

The following are some of the most often asked questions regarding declarations of nullity and answers to these questions.

**1. *What is the function of the Tribunal in marriage cases?***

After the preliminary investigation, it is the task of the Tribunal to determine whether or not there exist sufficient invalidating grounds, both in ecclesiastical law and in fact, that render the given marital consent defective. When we say “grounds” we mean the reason(s) used in law to question the validity of the initial consent in a particular marriage. The purpose of the Tribunal’s study of the antecedent, concomitant and subsequent facts in a marriage is to provide evidence which verifies, or not, these invalidating grounds. The Church’s declaration of nullity of a particular marriage depends on whether these invalidating grounds have been sufficiently established or not.

**2. *Who are the people who staff a Tribunal?***

There are priests, religious and lay people who are specifically trained for this particular work. They are people who are very aware of the pastoral significance of the service they offer and are always under oath of professional secrecy.

**3. *What is a declaration of nullity?***

A declaration of nullity is a declaration by a competent Tribunal of the Church that the “marriage” never validly (i.e. canonically) existed. The declaration is a formal recognition that an element essential to marriage was missing, and, therefore, the union, as a canonical Church marriage, never existed.

**4. *Is there a difference between a divorce and a declaration of nullity?***

Definitely. A civil divorce is a legal action whereby, the division of property and custody of children having been settled, a civil dissolution of a marriage is granted, and husband and wife are declared free by the same civil authority to enter a new marriage with a different partner. Such a civil procedure does not question the validity of a marriage. A declaration of nullity procedure, on the other hand, questions the validity of the initial consent of that marriage. If satisfied that in Canon Law and through factual evidence, what was thought to be in all its external appearances a canonically valid marriage, was not, then the Church’s Tribunal declares it null and void. This is the declaration of nullity.

**5. *If I have a legal divorce do I still have to apply for a declaration of nullity?***

Yes. In the mind of the Church, you are still considered to be married to your first spouse. The Church does not accept the civil courts as capable of dissolving the bond of marriage. The Church does not impose penalties on those who seek a civil divorce. However, before you could marry in the Catholic Church after obtaining a legal divorce, you would have to have been successful in obtaining a declaration of nullity, which declares that your previous union was not a valid, canonical marriage.

**6. *Are Catholic marriages the only ones which need to be declared null before a second marriage can take place in the Catholic Church?***

An erroneous impression, very common among Catholics, is that the Church recognized as valid only the marriages of Catholics. The truth is that the Catholic Church recognizes as valid not only the marriages of Catholics celebrated in the Catholic Church, but also those of baptized non-

Catholics as well as those of the non-baptized. Marriages between baptized people (Catholics or non-Catholics), if valid, are Sacraments; those between non-baptized are not Sacraments but “natural bonds” because they are contracted according to the natural law, rather than by the sacramental bond that comes through Baptism. Therefore, if a Catholic wishes to marry either a divorced, baptized, non-catholic, or a divorced, non-baptized person, then, in either case of these non-catholic marriages, a declaration of nullity would have had to be obtained through a Catholic Church Tribunal before any second marriage can take place in the Catholic Church.

**7. *If I choose not to have my first marriage examined for possible causes of nullity in a Catholic Church Tribunal, does this affect my request for remarriage in the Catholic Church?***

Yes, in that case you will not be able to marry in the Catholic Church. It is important to realize that even if you did approach a Tribunal requesting the canonical examination of your marriage, there is no certainty of a declaration of nullity unless the Tribunal has definitely found the marriage null and void and the Appeal Tribunal has upheld this first Tribunal’s decision. If you choose to be married outside the Church, you are then considered to be in an “irregular “ (i.e. non-canonical) marriage, which prevents full participation in the Sacramental, as well as other aspects of the Church’s life.

**8. *Am I then excommunicated?***

Definitely NO. You are still warmly invited to attend Mass and to participate in the life of the Church to the extent possible. However, there are serious limitations to this participation, especially in the areas of reception of the Sacraments, liturgical and catechetical ministry, but there are ways of taking part in the Church’s life and you would be encouraged to do this.

**9. *Does the Church consider divorce to be a sin?***

No. The Church says that divorce in itself is neither right nor wrong. In fact, the Church accepts that in many cases it is necessary to use the civil divorce procedure to legally protect oneself and to obtain a fair and equitable solution on such matters as child custody, maintenance and property division. A civil divorce, however, from the Church’s perspective, does not provide freedom to remarry outside of the Church.

**10. *Does the Church encourage divorced Catholics to seek a declaration of nullity?***

Yes, even though the Church retains its basic stance on the indissolubility of marriage, it has given every sign of being willing to question and examine the validity of a marriage more readily today. The Church invites you to seriously consider approaching the Tribunal to seek a declaration of nullity if your case entitles you to it.

**11. *If I do not think I have a strong case or if the majority of the fault of the marriage breakdown was mine, should I still request the Tribunal to examine my first marriage?***

It is difficult for an individual to decide on his/her own whether there are grounds for a declaration of nullity. That is where the expertise of the Tribunal staff is very valuable. It is wise to let them help you with your petition. It is not the purpose of the Tribunal process to place blame on one spouse or the other. It is their mandate to receive all petitions and thoroughly search for the “grounds” for a declaration of nullity, if these exist. If such grounds are found, the Tribunal would proceed to pass the petition through the process to a decision.

**12. My first marriage lasted for many years and we had several children. How can this marriage possibly be declared null by the Church?**

The duration of a marriage and the number of children makes absolutely no difference to the validity or non-validity of a marriage. In other words, if the initial consent was defective, i.e. invalid due to an undetected impediment, then neither the length of time nor the number of children validate that defective initial consent.

**13. If I receive a declaration of nullity does that mean my children are illegitimate?**

Definitely NOT. The declaration of nullity (annulment) does not affect in any manner the legitimacy of children, names, property, maintenance payments, inheritance rights or other matters dealt with in the civil courts. As a matter of fact, the law of the Church expressly states that “children conceived or born of a valid or putative (i.e. at first considered valid and later declared null) marriage are legitimate”. (Canon 1137)

**14. What is the financial cost for the declaration of nullity procedure?**

Each diocese determines the cost factor for processing declarations of nullity. The majority of the financial base for a Tribunal comes from the general diocesan funds. However, it is deemed to be fair and right that those persons benefiting directly from this service should be asked to make a contribution, always in keeping with their financial ability, toward the defrayment of the necessary expenditures. The amount to be paid is usually discussed on a one-to-one basis with the petitioner. One’s ability or inability, to make a contribution has absolutely no bearing upon the

person’s right to receive a just adjudication of their petition.

**15. If my petition for a declaration of nullity is successful does that mean that my former spouse is granted one also?**

Yes. Both partners are now free to remarry in the Catholic Church. However, in some cases a conditional restriction may be imposed because of the circumstances that gave rise to the invalidity of the first marriage. This would then have to be investigated at the time a request is made by that person(s) for remarriage in the Church.

**16. How long does the whole process take?**

It is impossible to predict the exact length of time needed to process a case because each one is unique and may require a time line which is different. Much depends on the availability of witnesses, complexity of the grounds, the need for intervention of experts, etc. However, most cases are processed in twelve to eighteen months.

**Addresses of Tribunal Offices in Manitoba**

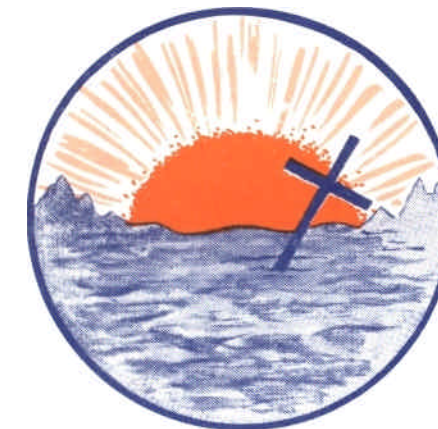
The Tribunal  
The Archdiocese of Winnipeg  
1495 Pembina Highway  
Winnipeg, MB  
R3T 2C6  
Telephone (204) 452-2227

The Tribunal  
The Archdiocese of St. Boniface  
151 avenue de la Cathédrale  
Saint Boniface, MB  
R2H 0H6  
Telephone (204) 237-9851

The Ukrainian Catholic Tribunal  
Ukrainian Catholic Archieparcy of  
Winnipeg  
233 Scotia Street  
Winnipeg, MB  
R2V 1V7  
Telephone (204) 338-7801

**ANNULMENTS**  
(Declarations of Nullity)

**A**  
**Process**  
**For Healing**



**A collation of questions and  
answers on the declaration of  
nullity procedure**

**CATHOLIC BISHOPS OF  
MANITOBA**  
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