

What is an Annulment

An annulment (decree of nullity) is a declaration by the Church that a marriage is not considered binding for life. This does not mean that the parties are free of the continuing obligations of the union such as the welfare of children. An annulment does not deny that there was a wedding ceremony or erase the relationship that existed. Nor does it make any comment on any moral fault in the parties. An annulment, or more accurately, a decree of nullity, is a declaration by the Church that a particular marriage was not in fact a valid marriage because at the time of exchange of vows, there was inadequate consent on the part of one or both persons. It is assumed that every marriage is a valid marriage until the contrary is proven with moral certainty by the Church through the Tribunal. There are many reasons why a person may give inadequate consent according to Church law, but they are generally lack of capacity, lack of knowledge or lack of will.

Legitimacy of Children

This does not deny that the couple went into the marriage in good faith and intending it to be for life. In fact it is because of this the Church states that any children born of a marriage which is subsequently given a declaration of nullity are and always will be legitimate. An annulment affects only the marital status of the two people concerned, and then only according to Church law.

Effects in Civil Law

A declaration of nullity by the Church has no effects in civil law. The Marriage Tribunal asks that a civil divorce be obtained before one of the parties starts the annulment procedure as it does not wish to be involved in custody and property issues.

Who can apply?

Any person who has suffered the breakdown of a marriage and who has gone through a civil divorce can ask the Tribunal to look at their marriage to see if at the time of consent all the conditions necessary for a valid marriage according to Church Law were present. If one or more conditions were not present at the time of marriage, and there is appropriate evidence to support this, the marriage can be annulled.

How do I start the process?

A person wishing to start the process should contact the Tribunal Office in Ballarat for an appointment: phone 0418 643 196 or email [here](#). The Tribunal Office is situated at 5 Lyons Street South, Ballarat. Interviews are also conducted in presbyteries all around the diocese to give country people greater access to the Tribunal services.

Following an initial interview, a preliminary assessment is made as to whether it is considered the case is worth pursuing. Should this be judged so, the person is then asked to write a "life history" according to the guidelines provided by the Tribunal. The purpose of this exercise is to provide a clear picture of the personalities and characters of both parties as they went into the marriage. One does not have to have great writing skills to do this task, but a readiness to be honest and truthful is most important.

Is the former spouse contacted?

Because a marriage belongs to both people, one's former spouse must be informed of the annulment procedure and be given the opportunity to participate in the case. However one's former spouse cannot stop the procedure from continuing should he/she fail to cooperate.

Does anyone else have to be involved?

The person seeking the annulment must be able to provide the names of 3 to 4 people who are prepared to be interviewed by the Tribunal, regarding how they saw the couple as they entered the marriage and how it was lived out. All interviews are strictly confidential and a person willing to be interviewed must be prepared to make a promise to tell the truth. It is important that such a person knew the couple, or at least one of them, prior to the marriage, so he/she can provide insights into the personalities, backgrounds and inter-relationship before and during the marriage. Such a person does not need to be an expert but needs to be perceptive and observant. Family members are admissible but preferably some mutual acquaintances should be included to ensure a balanced picture.

How is a decision reached?

When it is considered by the Ballarat Tribunal that there is sufficient evidence for a decision to be reached, the case is sent to be judged. It is judged somewhere within our own Tribunal (Victoria and Tasmania) by one or three canon lawyers, dependent on how long the marriage lasted.

How long does the procedure take?

Due to the diversity of cases some are processed more quickly than others, but the average time for most cases is 12 months. Remember one must also wait 12 months after a separation before even a civil divorce can be granted!

When can I set a date for a Church Wedding?

A booking for a church wedding should not be made until the person has received the declaration of nullity of his/her former union and is then free to remarry in the Catholic Church.

How much does it cost?

The average cost for an annulment is approximately \$2,000, but fortunately the dioceses in Victoria and Tasmania subsidize 75% of these costs. Therefore the person applying for the annulment is expected to pay \$600.

In difficult financial circumstances allowances are made for an adjustment on one's account or for payments in instalments, but in view of the heavy subsidizing by the dioceses such requests should be rare.

Is it all worthwhile?

For many the annulment procedure has some very painful and anxious moments. However it can also be a very healing process and many later appreciate the opportunity of learning more about their personalities, how they went into a marriage relationship and the reasons why it did not last.

Moreover, a decree of nullity brings peace of mind and the possibility of full communion with the Church for those who have entered into a second marriage and wish to have it blessed and recognized in the Catholic Church, as well as for those who wish to enter a second marriage in the Catholic Church whether for their own sake or for that of a proposed Catholic partner.