

# **The Marriage Act**

Ministry of Children and Equality

## **ACT 1991-07-04 NO. 47: THE MARRIAGE ACT**

ENTRY INTO FORCE: 1993-01-01

Last amended by the Act of 15 June 2018 No. 31 in force from 1 July 2018 and by the Act of 22 June 2018 No. 52

## **CONTENTS**

# **The Marriage Act**

## **Part I. Contraction and dissolution of marriage**

### **Chapter I. Conditions for contracting a marriage**

#### **Section 1** *Gender*

Two persons of opposite sex or of the same sex may contract marriage.

Added by the Act of 27 June 2008 No. 53 (in force from 1 January 2009 pursuant to the Decree of 27 June 2008 No. 745), previous section 1 changed to section 1a.

#### **Section 1 a.** *Age for marriage*

No person under 18 years of age may enter into a marriage.

Amended by the Acts of 18 January 2007 No. 1 (in force from 1 June 2007 pursuant to the Decree of 18 January 2007 No. 57) and 27 June 2008 No. 53 (in force from 1 January 2009 pursuant to the Decree of 27 June 2008 No. 745), section number changed from section 1, 15 June 2018 No. 31 (in force from 1 July 2018 pursuant to the Decree of 15 June 2018 No. 883. For transitional provision see part II of the Act).

#### **Section 1 b.** *Voluntariness*

Women and men have the same right to choose a spouse freely. They shall contract the marriage of their own free will and by their own consent.

Added by the Act of 10 June 2005 No. 38 (in force from 1 July 2005 pursuant to the Decree of 10 June 2005 No. 527). Amended by the Act of 27 June 2008 No. 53 (in force from 1 January 2009 pursuant to the Decree of 27 June 2008 No. 745), section number changed from section 1 a.

#### **Section 2.** *The right to enter into marriage for persons placed under guardianship*

Any person placed under guardianship must obtain the consent of his/her guardian to enter into a marriage if it is part of the duties of the guardian to give such consent. If consent is refused by the guardian, the county governor may nevertheless give permission if there is no reasonable ground for such refusal.

Amended by the Act of 26 March 2010 No. 9 (in force from 1 July 2013 pursuant to the Decree of 5 April 2013 No. 338) as amended by the Act of 5 April 2013 No. 12.

#### **Section 3.** *Prohibition against marriage between close relatives*

Marriage may not be contracted between relatives in direct line of ascent or descent or between brothers and sisters.

As regards adopted children, the above prohibition shall apply to both the natural relatives and the adoptive parents and their relatives. If the adopted child has been adopted anew, the county governor may however consent to a marriage between the adopted child and one of the original adoptive parents or a relative of the latter.

Amended by the Act of 18 September 2015 No. 92 (in force from 1 January 2016 pursuant to the Decree of 18 September 2015 No. 1057).

#### **Section 4.** *Prohibition against marriage when a previous marriage subsists*

No person may contract a marriage if a previous marriage or registered partnership subsists.

Amended by the Act of 30 April 1993 No. 40.

**Section 5.** *Obligation to provide information and seek counselling regarding a contagious disease that may be transmitted sexually*

No person suffering from a contagious disease that may be transmitted sexually may contract a marriage unless the other party has been informed of the disease and both parties have received oral counselling from a medical practitioner regarding the risks connected with the disease.

The statutory duty of professional secrecy shall not prevent a medical practitioner from giving information about the disease to a solemniser of marriage or from being called as a witness in a matrimonial case.

**Section 5a.** *Lawful residence*

In order to contract a marriage in Norway, a foreign national must be lawfully resident in Norway.

Added by the Act of 24 June 1994 No. 24 (in force from 1 January 1995).

**Chapter 2. Verification of fulfilment of the conditions for marriage**

**Section 6.** *When verification shall take place, and who shall carry out such verification*

Before a marriage may be contracted, it shall be verified that the conditions for marriage have been fulfilled.

Verification shall be carried out by the national population registry or by a Norwegian foreign service official. The Norwegian foreign service official shall only verify compliance with the conditions for marriage for Norwegian citizens who are permanently resident within his or her jurisdiction, and only in cases where verification cannot be carried out by the national population registry.

Amended by the Acts of 19 December 2003 No. 119 (in force from 1 October 2004 pursuant to the Decree of 19 December 2003 No. 1762) and 29 June 2007 No. 56 (in force from 1 January 2008 pursuant to the Decree of 7 December 2007 No. 1370).

**Section 7.** *Evidence of fulfilment of the conditions for marriage*

For the purpose of verifying whether the conditions for marriage have been fulfilled, the parties to the marriage shall provide the following evidence:

- a. Each of them shall present a birth certificate issued by the national population registry, when verification is not carried out by the said registry. If it is difficult to obtain such a certificate within a reasonable time, some other satisfactory proof of name and age may be accepted.
- b. If either of the parties to the marriage is under 18 years of age, proof shall be presented that consent and permission for the marriage have been given pursuant to section 1 a.
- c. If either of the parties to the marriage has been placed under guardianship and if it is part of the duties of the guardian to consent to the marriage, proof shall be presented that consent or permission for the marriage has been given pursuant to section 2, first sentence, cf. second sentence.
- d. Both of the parties to the marriage shall solemnly declare in writing that they are not as closely related as stated in section 3. In the case of marriage between an adopted child and one of the original adoptive parents or a relative of the latter, the parties to the marriage shall produce the consent of the county governor as stated in section 3, second paragraph, second sentence.
- e. Each of the parties to the marriage shall solemnly declare in writing whether he or she has previously contracted a marriage or registered partnership or whether he or she remains in possession of the undivided estate from a previous cohabitation pursuant to section 28 c of the

Inheritance Act. If so, evidence shall be presented that the earlier marriage or the registered partnership has been terminated by death or divorce, or been dissolved pursuant to section 24.

Proof that the former spouse or registered partner is dead is as a rule presented in the form of a certificate issued by a domestic or foreign public authority. If such a certificate cannot be obtained, the parties may submit their information and evidence to the appropriate district court judge, cf. section 8, second cf. first paragraph, of the Probate Act. If administration of the estate does not come under the jurisdiction of a Norwegian district court, the issue may be brought before the district court judge at the place where fulfilment of the conditions for marriage is verified. The district court will by order decide whether the evidence shall be accepted. An appeal against the order may be made by the party against whom the decision is made. If the evidence is accepted, the district court shall notify the county governor, who may make an appeal against the order.

Proof that the marriage or the registered partnership has ended in divorce or been dissolved pursuant to section 24 may be given by presenting the licence or judgment duly certified to be final. The question whether a marriage may be contracted in Norway on the basis of a foreign divorce shall be decided by the Ministry pursuant to the provisions of section 4 of the Act of 2 June 1978 No. 38.

f. Each of the parties to the marriage shall solemnly declare in writing whether he or she is suffering from a contagious disease that may be transmitted sexually. If so, proof shall be presented that the other party has been informed of the disease, and that both parties have received counselling from a medical practitioner concerning the risks connected with the disease

g. Each of the parties to the marriage shall solemnly declare in writing whether he or she has or is expecting a child by any other person or has an adopted child. The duty to provide information does not apply in regard to children who have been given up for adoption.

h. A foreign national who is not permanently resident in Norway shall present documentary proof from the authorities in his/her home country stating that there is nothing to prevent him or her from contracting a marriage in Norway or, if such documentary proof cannot be produced, the documentary proof that he or she is not registered as married or a registered partner in his or her home country. The national population registry or a Norwegian foreign service official may make an exception from the requirement in the first sentence when there are special reasons for doing so. The Ministry will issue regulations concerning when a foreign national is to be considered permanently resident in Norway.

i. If either of the parties to the marriage has replied in the affirmative to questions mentioned in (e), (f) or (g), proof shall be presented that the other party has been informed of this.

j. Each of the parties to the marriage shall provide a sponsor who shall solemnly declare that he or she knows the said party, and shall state whether the said party has previously contracted a marriage or registered partnership and whether the parties to the marriage are related to each other as specified in section 3.

The sponsors must be of full age and legal capacity. In special cases the county governor may consent to the solemnisation of marriage without sponsors, or with one sponsor only for both parties.

k. A foreign national who is to contract a marriage in Norway must present documentary proof to show that he or she is lawfully resident in Norway.

l. Each of the parties to the marriage shall individually solemnly declare that they are contracting the marriage of their own free will, and that they recognise each other's equal right to divorce.

Amended by the Acts of 30 April 1993 No. 40, 24 June 1994 No. 24 (in force from 1 January 1995), 30 August 2002 No. 67 (in force from 1 January 2003 pursuant to the Decree of 30 August 2002 No. 938), 4 July 2003 No. 72, and 19 December 2003 No. 119 (in force from 1 October 2004 pursuant to the Decree of 19 December 2003 No. 1762), 17 June 2005 No. 90 (in force from 1 January 2008 pursuant to the Decree of 26 January 2007 No. 88), 29 June 2007 No. 56 (in force from 1 January 2008 pursuant to the Decree of 7 December 2007 No. 1370) and 27 June 2008 No. 53 (in force from 1 January 2009 pursuant to the Decree of 27 June 2008 No. 745), 19 December 2008 No. 112 (in force from 1 July 2009 pursuant to the Decree of 19 December 2008 No. 1528), 26 March 2010 No. 9 (in force from 1 July 2013 pursuant to the Decree of 5 April 2013 No. 338) as amended by the Act of 5 April 2013 No. 12, 18 September 2015 No. 92 (in force from 1 January 2016 pursuant to the Decree of 18 September 2015 No. 1057).

**Section 8.** *Verification of division of estate after a previous marriage*

Any person who has previously been married or been a party to a registered partnership must produce proof that the estate of the parties to the previous marriage or the registered partnership has been submitted to the district court for administration, or produce a declaration from the former spouse or former partner or heirs stating that the estate is being divided out of court.

This does not apply if a declaration is presented from the former spouse or partner stating that there were no assets in the marriage or the registered partnership to be divided, or from the heirs of the deceased spouse or partner stating that they consent to the surviving spouse or partner remaining in possession of the undivided estate.

If the previous marriage or registered partnership was dissolved in a way other than by death, and if more than two years have elapsed since it was dissolved, it is sufficient that the person who wishes to contract a new marriage states that the estate was divided, or that there was nothing to divide between the spouses or partners.

The declaration mentioned in the first paragraph cannot be made by a person who is under 18 years of age or whose legal capacity has been restricted unless the guardian has consented to division of the estate out of court pursuant to section 53, first paragraph, (3) or section 79 of the Probate Act.

The first, second and third paragraphs apply correspondingly to a person who has remained in possession of the undivided estate from a previous cohabitation pursuant to section 28 c of the Inheritance Act.

The Ministry may grant exemption from compliance with the provisions of this section when there are special reasons for doing so.

Amended by the Acts of 30 April 1993 No. 40, and 30 August 2002 No. 67 (in force from 1 January 2003 pursuant to the Decree of 30 August 2002 No. 938). 19 December 2008 No. 112 (in force from 1 July 2009 pursuant to the Decree of 19 December 2008 No. 1528), 26 March 2010 No. 9 (in force from 1 July 2013 pursuant to the Decree of 5 April 2013 No. 338) as amended by the Act of 5 April 2013 No. 12.

**Section 9.** *Verification that the parties to the marriage have legal capacity*

If the solemniser of marriage, the national population registry or a Norwegian foreign service official has reason to believe that, owing to a severe mental illness or severe mental disability, either of the parties to the marriage lacks legal capacity, production of a certificate from a public medical officer or from another medical practitioner designated by a public medical officer may be required. In this section legal capacity means the ability to have a normal understanding of what contracting a marriage entails and the ability to be normally motivated to contract a marriage.