

# Marriage

## ACT, NSW, NT, QLD, SA, TAS, VIC, WA

*A person who is 18 or older can legally marry another person who is 18 or older (including two people of the same gender). If you, or your partner are under 18, there are special circumstances that may allow you to get married, which we explain below.*

*Some marriages are not legally recognised, including if you are forced to get married against your wishes, you are under age, you are married to more than one person or you are related to the person you want to marry.*

*For free and confidential legal advice about this topic, please contact us at <https://www.lawmail.org.au/verification>*

### When can you get married?

In Australia, marriage is defined as the exclusive union between two people (including people of the same gender), voluntarily entered into for life. A person is allowed to get married if:

- They are at least 18 years old;
- Their partner is at least 18 years old;
- Both people agree to the marriage; and
- Neither person is married to someone else.

In Australia, marriage is a legal process that provides a couple with certain legal rights. For this reason, you must follow specific steps in order to get married including filling out forms, and getting an authorised person to officially marry you. If you would like to find out more about the process of getting married, you can check out this factsheet:

[https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Getting-married.aspx#getting\\_married\\_aust](https://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Getting-married.aspx#getting_married_aust)

### What if you are under 18?

If you are aged between 16 and 18, or the person you want to marry is aged between 16 and 18, you can apply to the Family Court or Magistrates Court to get married.

A Court will only allow you to get married if you can prove that there are unusual or exceptional circumstances. This means that these orders are given in very rare situations. The Court will look at the specific facts and circumstances specific to your relationship when making the decision about whether or not to make an order. This might include:

- your maturity;
- the length of your relationship with your partner;
- your financial situation;
- how independent you are as a couple;
  
- why you want to get married; and
- what your families think of you getting married.

In order to get married, you must also have permission from the parent/guardian of the person who is under 18. If the parent/guardian refuses to give permission, you can make an application to the Court to allow the marriage to continue without the permission of the parent/guardian. The Court

*This resource was developed by Youth Law Australia. For more information please visit <https://yla.org.au/>*



will only grant this in very rare cases and this will depend on the exact reasons why the permission was not given.

If you are given permission to get married, you must get married within 3 months of getting permission from the Court.

The laws around getting married when you are under 18 can be a bit confusing. If you are under 18 and want to get married, you can get help from <https://www.lawmail.org.au/verification> by providing more details and we can provide you with advice about your specific situation.

## When is a marriage invalid?

In some cases, a marriage might be considered invalid. This means that it is not legally recognised. A marriage will be considered invalid if:

- Either person is already married to a different person (this is because you cannot have more than one legal husband or wife);
- Either person did not give real consent (e.g. they were forced into the marriage, did not understand what was happening);
- Either person is under the age of 18 and the Court did not give permission for the marriage to occur; or
- The people getting married are related (including step siblings, step parents, half-siblings, adopted siblings, adoptive parents, or any blood relatives).

Also, the law makes it illegal to:

- marry more than one person;
- marry someone underage; or
- to force someone to marry you'. This means that if you don't give permission to your marriage, then it is not legal. This includes if you are a child and your parents give permission on your behalf. You can check out our page on Forced Child Marriage if you would like more information: <https://yla.org.au/topics/health-love-and-sex/forced-child-marriage/>

## Who can you marry?

If you and your partner are both over the age of 18 you can legally marry each other (including if you are the same gender) as long as you both agree to the marriage and are not related.

If you are over 18 and your partner is aged between 16 and 18, you can legally marry each other if you have permission from the Court, and permission from your partner's parents/guardians. This includes if you are the same gender, as long as you both agree to the marriage and are not related.

If you are aged between 16 and 18 and your partner is aged 18, you can legally marry each other if you have permission from the Court, and from your parents/guardians. This includes if you are the same gender, as long as you both agree to the marriage and are not related.

If you and your partner are both aged between 16 and 18, you can legally marry each other only if you have permission from the Court, and from both of your parents/guardians. This includes if you are the same gender, as long as you both agree to the marriage and are not related.

**Date last updated:** 7 March 2018

**References:** Marriage Act 1961 (Cth), Criminal Code Act 1995 (Cth)

