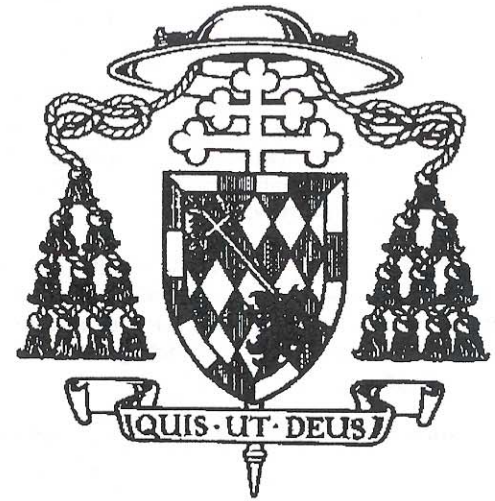


Christ the Lord calls upon the Church to be a community of healing and reconciliation. The legal procedures of the Church's Tribunals are based on the principle our faith community cares about those who suffer from broken marriages. It is our hope this pamphlet will have addressed some of your questions and concerns about marriage, declaration of nullity, and the role of the tribunal.

Anyone wishing to apply for a Declaration of Nullity, or wishing to inquire about their own marriage situation, is invited to call the Marriage Tribunal at the phone number listed on the front of this pamphlet.

In some situations, declarations of nullity are given for reasons other than inadequate consent. The Tribunal will indicate to the Petitioner if this is possible in a particular case.

The Tribunal also deals with the Dissolution of marriage for proven non-baptism of one or both parties and for cases of non-consummation. Different norms regulate these cases, which will be dealt with as they arise.



***The Catholic Church  
and the  
Nullity of Marriage***

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The Catholic Church teaches that marriage is an intimate, exclusive, equal, loving and permanent partnership of a man and a woman, which exists for the good of the spouses and the procreation and education of children (CIC can. 1055). Marriage is brought into being by the voluntary and deliberate exchange of consent (marriage vows) of the parties (can. 1057). For the good of all concerned (spouses, children, families, society and the Church), every marriage (whether of Catholics or non-Catholics) is presumed valid (can. 1060). This is the constant teaching of the Church.

While the Catholic Church upholds the dignity, sacredness and permanence of marriage (can. 1056), it cannot ignore the reality of separation and divorce in our society. The Church must reach out to those struggling with the pain of a broken marriage.

A **Declaration of Nullity** (sometimes called an "Annulment") is a decision issued by the Catholic Church, through its Marriage Tribunal, that a given marriage is invalid (not binding) because some essential element of marriage was lacking at the time of the exchange of consent. Despite the presumption of validity (can. 1060), not every wedding, in fact, results in a valid marriage.

Declarations of Nullity are **not** Catholic divorces. A divorce is a civil legal action whereby the division of property and custody of children are settled, and a husband and wife are declared free to enter new unions with different partners. A Catholic Declaration of Nullity, on the other hand, has no civil effect in Canada. The Church's nullity process is a way of helping persons come to peace within themselves, and within the community of the Church, after a marriage has irretrievably broken down. A certificate of divorce is required to initiate a case. (If you have remarried, the marriage certificate to your present spouse will suffice instead).

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## SEVEN MOST COMMONLY ASKED QUESTIONS ABOUT DECLARATION OF NULLITY

1. *Does a declaration of nullity mean my children are illegitimate?*

**Absolutely not.** Church law expressly states that "children conceived or born of a valid or putative (i.e., at first considered valid and later declared null) marriage are legitimate" (can. 1137). Since virtually all marriages are entered into with good faith on the part of at least one of the parties, we can say with all confidence, the status of

children is not affected by the granting of a declaration of nullity.

2. *If I apply for a declaration of nullity, does my former spouse have to be notified?*

**Definitely Yes.** The Tribunal's task is to determine the facts of a marriage breakdown, and so both parties to the marriage (Petitioner & Respondent) must, in justice, be given the same opportunity to relate his/her experiences and views. Each party is interviewed separately and privately. **You are not required to have any direct contact with your former spouse.**

3. *Will everything I tell the Tribunal be kept confidential?*

**Definitely Yes.** All Tribunal personnel (secretaries, interviewers, judges) have taken an Oath of Confidentiality. Neither your witnesses, nor your family members, nor your parish priest, nor anyone else will be given access to your confidential file.

4. *How long will it take to process my declaration of nullity?*

First, there is no guarantee that a declaration of nullity will be granted. Each case is unique and is judged on its own merits. **Plans for a new marriage in the Catholic Church are not to be made until the final decree of nullity is granted.** The Tribunal cannot predict the length of time needed to process a case. Much depends on the cooperation of the parties, the availability of witnesses, and the complexity of the grounds. Also, most Tribunals have substantial case loads. Your patience is both necessary and appreciated.

5. *How much does it cost to obtain a declaration of nullity?*

The work of the Tribunal is only one of the many services of the Catholic Church. Most of the expenses for Tribunal operations are paid by the Archdiocese of Toronto. However, it is considered right and fair, that those who avail themselves of the services of the Tribunal be asked to make a contribution to help defray the total costs. Everyone has the right to present a marriage nullity case, whether or not they can help entirely with the costs involved. At the time of your personal interview we will discuss our financial policy with you.

6. *I've never been married before, but my fiancé(e) has and is now divorced. He (she) is not a Catholic, so is anything else needed?*

Your fiancé(e)'s first marriage will have to be examined by the Catholic Marriage Tribunal, since it is our belief that **all** marriages, and not just those of Catholics (or even other Christians), are also presumed valid (and binding) until proven otherwise. Christ's teaching on marriage (see Mk 10:1-10, or Mt 19:1-9) was given to all people, not just Christians.

### Where Do I Begin?

Call the Marriage Tribunal – the phone number and address are listed on the front of this pamphlet. It is important you **call on your own behalf**, not on behalf of a friend or family member. Your call will be directed to a Preliminary Auditor (Interviewer) who will ask some basic questions about you and your former spouse. The Auditor will mail you a Preliminary Investigation Form to fill out and return to our office. Your certificate of divorce (or your remarriage certificate) must be submitted with the preliminary application form.

### What Are The Steps Involved?

1. You will be formally interviewed, under oath, by an Auditor who will ask about family backgrounds, reasons you married, problems encountered in the courtship and marriage, and so forth.
2. You will be asked to provide the names and addresses of witnesses (usually 3), familiar with you and your former spouse, especially at the time you married.
3. A Petition (formal request for a Declaration of Nullity) will be drafted for you and mailed to you for your signature.
4. Every attempt will be made to contact your former spouse. He/she will be invited to participate in the Tribunal investigation by being interviewed, and possibly naming witnesses. While the Tribunal has a strict obligation to contact your former spouse, it also has a responsibility to proceed with a case, even without the participation or approval of the other party.
5. Your witnesses and the witnesses named by your former spouse, if any, will be interviewed. Please note, both of you will have the right to read the acts of the case although you are not required to do so. It will be your responsibility to request professional reports if applicable.
6. All material will be typed and collated, then evaluated by a Defender of the Bond, a canon lawyer whose role is to defend the bond of marriage by raising any reasonable objections to the granting a declaration of nullity.