



Dutch Civil Code

Book 1 Law of Persons and Family Law

Title 1.5 Marriage

Article 1:30 Statutory rules have only effect for the civil relationship between the spouses

- **1.** A marriage may be entered into by two persons of a different or of the same gender (sex).
- **2.** The law considers a marriage only in its legal civil relationships.

Section 1.5.1 Requirements for entering into a marriage

Article 1:31 Minimum age

- **1.** A man and a woman must both have reached the age of eighteen years in order to be allowed to enter into a marriage.
- **2.** No impediment to a marriage as meant in the previous paragraph exists when the persons who intend to enter into a marriage with each other have both reached the age of sixteen years and the woman submits a declaration of a medical doctor that she is pregnant or that she already has brought a child into the world.
- **3.** The Minister of Justice may, for compelling reasons, grant dispensation from the requirement mentioned in paragraph 1.

Article 1:32 Mental disturbance

A marriage may not be entered into when the mental capacity of one of the parties is disturbed in such a way that he is not able to determine his will or to understand the significance of his declaration.

Article 1:33 Monogamy

A person may only be united in marriage with one other person at the same time.

Article 1:34 *[repealed on 01-04-1998]*

Article 1:35 Required approval for a marriage of a minor

- **1.** A minor is not allowed to enter into a marriage without the approval of his parents.
- **2.** Where the mental capacity of one of the parents is disturbed in such a way that he is unable to determine his will or to understand the significance of his declaration, his approval is not required.
- **3.** A minor under guardianship needs an additional approval of his legal guardian.

Article 1:36 Substitute authorization of the Subdistrict Court

As far as the approval, required under the previous Article, cannot be obtained, the minor may request the Subdistrict Court to grant him a substitute authorisation.

Article 1:37 Required approval for an adult who is placed under guardianship for dissipating property or excessive drinking

- **1.** An adult who is placed under guardianship on account of dissipation of property or alcohol abuse, is not able to enter into a marriage without the approval of his legal guardian.
- **2.** As far as the approval of the legal guardian cannot be obtained, the adult may request the Subdistrict Court to grant him a substitute authorisation.

Article 1:38 Required authorisation for an adult who is placed under guardianship because of a mental disorder

An adult who is placed under guardianship on account of a mental disorder is not able to enter into a marriage without the authorisation of the Subdistrict Court.

Article 1:39 Appeal against an authorisation granted by the Subdistrict Court

- **1.** Where the Subdistrict Court has granted an authorisation of marriage, the period allowed for appeal is fourteen days; during this period the court order of the Subdistrict Court shall not be enforceable.
- **2.** A person appealing against an authorisation of marriage granted by the Subdistrict Court, must, within the period allowed for appeal, give notice of his appeal by bailiff's writ to the Registrar of Civil Status of the municipalities where the marriage could be contracted. If he fails to do so, he loses his right to invoke the absence of his approval as a ground for annulment of the marriage, in the event that the Court of Appeal nullifies the court order of the Subdistrict Court, while the marriage had been contracted already.

Article 1:40 *[repealed on 01-01-1988]*

Article 1:41 Familial relationship as an impediment to marriage

- **1.** A marriage cannot be entered into between persons who, either by birth or otherwise, have a legal familial relationship with each other in the ascending or descending line or as brothers, sisters or brother and sister.
- **2.** For compelling reasons the Minister of Justice may grant dispensation from this prohibition to those persons who only by means of an adoption are related to each other as brothers, sisters or brother and sister.

Article 1:42 Registered partnership

Persons who enter into a marriage with each other, may at this moment not be united already in a registered partnership.

Section 1.5.2 Formalities preceding the contracting of a marriage

Article 1:43 Giving notice of marriage

- **1.** Persons who intend to enter into a marriage with each other, must give a formal notice of

marriage to the Registrar of Civil Status of the municipality where at least one of them has his domicile and provide this Registrar with the documents referred to in Article 1:44. When the prospective spouses, of whom at least one has the Dutch nationality, both have their domicile outside the Netherlands, but want to get married in a Dutch municipality, then the formal notice of marriage must be made to the Registrar of Civil Status of the municipality of The Hague.

- **2.** When giving notice of their marriage to the Registrar, the prospective spouses may declare that their marriage will be contracted in another Dutch municipality than the one in which one of them has his domicile at the moment on which the formal notice of marriage is given or, if the second sentence of paragraph 1 applies, in another municipality than The Hague.
- **3.** The notice of marriage must be given in person or by means of a written declaration which indicates sufficiently that the prospective spouses have the intention to marry each other.
- **4.** The Registrar of Civil Status draws up a certificate of formal notice of marriage.

Article 1:44 Required documents for giving notice of marriage

- **1.** Before the formal notice of marriage is given, the following documents must be submitted to the Registrar of Civil Status:
 - a.** the birth certificate of each of the prospective spouses and, for each of them, a certified true copy of the data from the municipal personal records database, unless they do not need to be registered as a resident in such a database;
 - b.** a certificate of approval of marriage, given by those persons whose approval for this marriage is required. The certificate of approval of marriage is drawn up by the Registrar of Civil Status or by a notary. The required approval may be given also at the occasion of the drawing up of the marriage certificate. Where the court has authorised the marriage, the court order must be submitted too;
 - c.** the death certificate of all persons whose approval for this marriage would have been required if they still would have been alive;
 - d.** in the event of a second or further marriage or of a marriage after a registered partnership, evidence showing that the previous marriage or the earlier registered partnership produces no impediment to the intended new marriage;
 - e.** the certificate of formal notice of marriage;
 - f.** if a formal objection to the marriage has been submitted, the evidence that this objection has been removed;
 - g.** the proof of a dispensation or permission of the Minister of Justice where such a dispensation or permission is required;
 - h.** if a court order as meant in Section 1.4.12 of the Dutch Civil Code or an exemption by virtue of Article 1:62 has been obtained, this court order or the documents related to this exemption;
 - i.** a declaration of a medical doctor as meant in Article 1:32 paragraph 2 where this is required;
 - j.** a written list of the names and addresses of the persons who are invited to be present at the contracting of the marriage as a witness;
 - k.** a declaration of the chief of police in the meaning of the Aliens Act 2000, handed over to the Registrar of Civil Status, from which declaration appears that one of the prospective spouses, who does not have the Dutch nationality, resides lawfully in the Netherlands pursuant to Article 8 of the Aliens Act 2000 or that he has no intention to stay in the Netherlands. The declaration is drawn up at the request of the prospective spouse to whom it relates. When an application for such a declaration is lodged, a certified true copy as referred to under point (a) must be submitted too. Where the prospective spouse to whom the declaration relates, has no domicile in the Netherlands, the declaration will be drawn up at the request of the other prospective spouse.
- **2.** The declaration meant in paragraph 1 under point (k) is not required if the prospective spouses can make plausible that they both have a domicile outside the Netherlands. This

declaration is neither required if the prospective spouse who does not have the Dutch nationality, resides legitimately in the Netherlands pursuant to Article 8, under point (b), (d) or (e), of the Aliens Act 2000.

- **3.** Additional rules are set by Order in Council with regard to the content of the certified true copy containing the data from the municipal personal records database as referred to in paragraph 1 under point (a) and with regard to the declaration of the chief of police as referred to in paragraph 1 under point (k).

Article 1:45 Alternatives in the absence of a birth certificate

- **1.** A prospective spouse for whom it is impossible to show his birth certificate as required pursuant to the previous Article, may remedy this defect by means of a certificate of acquaintance, issued by the Subdistrict Court in whose subdistrict his place of birth or domicile is located, drawn up on the basis of a testimony of four adult witnesses.

- **2.** This declaration includes the indication of the place of birth and, to the extent possible, the time of birth, besides the reasons why it is not possible to present a birth certificate.

- **3.** The absence of a birth certificate can be remedied as well, either by a sworn statement of the witnesses present at the contracting of the marriage or by a sworn statement of the prospective spouse himself, made before the Registrar of Civil Status, indicating that he is unable to provide a birth certificate or a certificate of acquaintance. The marriage certificate will then mention the sworn statement.

Article 1:45a Alternatives in the absence of a death certificate

If the prospective spouses are unable to submit a death certificate as meant in Article 1:44 paragraph 1, under point (c), this defect may be remedied in the same way as in the situation referred to in the previous Article.

Article 1:46 Validity period of a formal notice of marriage

When the marriage has not been contracted within one year after the date on which the certificate of formal notice of marriage was drawn up, it cannot be contracted unless a new formal notice of marriage is given.

Article 1:47 Investigation of required approvals

- **1.** When a minor intends to enter into a marriage the Registrar of Civil Status checks whose approval is required to contract this marriage.

- **2.** Additionally, that Registrar checks if the minor is placed under custodial control or an interim guardianship. Where this proves to be the case, he immediately informs, in the event of a custodial control, the Juvenile Court and, in the other event, the Foundation meant in Article 1, under point (f), of the Youth Care Act, of the intended marriage.

Article 1:48 Remarriage of a parent and taking inventory of property

When a person, who exercises authority over children from a previous marriage, intends to remarry, the Registrar of Civil Status immediately notifies the Subdistrict Court in whose subdistrict this parent has his domicile about the formal notice of marriage.

Article 1:49 Promise of marriage

- **1.** A promise of marriage does not vest a right of action to enforce the contracting of a

marriage nor to claim damages due to a breach of this promise; all contractual stipulations in derogation of this statutory provision are null and void.

- **2.** If, however, a certificate of formal notice of marriage has been drawn up, then this may constitute a ground to claim compensation for financial losses truly suffered, on the understanding that loss of future earnings or profits are not taken into account. The right of action expires eighteen months after the day on which the certificate of formal notice of marriage was drawn up.

Article 1:49a Certificate of legal capacity to marry

- **1.** If a person of Dutch nationality intends to enter into a marriage outside the Netherlands, then, at his request, a certificate of legal capacity to marry will be issued in accordance with the appendix of the Convention of Munich of 5 September 1980 (Treaty Series 1981, No. 71 and 1982, No. 116).

- **2.** This certificate will be issued:

a. to a person who has his domicile in the Netherlands: by the Registrar of Civil Status of the municipality where that domicile is located;

b. to a person who has no domicile in the Netherlands, but who once had a domicile in the Netherlands: by the Registrar of Civil Status of the municipality where this last domicile was located;

c. to a person who has no domicile in the Netherlands and who has never had a domicile in the Netherlands: by the head of the diplomatic or consular representation of the Kingdom of the Netherlands in the district where the marriage will be contracted.

- **3.** The certificate will not be issued before the competent authority has ascertained, after having obtained knowledge of the documents mentioned in Article 1:44 paragraph 1, under point (a), (b), (c), (d) and (g) and, if necessary, of those mentioned in Articles 1:45, 1:45a and 1:27b, that there are no impediments to the marriage according to Dutch law.

- **4.** The certificate of legal capacity to marry is, as from the day on which it was issued, valid for six months.

Section 1.5.3 Interruption of an intended marriage on the basis of a legal impediment to a marriage

Article 1:50 Grounds for interrupting an intended marriage

An intended marriage may be interrupted when the prospective spouses do not possess the requirements to enter into a marriage with each other or when the objective of the prospective spouses or of one of them is not the fulfilment of the marital duties which the law connects to a marriage, but obtaining access to the Netherlands.

Article 1:51 Interruption of an intended marriage by blood relatives and other persons

- **1.** Where the prospective spouses do not possess the requirements to enter into a marriage with each other, the following persons may interrupt the intended marriage on the basis of an impediment: blood relatives in the direct line, brothers, sisters, guardians and curators of one of the prospective spouses.

- **2.** The persons mentioned in the previous paragraph may also interrupt the intended marriage when the other prospective spouse is placed under adult guardianship and the marriage obviously would cause misery to the prospective spouse of whom they are a blood relative or guardian.

Article 1:52 Interruption of an intended marriage by the current spouse or registered partner of one of the prospective spouses

A person who is united in marriage or in a registered partnership with one of the prospective spouses, may on the basis of the existence of that marriage or registered partnership interrupt the intended new marriage.

Article 1:53 Interruption of an intended marriage by the Public Prosecution Service

- **1.** The Public Prosecution Service has a duty to interrupt an intended marriage if it has become aware of one of the impediments to a marriage defined in Articles 1:31 up to and including 1:33 and Articles 1:41 and 1:42.
- **2.** The Public Prosecution Service is entitled to interrupt the intended marriage of a minor who is placed under custodial control or under interim guardianship, if such a marriage is contradictory to the interests of the minor; for this purpose the interests of the other party to the marriage may be taken into consideration too.
- **3.** Furthermore, the Public Prosecution Service is entitled to interrupt an intended marriage on the ground that it will be a sham marriage in conflict with public order, because the objective of the prospective spouses or of one of them is not the fulfilment of the marital duties which the law connects to a marriage, but obtaining access to the Netherlands.

Article 1:54 Formalities to interrupt an intended marriage

- **1.** An intended marriage is interrupted by means of a private deed, drawn up for this purpose and served by bailiff's writ on the Registrar of Civil Status of one of the municipalities where the marriage could be contracted.
- **2.** The private deed meant in paragraph 1 must contain an election of domicile in that municipality and the grounds for impediment on which the marriage is interrupted and it must mention the capacity on the basis of which the opposing party is entitled to interrupt the marriage, everything under penalty of nullity.
- **3.** The Registrar of Civil Status on whom the private deed has been served, shall immediately give notice of the interruption of the intended marriage to the Registrar of Civil Status of the other municipalities where the marriage could be contracted as well.
- **4.** The person interrupting the intended marriage ensures that a true copy of the private deed is served immediately by bailiff's writ on the prospective spouse against whom the interruption is directed.

Article 1:55 Removal of the interruption of an intended marriage

The interruption of an intended marriage may be removed:

- a.** in the same way as in which it was made;
- b.** by means of a declaration made in person before one of the Registrars of Civil Status meant in the previous Article;
- c.** by means of a declaration made before a notary;
- d.** by means of a court order which has become final and binding and which is given upon the request of an interested party.

Article 1:56 Legal effects of the interruption of an intended marriage

The intended marriage may not be contracted before the interruption has been removed. Where the marriage has nevertheless been contracted in expectation of the outcome of legal proceedings to remove the interruption, the person interrupting the intended marriage may

request for a continuation of these legal proceedings, in which case the District Court shall order the annulment of the marriage if it accepts the merits of the interruption.

Article 1:57 Registrar may not cooperate if he is aware of an impediment to a marriage

A Registrar of Civil Status who is aware of the existence of one of the impediments to a marriage as defined in Articles 1:31 up to and including 1:33, 1:41 and 1:42, may not cooperate in the drawing up of a certificate of notice of marriage nor in the contracting of the marriage, even if no interruption of the intended marriage has taken place.

Section 1.5.4 Contracting of a marriage

Article 1:58 Validity period of a certificate of the chief of police as meant in Article 1:44 paragraph 1, under point (k)

- **1.** Where it has been established that, at the moment on which the marriage will be contracted, more than six months have passed since a declaration as meant in Article 1:44 paragraph 1, under point (k), has been issued, the Registrar of Civil Status will ensure that such a declaration is submitted again before he contracts the marriage, unless this is not required pursuant to paragraph 3.
- **2.** If the submission of a declaration as meant in Article 1:44 paragraph 1, under point (k), was not required at the moment of giving notice of marriage, then the Registrar of Civil Status will ensure that such a declaration shall be submitted after all before he contracts the marriage, unless this is not required pursuant to paragraph 3.
- **3.** The declaration is drawn up at the request of the prospective spouse to whom it relates. Where this prospective spouse has no domicile in the Netherlands, the declaration will be drawn up at the request of the other prospective spouse. The declaration is not required if the prospective spouse can make plausible that both prospective spouses have their domicile outside the Netherlands. The declaration is neither required if the prospective spouse who does not have the Dutch nationality, resides legitimately in the Netherlands pursuant to Article 8, under point (b), (d) or (e), of the Aliens Act 2000.

Article 1:59 *[repealed on 01-11-1994]*

Article 1:60 *[repealed on 01-11-1994]*

Article 1:61 *[repealed on 01-04-1995]*

Article 1:62 Waiting period of fourteen days and an exemption from it

- **1.** The marriage cannot be contracted unless fourteen days have passed since the day on which the certificate of notice of marriage was drawn up.
- **2.** For compelling reasons the Public Prosecution Service at the District Court, within whose district the notice of marriage has taken place, may grant an exemption from the waiting period of fourteen days.

Article 1:63 Place where the marriage is contracted and the required witnesses

The marriage shall be contracted in public in the town hall before the Registrar of Civil Status in

the presence of at least two and at the most four adult witnesses:

- a.** in the municipality of the place of domicile of one of the prospective spouses at the date of the certificate of notice of marriage, or
- b.** in the municipality of The Hague in the event meant Article 1:43 paragraph 1, second sentence, or
- c.** in the municipality pointed out for this purpose by the prospective spouses when they formally gave notice of their marriage.

Article 1:64 Marriage contracted outside the town hall

If one of the parties on account of a properly proven statutory hindrance is prevented to go to town hall, then the marriage may be contracted in a particular house within the same municipality, provided it is contracted in the presence of six adult witnesses.

Article 1:65 The prospective spouses must appear in person

The prospective spouses must appear in person before the Registrar of Civil Status in order to contract their marriage.

Article 1:66 Marriage by means of representation

For compelling reasons the Minister of Justice may grant permission to the prospective spouses to be represented at the occasion of the contracting their marriage by a person who is specifically authorised by authentic deed to act as their representative or as the representative of one of them.

Article 1:67 The prospective spouses must explicitly give their consent to the marriage

- **1.** The prospective spouses must state before the Registrar of Civil Status and in the presence of the witnesses that they accept each other as husband and wife and that they will faithfully fulfil all duties which the law connects to their marital status.
- **2.** Instantly after this statement has been made, the Registrar of Civil Status shall declare that the parties are now lawfully joined in matrimony and he will draw up a marriage certificate in respect of that.

Article 1:68 Religious ceremonies

No religious ceremonies may take place before the parties have shown to the foreman of the religious service that the marriage has been contracted before a Registrar of Civil Status.

Section 1.5.5 Annulment of a marriage

Article 1:69 Persons who may apply for an annulment of marriage

- **1.** As far as not specified differently below, the annulment of a marriage on the ground that the spouses do not meet the requirements to enter into a marriage with each other, may be requested by:
 - a.** the blood relatives in the ascending line of one of the spouses;
 - b.** each of the spouses;
 - c.** all other persons having an immediate legal interest in the annulment of the marriage, but they may only make such a request after the dissolution of the marriage;
 - d.** the Public Prosecution Service, yet only as long as the marriage has not been dissolved.

- **2.** A person still united in a marriage or in a registered partnership with one of the spouses, may as well, on account of the existence of that marriage or registered partnership, apply for the annulment of the later contracted marriage.

Article 1:70 Annulment because of an unauthorised Registrar or a shortage of witnesses

- **1.** At the request of one of the spouses' parents, of one of the spouses or of the Public Prosecution Service a marriage may be annulled when it has been contracted before an unauthorised Registrar of Civil Status or without the required number of witnesses being present.

- **2.** The right of a spouse to apply for an annulment of marriage on the ground mentioned in paragraph 1 ceases to exist if there is an external appearance of marital status and a certificate of contracting the marriage executed before a Registrar of Civil Status.

Article 1:71 Annulment of marriage on the grounds of threat or mistake

- **1.** A spouse may apply for the annulment of his marriage when this marriage was entered into under the influence of an unlawful serious threat.

- **2.** The same apply may be made by a spouse who, when he contracted the marriage, was mistaken about the person of the other spouse or about the significance of the statement given by him.

- **3.** The right of a spouse to apply for an annulment of marriage on account of a threat or mistake ceases to exist when the spouses have lived together for six months since the threat has stopped or since the mistake was discovered, without having filed a request for this purpose in the meantime.

Article 1:71a Annulment of a sham marriage

At the request of the Public Prosecution Service a marriage may be annulled for being a sham marriage in conflict with public order on the ground that the objective of the spouses or of one of them is not the fulfilment of the marital duties which the law connects to a marriage, but obtaining access to the Netherlands.

Article 1:72 Adult guardianship over one of the spouses no ground for the annulment of a marriage

A marriage cannot be annulled on the ground that one of the spouses was placed under adult guardianship at the moment on which the marriage was contracted, not even when the marriage obviously will cause misery to the other spouse.

Article 1:73 Annulment of a marriage on account of a previous mental disorder

The annulment of a marriage on account of a mental disorder may, after the end of this mental disorder, only be requested by the spouse who was mentally disordered. The request can no longer be made when the spouses have lived together for at least six months since the mental disorder ended.

Article 1:74 Annulment of a marriage because a spouse was not of the required age

The annulment of a marriage, which was entered into by a person who had not reached the required age, cannot be requested when this person has reached the required age on the day on which the request is made, nor when the wife has become pregnant prior to the day of such

a request.

Article 1:75 Annulment of a marriage because the required approval of a third person is lacking

- **1.** The annulment of a marriage on the ground that the required approval of a third person was lacking, can be requested only by this third person or, in a situation as meant in Article 1:38, by the legal guardian of the adult spouse. This request can no longer be made when the person who, on this ground, is entitled to apply for the annulment of the marriage, has explicitly or tacitly approved the marriage or when three months have passed since he became aware of the contracting of the marriage.
- **2.** A person who is entitled to apply for the annulment of a marriage is presumed to have become aware of the marriage when the marriage was contracted in the Netherlands or, if the marriage was contracted outside the Netherlands, when it was registered in the Netherlands in a Register of Civil Status.

Article 1:76 Annulment of a marriage exclusively on the basis of the statutory provisions of the present Section

Without prejudice to the provisions of Article 1:56, the court shall only annul a marriage on the basis of a request made in accordance with the statutory provisions of the present Section.

Article 1:77 Legal effects of an annulment of marriage

- **1.** The annulment of a marriage shall take effect as soon as the involved court order has become final and binding; it has retroactive effect to the date on which the marriage was contracted.
- **2.** The involved court order, however, has no retroactive effect and shall have the same legal effects as a divorce:
 - a.** with respect to the children of the spouses;
 - b.** with respect to a spouse who entered into the marriage in good faith; this spouse, however, can lay no claim to any community of property when the marriage was annulled because of a still existing earlier marriage or registered partnership;
 - c.** with respect to other persons than the spouses and their children, as far as these other persons have in good faith acquired rights prior to the moment on which the annulment of the marriage was registered in the Registers of Civil Status.

Section 1.5.5A [repealed on 01-03-2009]

Article 1:77a *[repealed on 01-03-2009]*

Section 1.5.6 Proof of the existence of a marriage

Article 1:78 Principal rule: proof of a marriage only by means of a marriage certificate

The existence of a marriage which has been contracted in the Netherlands can be proven exclusively by means of a marriage certificate or of a certificate of conversion of a registered partnership into a marriage as referred to in Article 1:80g, except in the instances as provided for in the following Articles.

Article 1:79 Proof of a marriage in the absence of a marriage certificate

Where there has never existed a Marriage Register or where it has been lost or where it lacks the marriage certificate or the certificate of conversion of a registered partnership into a marriage as meant in Article 1:80g, the existence of the marriage may be proven by means of witnesses or other documents, provided that there is an external appearance of marital status present.

Article 1:80 Proof that children are born from a marriage

Where it is disputed in legal proceedings that a child, who externally has lived as being the child of specific parents, is born from their marriage, the fact that these parents have lived openly as husband and wife provides sufficient proof.

[prior Title]

[next Title]