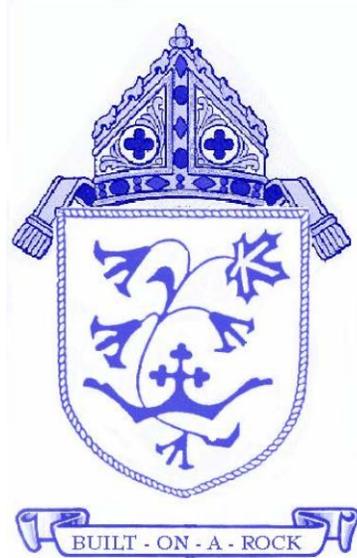


Archdiocese of Kingston



CHAPTER 11

CATHOLIC MARRIAGE TRIBUNAL BRANCH GUIDELINES

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DECLARATION OF NULLITY (Annulments)

No wedding dates are to be set until the freedom of both Parties has been established.

When there is a question as to the freedom to marry of one or both parties (e.g. if either Party has been previously married) the Pastor/Parish Priest **MUST** consult with the Marriage Tribunal in order to determine whether or not a Declaration of Nullity (Annulment) has been granted.

To determine which of the processes may apply to the presenting situation, please refer to the following outline:

FORMAL INVESTIGATION

For all people validly married according to the Roman Catholic understanding of marriage, a formal investigation of the previous marriage will be required, before a second marriage may be entered in the Catholic Church. Preliminary Information Record forms may be found on the Archdiocesan website and/or obtained from the Marriage Tribunal. If possible, documentation and questionnaires are to be completed at the parish level.

For a more detailed accounting of the procedural steps in the formal investigation, please contact the Marriage Tribunal.

DOCUMENTARY PROCESSES

Marriage cases that do not require a full trial but are able to be brought to some form of conclusion based on documentary evidence are treated separately and require different types of information. The most common types handled by the Archdiocese of Kingston are addressed below.

Lack of Canonical Form

Only those marriages are valid which are contracted in the presence of the local Ordinary or parish priest, or a deacon delegated by either of them, who, in the presence of two witnesses, assists, in accordance with the rules set out in the following canons, and without prejudice to canons 144, 1112 §1, 1116, and 1127 §1-2. (Canon 1108).

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When Catholics contract marriage outside of the above “form”, the Requirements for a declaration of nullity of a marriage contracted by a Catholic outside of the Church (Lack of Form) may be completed.

Non-Catholic Petitioners who have married baptized Catholics outside of the form of marriage MUST complete the requirements for a declaration of nullity of a marriage contracted by Non-Catholics outside of the Church.

Special Marriages

The *Privilege of the Faith* may be defined as the right to act in a way that is favourable to the acquiring or preservation of the faith. In reference to marriage, the term is used to designate the Pauline privilege, the Petrine privilege, and special cases provided for converts who have been in polygamous marriages and converts separated from their first spouse by reason of captivity or persecution (canons 1148 and 1149).

Pauline Privilege

In virtue of the Pauline Privilege, a marriage entered into by two unbaptised persons is dissolved in favour of the faith of the party who received baptism, by the very fact that a new marriage is contracted by that same party, provided the unbaptised party departs. (Canon 1143).

Petrine Privilege

The dissolution of a legitimate marriage of a baptized party with an unbaptised person is granted by the Pope, in favour of the faith of the Interested Catholic Party. The Instruction for the Dissolution of Marriage in Favour of the Faith *Ut notum est* was issued by the Congregation for the Doctrine of the Faith, on December 6, 1973, and the Norms for Completing the Process for the Dissolution of the Matrimonial Bond in Favour of the Faith *Potestas Ecclesiae* followed on April 30, 2001.

Petrine Privilege cases are prepared under the jurisdiction of the local Ordinary, competent to handle marriage cases.

The dissolution of a marriage in favour of the faith is an exercise of the vicarious authority of the Pope and is not delegated. Each case is examined by the Congregation for the Doctrine of the Faith prior to its presentation to the Holy Father.

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Ligamen

A person is bound by the bond of a previous marriage, even if not consummated, invalidly attempts marriage. (canon 1085 § 1)

Even though the previous marriage is invalid or for any reason dissolved, it is not thereby lawful to contract another marriage before the nullity or the dissolution of the previous one has been established lawfully and with certainty. (canon 1085 § 2)

Members of other Christian and non-Christian communities enter presumably valid marriages by following the formalities established by civil law. Since an ecclesiastical dissolution terminates a valid bond, marriages entered BEFORE a Church dissolution is granted are INVALID.

Preliminary Forms for all of the above cases may be found on the Archdiocesan website and/or by contacting the Marriage Tribunal.

For a complete outline of the procedural aspects and requirements for Favour of the Faith cases, contact the Marriage Tribunal.