

## Handout 2: Legal Requirements of Marriage

When people marry in Canada, they enter into a legally binding contract as long as certain requirements are met. When you go to a wedding, whether it is a religious marriage in a church performed by a member of the clergy or a civil ceremony performed by a Justice of the Peace, a legal register is signed. If this register is not signed, you are not legally married. If your marriage ends in divorce, it is the legal termination of a contract. Most provinces have a *Marriage Act*. If the essentials of marriage are not met, the marriage could be null and void.



### Essential Requirements of Marriage

- **Mental Capacity:** You must have full mental capacity. No one can marry if they are devoid of mental capacity due to illness, drugs or alcohol.
- **Genuine Consent:** No one can be forced to get married. Both parties must give full consent to the marriage or the marriage is illegal. (Example: If you marry the wrong twin or the wife's parents threaten her with murder if she does not get married.)
- **Minimum Age:** This is dependent on the province. In BC, the legal age without parental consent is 19 or older and at least 16 with parental consent. Nunavut and Yukon require parental consent for persons under 19 years of old who wish to marry. In Quebec, the legal age for marriage is 16, but people under 18 may marry with parental consent.
- **Close relationship:** You cannot marry someone in your immediate family that includes parents, sibling or half siblings and grandparents.
- **Unmarried status:** Both people must not already be married when they get married. Monogamy is the only form of marriage at this time in Canada. Bigamy, being married to more than one person at one time, is illegal in Canada and is a criminal offence.
- **Marriage Licence or Bann:** You must have a legal marriage licence or a Bann (a document read at a place of worship).
- **Religious or Civil Service:** You can choose to have either a religious service or a civil service. Both services must be performed by a registered or licensed official to make it legal under the law.
- **Registration:** You must also register your marriage to obtain a certificate of marriage, a document that proves the marriage.