



Legal requirements to get married in Australia

Date: Monday August 15, 2022

Getting married in Australia is governed by legislation enacted back in 1961, being the *Marriage Act 1961* (“the Act”). The Act sets all the legal requirements for you to marry in Australia.

What is marriage?

For something that is often consumed by romance and excitement, it seems odd for such an occasion to be legislated.

The *Marriage Act 1961* defines marriage as:

“the union of two people to the exclusive of all others, voluntarily entered into for life”.

The definition of marriage, since 2017, no longer includes reference to man and wife. Marriage equality laws have been introduced in Australia to ensure members of the LGBTIQ+ community have the opportunity to celebrate in marriage.

What do I need to do to get married in Australia?

To get married in Australia, you must:

not be married;

not be marrying specific members in your family, including your parents, grandparents, your children, grandchildren, your brother or your sister;

be at least 18 years of age (unless the Court has approved a marriage where 1 person is between the age of 16 – 18 years);

understand what marriage means and freely agree to marry;

use specific words in a ceremony;

give a [Notice of Intended Marriage form](#) to an authorised marriage celebrant at least 1 month before the wedding;

be married by an authorised marriage celebrant.

Once all of the above is “ticked”, there are then further formalities which must be undertaken both on your wedding day and after you are married.

These include:

the issuing of your marriage certificate;

having two witnesses to sign your certificate (over the age of 18 years);

registering your marriage with the "Births, Deaths and Marriages" registry in the state you got married in.

Different steps are required for those who marry overseas.

What are the steps I need to take now I know I can get married?

Complete and sign the Notice of Intended Marriage. This can be [downloaded from the website of the Attorney General](#).

Provide your marriage celebrant details confirming your identity. This includes evidence of your place and date of birth and, if required, evidence of divorce or death from a previous spouse.

Provide your completed Notice of Intention to Marry at least one month (and within 18 months) of the date of the wedding.

What if I need to get married before the 1 month notice

period has passed?

The Notice of Intention to Marry must be provided to the marriage celebrant at least 1 month before the wedding day. On occasion, this notice period cannot be given by one or both parties intending to marry.

If you need to marry prior to the 1 month period passing, there is an application process.

You need to apply to the relevant authority in the state you wish to marry.

There are only 5 circumstances that “open the door” to marrying within the 1 month time period. These include:

Employment-related or other travel commitments;

Wedding or celebration arrangements, including religious considerations;

Medical reasons;

Legal proceedings; and

Error in giving notice.

There is no automatic circumstance. Ultimately, it is at the discretion of the authority in the state where the marriage will take place.

If you wish to apply to shorten the time frame, we recommend you seek legal advice urgently to assist with this process. You can call us for advice and assistance: [08 6245 0855](tel:0862450855) (WA) | [02 9238 1958](tel:0292381958) (NSW).

What if I am already married and then get married again?

Whilst in some countries, men can have multiple wives, Australia is not one of them.

Getting married whilst still married to someone else is called bigamy. The offence of bigamy is still illegal in Australia and punishable by way of imprisonment of up to 5 years.

The Act states that a person who is married shall not marry another person while they are lawfully married to another person.

There are a few circumstances where a defence to bigamy can be mounted (should a person be charged). This includes:

Mistake of fact.

You had reasonable grounds to assume your spouse was dead, meaning that they were missing and presumed dead.

Your spouse has been absent for a period of seven years before the date of the alleged offence, and you had no reason to believe they were alive.

To end a marriage to allow you to marry again, you will either [need to divorce](#) or have [your marriage annulled](#).

Get help from a family lawyer

Meillon & Bright's team of experienced family lawyers can assist you with working through the formalities of getting married in Australia.

The information contained in this article is of general nature and should not be construed as legal advice. If you require further information, advice or assistance for your specific circumstances, please contact us.