



SUMMARY OF CHANGES IN THE PROCEDURES USED TO DETERMINE THE NULLITY OF MARRIAGE

1. What is the marriage nullity process?

The marriage nullity process is a Church examination of a marriage that has civilly ended in order to determine if the marriage was invalid due to a defect of consent at the time of the exchange of vows. This examination is accomplished through the participation of parties and witnesses in a procedure established in canon law, the law of the Church.

2. Why is Pope Francis changing the marriage nullity process?

The salvation of souls has always been the supreme law of the Church. For this reason, all its institutes ought to incline towards the goal of communicating divine grace and ought to continually favor, according to the gifts and mission of each, the good of the faithful inasmuch as this is the essential goal of the Church. With this in mind, the Holy Father decided to change the nullity process.

3. When will the changes to the marriage nullity process take effect?

The changes will begin December 8, 2015, the Solemnity of the Immaculate Conception and the opening of the Year of Mercy.

4. How is the nullity process going to change?

There are three major changes that will affect the processing of a case.

The areas being changed include:

- Competency of tribunals
- The requirement of a second review
- The introduction of a shorter, streamlined process

5. New rules regarding the ability of a particular tribunal to accept a case (tribunal competence).

a. What is “tribunal competence”?

Competence is the ability, by canon law, for a specific tribunal to process a nullity case. The law has been simplified so that a tribunal can hear a case without the consent of another tribunal,

If:

- i. The marriage took place in that diocese
- ii. Either the petitioner or respondent lives in the diocese
- iii. Most of the evidence (i.e. witnesses) is located in the diocese
- iv. The elimination of the requirement for a second review of the case when there is an affirmative judgment

b. What is the new law regarding affirmatives in first instance?

Under the revised law, if neither party to the case or the Defender of the Bond appeals an affirmative decision within the time frame allowed (15 working days; not counting weekends or holidays) the case is considered complete. Previously, a **normal second review**, if it resulted in a ratification of the first instance decision, would take six to eight weeks.

c. A more streamlined process, applicable in certain cases.

A. How long does the current process take?

Every marriage is as unique as the participants themselves. In each case, the questioning of the parties, gathering information from witnesses, collecting evidence and applying the procedural steps of the current process all takes time. A case with few complications can be decided within a year from the time of the deposition of the parties. This is an estimate and a wedding date should never be set until and only if an affirmative decision, with no restriction, is given.

B. What is the new shorter process?

Certain procedural steps have been amended without compromise to the theology of marriage, the law or the integrity of the process. This new process will be available for use after December 8, 2015, if the case qualifies.

C. Who qualifies for the shorter process?

Three strict qualifications apply:

- i. Both spouses must consent by signature to the process
- ii. The facts surrounding the case must be obvious according to the marriage law of the Church
- iii. All the facts that support the criteria of nullity (proofs) such as documents and the testimony of parties and witnesses must be readily accessible and available, even with this, the time necessary will vary from case to case. Once collected, the facts of the case are submitted to the Bishop for a decision.

6. Why is it important for both spouses to consent to the shorter process?

This requirement helps protect the right of both spouses to defend the validity of their marriage. There is a common misconception that if both spouses agree that the marriage is invalid, a declaration of nullity is somehow automatic or guaranteed. This has never been true, and the new law does not change that. The facts of the case, and not the spouses' agreement or disagreement on the matter, determine whether the marriage has been proven invalid.

7. How does the shorter process work?

First, the parties (or one of them with the consent of the other) have to submit a petition for a declaration of nullity, which in addition to all the information normally contained in a petition, has to demonstrate why the shorter process could be used, i.e., why the nullity of the marriage is manifest and also how it will be proven by readily available evidence. There is no guarantee that a case will qualify for the shorter process.

If the case is admitted to the shorter process, the Judicial Vicar issues a decree stating the grounds in the case, nominating an instructor (an official in charge of gathering the evidence) and an assessor (an official in charge of advising the Bishop). Appointments are scheduled for the parties to come to the tribunal and give further information regarding the marriage and information is gathered from witnesses.

The Defender of the Bond and the parties then have fifteen days to present further information for the case. After this, the case is presented to the Bishop for judgment. If, based on all the evidence presented, the Bishop reaches moral certitude that the marriage is invalid, he can issue a sentence declaring the nullity of the marriage. If he is not morally certain, the case is admitted to the normal process, starting from the beginning.

Appeal against the Bishop's affirmative decision can be made by either party or the defender of the bond within fifteen days. Please remember that in this process, like the ordinary process, there is no guarantee of an affirmative decision. So, like the ordinary process, a marriage in the Catholic Church should NOT be scheduled, even tentatively, until an affirmative decision, free from restriction, is issued.

8. How long does the shorter process take?

A number of news outlets reported that the shorter process will take 45 days. Some of them even erroneously reported that number as though it applied to all marriage nullity processes. This is simply untrue. The number 45 doesn't appear anywhere in the new document. So where does that number come from? Probably from adding the 30 days in which the session must be held to the 15 days for the presentation of arguments, this number is inaccurate.

The law allows up to 30 days to review and admit a petition. The law also allows 30 days for writing the sentence once the case has been decided. And the sentence cannot be acted on until the window for appeal has passed, another 15 days (not counting weekends and holidays). In all, that's 120 days from start to finish, not counting the possibility of delays. Nobody, no matter how strong his or her case, should expect to get a declaration of nullity in 45 days.

9. A change in the approach to assessing tribunal expenses.

Pope Francis didn't eliminate all tribunal fees, but he said that the process should be gratuitous whenever that can be done without harming the right of tribunal workers to a just wage. He has two reasons for this.

First, he wants to make sure that nobody is ever discouraged from exercising their rights due to cost.

Second, he wants to be sure that tribunals are immune from the misconception that declarations of nullity can be "bought" or "sold."

10. When and how is the new law going to be implemented?

As already noted, the law comes into effect on December 8, 2015. Changes do not affect cases which reach decision prior to that date.

