

# CANON XXI

## On Marriage in the Church

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### Preface

1. The Anglican Church of Canada affirms, according to our Lord's teaching as found in Holy Scripture and expressed in the Form of Solemnization of Matrimony in the Book of Common Prayer, that marriage is a lifelong union in faithful love, and that marriage vows are a commitment to this union, for better or for worse, to the exclusion of all others on either side. This union is established by God's grace when two duly qualified persons enter into a covenant of marriage in which they declare their intention of fulfilling its purposes and exchange vows to be faithful to one another until they are separated by death. The purposes of marriage are mutual fellowship, support, and comfort, and the procreation (if it may be) and nurture of children, and the creation of a relationship in which sexuality may serve personal fulfilment in a community of faithful love. This covenant is made in the sight of God and in the presence of witnesses and of an authorized minister.
2. The Church affirms in like manner the goodness of the union of man and woman in marriage, this being of God's creation.<sup>1</sup> Marriage also is exalted as a sign<sup>2</sup> of the redeeming purpose of God to unite all things in Christ,<sup>3</sup> the purpose made known in the reunion of divided humanity in the Church.<sup>4</sup>
  1. Cf. Gen. 1:27–31
  2. Eph. 5:31f.
  3. Eph. 1:9f.
  4. Eph. 2:11–16
3. The Church throughout its history has recognized that not all marriages in human society conform, or are intended to conform, to the standard here described. For this reason, in the exercise of pastoral care as evidenced in the earliest documents of the New Testament, the Church has from the beginning made regulations for the support of family life especially among its own members.
4. Aspects of the regulation of marriage in the apostolic Church are recorded in the New Testament. A new standard of reciprocal love between husband and wife was introduced leading towards an understanding of their equality.<sup>1</sup> In preparation for marriage Christians were directed to seek partners from among their fellow believers.<sup>2</sup> In Christ's name separated spouses were encouraged to seek reconciliation.<sup>3</sup> In his name also divorce was forbidden though not without exception.<sup>4</sup> In certain circumstances a believer already married to an unbeliever might be declared free from such a marriage bond;<sup>5</sup> in others, and here in the name of Christ, remarriage during the lifetime of a former spouse was described, with one exception, as an adulterous union.<sup>6</sup>

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1. 1 Cor. 7:3f, 11:11f, Eph. 5:21–33, cf. Gal. 3:28  
2. 1 Cor. 7:39, 2 Cor. 6:14, cf. 1 Thess. 4:2–8 (RSV)  
3. 1 Cor. 7:10f.

4. Matt. 5:31f, Mark 10:2–9, cf. Mal. 2:13–16

5. 1 Cor. 7:12–16

6. Matt. 19:9, Mark 10:11f, Luke 16:18, cf. Ro. 7:3

5. From these principles and precedents the Church, living in many cultures and in contact with many different systems of law, has sought in its rites and canons to uphold and maintain the Christian standard of marriage in the societies in which believers dwell. This standard and these rites and canons pertain to the selection of marriage partners, preparation for marriage, the formation of a true marriage bond, the solemnization of marriage, the duties of family life, the reconciliation of alienated spouses, and to the dissolution of marriage and its consequences.
6. All members of this Church, in fulfilling the obligations of the People of God, share according to their circumstances in the obligation to uphold Christian standards of marriage in human society especially by care for their own families and by neighbourly care for the families of others. Special obligations rest upon certain members of the Church as set forth below.
7. The particular duties of the clergy, described in part elsewhere in this Canon, include the provision of education for marriage and family life, the solemnization of marriage, the pastoral care of families, the encouragement of reconciliation of estranged spouses, and the pastoral care of those whose family ties have been broken or interrupted by death, sickness, poverty, enforced absence, human weakness, or by wilful act.
8. The duties of the laity, according to their several circumstances, are to share with the clergy the responsibility for upholding family life, in particular:
  - a) by their presence with friends and neighbours at weddings to bear witness to their support of those who marry;
  - b) to safeguard the legality of marriages by readiness to allege promptly any cause or just impediment which might make a proposed marriage unlawful;
  - c) to promote and encourage the use of the professional skills that serve family life;
  - d) as spouses, to be faithful to their own marriage vows;
  - e) as parents, guardians, god-parents, teachers, or other fully qualified persons, to guide children and young persons in preparation for family life;
  - f) as neighbours, mutually to promote the welfare of families, and to seek the reconciliation of any whose family life is impaired or broken;
  - g) as communicants, to uphold the Church's discipline, and to seek the restoration to communion of any who have become alienated or are excommunicate; and
  - h) as citizens, to work for the maintenance of just laws for the welfare of family life.

# Regulations

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## I. Prerequisites for Marriage

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### 1. Notice

It shall be the duty of those who intend to marry to give notice to the minister at least 60 days before the day proposed for the wedding, except that the minister may waive this requirement for sufficient cause in which case the minister shall notify the bishop of the diocese in writing, stating the reason for the decision.

### 2. Preparation

It shall be the duty of the incumbent, when application is made for matrimony to be solemnized, to inquire whether there is any impediment either to the marriage or to the solemnization thereof. It shall also be the duty of the incumbent or designate, to review with the parties to the marriage, the issues outlined in Schedule E annexed hereto and to recommend strongly to the parties that they avail themselves of a marriage preparation course or program so that all who seek marriage in the Church may come to it with a Christian understanding of its purpose and a practical understanding of the realities of marriage, and may be encouraged to give effect with God's help to the vows which they are preparing to make. The parties to the intended marriage, after due consideration, shall be encouraged to sign the Declaration set out in Schedule A.

### 3. Impediments of Relationship

- a) Notwithstanding the Table of Kindred and Affinity contained in *The Book of Common Prayer* (1962), when making the inquiries directed in section 2 the minister shall, with respect to impediments of relationship, be guided by the *Marriage (Prohibited Degrees) Act*, as it was in force on June 1, 2004, which prohibits marriages between persons who are related
  - i) lineally by consanguinity or adoption,
  - ii) as brother and sister by consanguinity, whether by the whole blood or the half-blood, or
  - iii) as brother and sister by adoption.
- b) In addition to marriages prohibited by law, no person may marry another person if they both live, or have previously lived, in the same household and one of them is or has been treated by the other as a child or parent.

### 4. Age

No minister shall solemnize the marriage of persons either of whom is under sixteen years of age.

### 5. Requirements of Civil Law

The minister shall ensure that all the requirements of the civil law of the province or other jurisdiction in which the marriage is to be solemnized have been met, in particular that

all prerequisite notices, medical certificates, and consents of parents, guardians, or others, have been respectively given, completed, and obtained.

*6. Licenses and Banns*

The minister shall not solemnize a marriage unless the parties have obtained a license from the proper authority or unless the banns have been published in conformity with the civil law and in the manner required by section 7.

*7. Publication of Banns*

When banns are to be published:

- a) They shall be called in the church three several Sundays during Divine Worship after the accustomed manner and in conformity with the requirements of civil law.
- b) Where either or both of the parties are accustomed to worship in a church or churches other than their own parish church, the banns may be called in the church or churches in which they worship, provided that the civil law allows such procedure.
- c) The minister shall say together with such addition as the civil law may require: I publish the Banns of Marriage between N. of ..... and N. of ..... If any of you know cause or just impediment why these two persons should not be joined together in Holy Matrimony, you are to declare it. This is the first (or second or third) time of asking.
- d) After the final calling their publication shall be recorded as required, and if the marriage is to be solemnized elsewhere the appropriate certificate shall be forwarded to the officiating minister.

*8. When License to Marry is Required*

The calling of banns shall not exempt the parties from obtaining a license to marry where the civil law requires them to do so.

*9. Certain Marriage Forbidden*

Except as provided in part III or part IV of this Canon, no minister shall solemnize the marriage of two persons one of whom has been a party to a ceremony of marriage with a third person now living.

*10. Baptism*

The Form of Solemnization of Matrimony in the Book of Common Prayer is provided for the marriage of Christians. No minister shall solemnize matrimony between two persons neither of whom has been baptized. If two persons, one of whom has not been baptized, desire to be so married, the minister shall refer the matter to the bishop of the diocese whose order and direction shall be followed.

*11. License and Permission of Minister to Solemnize Marriage*

- a) Every minister who solemnizes a marriage must where the civil authorities make such a requirement, hold a valid license or permit to officiate at marriages in that place.
- b) The minister must also have the license or authority of the bishop of the diocese in which the marriage is to be solemnized.

- c) The officiating minister must have obtained the consent of the incumbent of the parish in which the marriage is to be solemnized if the officiating minister is not licensed to that parish.
- d) The discretion of a minister to decline to solemnize any particular marriage shall not be abrogated by this Canon.

## **II. The Solemnization of Matrimony**

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### *12. Place of Marriage*

- a) Marriage is a public act and shall be solemnized in the face of the community and of the friends and neighbours of the couple.
- b) Every marriage shall be solemnized in the presence of at least two witnesses in addition to the officiating minister.
- c) The body of the church is the appropriate place for the solemnization of a marriage but a marriage may be solemnized in another location if the incumbent, after consultation with the bishop, is satisfied that the solemnity and public nature of the occasion will be preserved and that the service will be conducted with dignity in godly and decent order.

### *13. Incumbent in Charge of Service*

The incumbent shall be responsible for the conduct of the marriage service. Hymns or anthems sung at the service shall be those only which may be found in Holy Scripture, in the books of Common Prayer or Common Praise, or in texts approved by ecclesiastical authority.

### *14. Marriage to a Non-Christian*

The form of Solemnization of Matrimony is intended to be used in marriages between Christians. For purposes of this Canon, a person is a Christian who has been baptized and who is prepared to reaffirm Baptismal vows.

Where one of the parties to a marriage does not consider himself/herself to be a Christian, the minister may, nevertheless, use the Form of Solemnization as deemed to be appropriate. The form may be used with such modifications as may be permitted by the bishop having jurisdiction where the marriage is to be solemnized. In the vow, the non-Christian may omit the words 'holy' and 'according to God's ordinance', but no other change may be made to the vow or to the declaration of intention.

### *15. Parish and Civil Registers*

It is the duty of the officiating minister to record the information required by the civil authority as well as the information necessary for pastoral care, in the manner following:

- a) At the time of marriage the minister shall enter the several particulars relating thereto in a register to be retained in the parish for this purpose. In this parish register the minister shall record the particulars of baptism, confirmation, and church membership of the respective parties, and the address of their intended residence.
- b) The minister shall also record in such other register or form as may be required by the civil law the particulars prescribed by that law, and shall duly report the same to the appropriate authority.

### **III. Determination of Marital Status Under This Canon**

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#### *16. Definitions*

- a) “Marriage” as defined by this Canon means that union described in the Preface of this Canon and further described in section 17 of this part. With respect to marriage so defined, a man and a woman may nevertheless, for reasons of age or health or other serious cause agree to marry upon condition that there shall be no sexual intercourse between them permanently or for a limited time or from time to time.
- b) “Chancellor” means the chancellor of a diocese.

#### *17. Conditions of Valid Marriage under this Canon*

The question whether a purported marriage constituted a marriage as defined by this Canon shall be determined by the Chancellor in accordance with the following principles:

- a) The parties to a marriage are not qualified for the purpose of this Canon to marry each other if:
  - i) either of them is under the age of 16 years,
  - ii) they are related to each other
    - a) lineally by consanguinity or adoption,
    - b) as brother and sister by consanguinity, whether by the whole blood or the half-blood, or
    - c) as brother and sister by adoption;
  - iii) they both live, or have previously lived, in the same household and one of them is or has been treated by the other as a child or parent; or
  - iv) either of them has gone through a ceremony of marriage with a person who is living at the time of the application, unless:
    - a) the previous ceremony of marriage has been found, as provided in this part, by the Chancellor not to have been a marriage as defined by this Canon and therefore not to be an impediment to marriage under the Canon Law of this Church; or
    - b) the previous marriage has been found [by the Chancellor] to have been dissolved or terminated according to the civil law applicable thereto and permission to marry has been given [by the Chancellor], as provided by part IV of this Canon.\*

\*Note: The words “by the Chancellor” were erroneously included in clause b) and should be ignored.

- b) The contract of marriage requires the free and voluntary consent of the parties to marry each other upon the terms set out in the Preface of this Canon, based upon adequate understanding by each of them of the nature of the union and of the mutual relations of husband and wife and of parents and children.
- c) Consent to marry is not present where:
  - i) one of the parties is at the time of the contract of marriage incapable by reason of mental defect, mental illness, alcoholic intoxication, or the influence of a drug, of having the necessary understanding or giving the necessary consent;
  - ii) one of the parties has been induced to consent by duress, by coercion, or by fear;
  - iii) one of the parties gives consent after having been abducted and before being set free;
  - iv) one of the parties is at the time of the contract of marriage mistaken with respect to the nature of the contract or of the union, or with respect to the identity of the other party;
  - v) one of the parties at the time of the covenant of marriage was deceived by misrepresentation, concealment or other deception with respect to facts which have threatened life or adversely affected or endangered health or have been seriously detrimental to the establishment of the covenant, including among other things, misrepresentation, concealment or other deception relating to:
    - a) venereal disease, AIDS
    - b) addiction to drugs or alcohol
    - c) pregnancy, except as a result of intercourse with the marriage partner
    - d) homosexual practice
    - e) violence, sadistic conduct, or other abnormal practices;
  - vi) the marriage has been agreed to upon a condition which is illegal, impossible or contrary to the nature of the union, as defined in this Canon;
  - vii) the marriage is intended to be a sham or mere form;
  - viii) either party is incapable of consummating or unreasonably refuses to consummate the marriage by sexual intercourse, subject to subsection 16 a) of this Part; or
  - ix) one of the parties is not a Christian and there is a condition taken that the Christian party shall be entitled to adhere to and practice Christianity or to bring up any children of the union as Christians, and the non-Christian party assents to the condition without intending that it shall be satisfied.
- d) In the cases mentioned in subsections ii), iii), iv), v) and ix) hereof, the party coerced, mistaken or deceived or otherwise imposed upon may by an act of will approbate the marriage and continue to cohabit with the other party when free to cease cohabitation after being freed from coercion, fear or abduction or after learning of the mistake, deception, concealment or other circumstance constituting the defect. What constitutes approbation is a question of fact in each case. The effect of approbation for the purpose of this Canon is to validate the marriage.

- e) Nothing contained in this Canon shall authorize the solemnization of a marriage known to the minister or either of the parties to be invalid by civil law.

*18. Conditions Governing Application Regarding Canonical Status*

- a) An application for declaration of marital status under this Canon may be made where the applicant has gone through a ceremony of marriage with a person living at the time of the application and it is alleged that the ceremony did not constitute a marriage as defined by this Canon and where the marriage or purported marriage:
  - i) has been annulled or declared null and void or dissolved or otherwise terminated by a legislature or court, or
  - ii) is alleged to have been dissolved or otherwise terminated according to the civil law properly applicable thereto, by an extra-judicial or non-judicial and non-legislative act or event.
- b) An application under this section may be made by a person who has gone through a ceremony mentioned in subsection a) of this section and who is:
  - i) a member of this Church, or
  - ii) a person who desires to marry according to the rites of this Church.
- c) An application under this section not made in the course of or with a view to proceedings preliminary to a marriage shall be made to the incumbent of the parish or mission where the applicant resides or is accustomed to worship.
- d) An application under this section made in the course of or with a view to proceedings preliminary to a marriage shall be made to the incumbent of the parish or mission where it is desired that the intended marriage be celebrated.
- e) The incumbent receiving the application shall investigate it to the best of his or her ability and forward the application, together with his or her report thereon, through the appropriate channels to the Chancellor having jurisdiction in the diocese.

*19. Form of Application*

- a) An application for declaration of marital status under section 18 shall be made in writing and signed by the applicant and shall contain the information required by Schedule B.
- b) The application shall be accompanied by:
  - i) a certificate of performance or registration of the ceremony issued by a competent authority;
  - ii) the original or a copy of the legislative act or the judgment or decree referred to in Schedule B, paragraphs 9 and 10, and of any other document necessary for proof of any fact, and proof of its authenticity;
  - iii) statements in writing verifying all other relevant facts not within the knowledge of the applicant signed by persons having knowledge of the facts; or
  - iv) where there has been no legislative act and no judgment or decree as above mentioned, a reasoned opinion in writing, signed by a person professionally

qualified to give an opinion in respect of the law in question, verifying that the purported marriage has been dissolved or otherwise terminated.

*20. Decision of Chancellor*

- a) On an application for declaration of marital status under section 18 of this part, the Chancellor when all relevant facts have been proved to the Chancellor's satisfaction, shall determine whether the ceremony gone through by the applicant resulted in a marriage under this Canon.
- b) If the Chancellor determines that the ceremony did not result in a marriage under this Canon and if the Chancellor is satisfied that the marriage or purported marriage has been annulled or declared null and void or dissolved or otherwise terminated by a legislature or competent court, or has been dissolved or otherwise terminated by another act or event according to the law properly applicable thereto, and that no civil impediment to the marriage of the applicant exists, the Chancellor shall make a declaration that the ceremony in question did not result in a marriage under this Canon and therefore does not constitute an impediment to marriage under the Canon Law of this Church. In all other cases, the Chancellor shall declare that impediment exists.
- c) Where there has been a failure to obtain any consent of a parent, guardian or other person, other than a party to the marriage, whose consent is required by the applicable civil law and where the marriage has been annulled on this ground by a competent court, the Chancellor may make a declaration that the ceremony in question did not result in a marriage under this Canon and therefore does not constitute an impediment to marriage under the Canon Law of this Church.

*21. Presumption of Death*

- a) An application for declaration of marital status under this Canon may be made to the Chancellor by a person who desires to be married according to the rites of this Church and who has been a party to a marriage with a person:
  - i) in respect of whom a judicial declaration of presumption of death has been made by a competent court, or
  - ii) who is missing and presumed dead but whose death has not been officially confirmed and in respect of whom no judicial declaration of presumption of death mentioned in subsection i) has been made.
- b) For the purpose of the application a court exercising civil jurisdiction in any part of Canada acting under legislation of Canada or of a province is deemed to be a competent court, whether the declaration is made under legislation related to marriage or under other legislation. The jurisdiction of any other court whose declaration is relied on must be proved to the satisfaction of the Chancellor.
- c) The application shall be made in accordance with the provisions of section 18, clauses d) and e) and Schedule B omitting paragraphs 3 to 8 inclusive.
- d) The application shall be accompanied by a certified copy of the judicial declaration, if any, relied on by the applicant, a statement or statements in writing signed by the

person or persons having knowledge of the facts on which the allegation of death is based, and a statement in writing signed by the applicant setting out his or her belief in the death of the other party to the marriage and the reasons for that belief.

- e) If the Chancellor is satisfied that the missing party to the marriage or ceremony of marriage is dead, as far as can be ascertained at the time of the application, the Chancellor may make a finding to that effect and make a declaration that the marriage or ceremony of marriage between the applicant and the missing party does not at the time of the declaration constitute an impediment to the marriage of the applicant under the Canon Law of this Church. Otherwise, the Chancellor shall dismiss the application without prejudice to a later application.
- f) A person who has obtained a declaration under this clause shall at or after the time of publication of banns or on production of the license declare to the intended celebrant that he or she has no reason to believe and does not believe that the other party to the former marriage or ceremony of marriage is alive.

#### *22. Procedure*

The Chancellor shall follow the procedure set out in the provisions of Schedule D.

#### *23. Avoidance of Delay*

The Chancellor shall deal with each application as expeditiously as possible.

#### *24. Limitation of Jurisdiction*

Every finding and determination of the Chancellor shall be and shall be expressly stated to be made solely for the purposes of this Canon and not for the purpose of performing any function of a civil court or other civil authority, and shall otherwise be confined to the findings and declaration necessary for disposing of the application in respect of which it is made.

#### *25. Persons Serving in or Attached to the Canadian Forces*

- a) This section applies to a person who is enrolled in the Canadian Forces who is serving in the regular forces or who is a member of the reserve forces on continuous duty with the regular forces, or a person who in accordance with the *National Defence Act*, accompanies the Canadian Forces, and the dependents of all such persons.
- b) A person described in subsection a) may forward an application under this Part to the Anglican chaplain responsible for his or her pastoral care.
- c) On receiving an application the chaplain may forward the application to the Chancellor of the diocese in which the applicant resides or to the Bishop Ordinary to the Canadian Forces who shall designate a diocesan chancellor to hear the application.
- d) Nothing in this section prevents a person from making an application in the manner prescribed by this Part.

#### **IV. The Remarriage of a Divorced Person Whose Former Partner is Still Living**

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##### *26. Application for Permission to Remarry According to the Rites of the Church*

- a) An application for permission to marry each other according to the rites of this Church may be made by two persons, one or both of whom has or have gone through a ceremony or ceremonies of marriage with a person or persons now living not a party or parties to the application, if the prior marriage or marriages is or are not questioned under this Canon in the application but has or have been dissolved or terminated by a legislature or legislatures or a court or courts or by another act or acts or event or events according to the law or laws applicable thereto. Where a marriage or purported marriage has been annulled for a defect not mentioned in section 17 of part III of this Canon, and no defect mentioned in that section is alleged in respect thereof, it shall be deemed for the purposes of this Canon to have been dissolved.
- b) The application shall be made to the incumbent of the parish or mission where it is desired that the intended marriage be celebrated. The incumbent shall investigate the application as thoroughly as possible and forward it together with a report thereon to the Ecclesiastical Matrimonial Commission established under part VI having jurisdiction in the diocese or, in a diocese where there is no Ecclesiastical Matrimonial Commission, to the diocesan bishop. The bishop may delegate the authority to the incumbent or some other person.
- c) An exception to this process may be made:
  - i) where both parties to the intended marriage normally reside at a significant distance from the proposed place of marriage, or
  - ii) where the parties live at a significant distance from each other, or
  - iii) where other circumstances require special arrangements, in which case the interviews and investigation shall be arranged for by the incumbent through responsible persons who are readily accessible to one or both of the partners to the intended marriage.
- d) The application shall be made in writing and signed by both applicants and shall contain the information required by Schedule C.
- e) The incumbent or the persons responsible for interviews and investigation shall attend to the question of pastoral care of former partners who are not applicants (as required of the Ecclesiastical Matrimonial Commission in Schedule B), and ensure, where needed and possible, that pastoral care is provided from an appropriate source.

##### *27. Permission to Remarry According to the Rites of the Church*

Permission to remarry according to the rites of this Church, notwithstanding the marriage or marriages of either or both applicants to another person or persons now living, should be based on a reasonable belief that the applicants understand the nature of Christian marriage as stated in this Canon and intend to enter into such a marriage, and reasonable hope that they will continue in that relationship during their joint lives. Permission may

be granted by the Commission or the diocesan bishop to the applicants if the Commission or the diocesan bishop is satisfied that:

- a) any prior marriage in question has been validly dissolved or terminated in accordance with the law properly applicable thereto;
- b) the applicant concerned tried in good faith before dissolution to effect reconciliation with the other party;
- c) adequate provision has been made for a former spouse of a divorced applicant, according to the means and needs of the applicant and the means and needs of the former spouse;
- d) proper provision has been made for the care, maintenance, education and advancement of minor, disabled or otherwise dependent children of any prior marriage;
- e) if the children of a prior marriage are to live with the applicants, there is a reasonable prospect that the family relationship will be satisfactory;
- f) the applicants understand the Christian Doctrine of marriage as defined in this Canon, and intend to enter into such a marriage, and believe on reasonable grounds that they have the capacity to enter into and sustain the marriage during their joint lives.

#### *28. Refusal of Permission*

- a) If permission is not granted, the Commission or the diocesan bishop shall, subject to subsection 28 c) of this Part, dismiss the application, giving reasons in writing which shall be communicated to the applicants through the incumbent.
- b) On being notified of dismissal of the application, the applicants may, within 30 days after receipt of notice, apply in writing to the Commission or the diocesan bishop for reconsideration of the application. On such reconsideration the applicants may appear personally before the Commission or the diocesan bishop and submit further reasons why the application should be granted or may submit such information and reasons in writing. On such reconsideration the Commission or the diocesan bishop may grant the application or confirm the previous decision. If the Commission or the diocesan bishop confirms the previous decision they shall give reasons in writing which shall be communicated to the applicants through the incumbent.
- c) If the application is dismissed and the decision is confirmed by the Commission or the diocesan bishop, or if the applicants do not exercise their rights under subsection b), the application may not be renewed before any Commission or diocesan bishop unless further information is provided.

#### *29. Special Cases*

- a) If the Commission or the diocesan bishop is satisfied that efforts towards reconciliation between the parties to a former marriage would have been ineffective as a result of the fault of either party or for any other reason, the requirement of subsection 27 b) may be dispensed with.
- b) If either applicant has entered into two or more marriages that have been dissolved,

the Commission or the diocesan bishop shall not grant permission unless special circumstances justifying permission are proved.

- c) If the Commission or the diocesan bishop is of the opinion that a prior purported marriage of an applicant did not constitute a marriage as defined by this Canon, the Commission or the diocesan bishop may refer the application to the Chancellor who may, if the conditions of part III, section 20, are satisfied, make a declaration under that section in respect of the marriage in question.
- d) If the incumbent of a parish declines for reasons of conscience to solemnize a marriage pursuant to permission given under this Part, the said incumbent shall refer the applicants to another priest designated by the bishop for investigation and report and permit that priest or another priest to solemnize the marriage in his or her Church.

## **V. Admission To Holy Communion In Special Cases (Deleted in 2004)**

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### **VI. Ecclesiastical Matrimonial Commission**

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#### *30. Diocesan Commission*

- a) Subject to section 31, there may be in each diocese an Ecclesiastical Matrimonial Commission to deal with applications under part IV.
- b) The president of the Commission shall be the diocesan bishop or a bishop or priest appointed by the diocesan bishop. In a diocese in which no other president has been appointed, in the absence of the diocesan bishop from the diocese or during a vacancy of the See the administrator of the diocese shall be the president.
- c) The diocesan bishop shall appoint two or more communicant members of this Church to be members of the Commission, and may appoint other persons to be consultants without vote.
- d) At least one member of the Commission or a consultant should be engaged in or be qualified to engage in the practice or teaching of civil law in the province, territory or other jurisdiction or each of them, in which the Commission acts and at least one member or a consultant should have special skill and knowledge in Canon Law and at least one in pastoral care.
- e) The Commission may delegate to one or more members or consultants the investigation of any application or class of applications and of any matter or matters related thereto and of ascertaining any relevant facts and reporting thereon to the Commission, and may accept and act on any report or may take or require further investigation.
- f) A quorum of a Commission shall be a majority of its members. The decision of a Commission shall be that of a majority of its members present and taking part in the determination of its decision.

- g) Before becoming effective, the decision of the Commission shall require confirmation by the diocesan bishop or a bishop appointed for that purpose, or, if the See is vacant or the diocesan bishop and other bishops of the diocese be absent from the diocese, by the diocesan bishop's commissary or other administrator of the diocese.
- h) The diocesan bishop shall appoint an officer of the Commission who shall be known as the registrar and shall act as clerk and secretary of the Commission, to receive applications, conduct correspondence, give notices, attend hearings and deliberations in person or by deputy and keep minutes of proceedings, and engross and promulgate decisions and communicate each decision to the appropriate incumbent and the applicant or applicants and shall keep the records of the Commission in the diocesan offices.

### 31. *Joint Commission*

- a) With the consent of the metropolitan of the ecclesiastical province and of the diocesan synods of the dioceses concerned, the diocesan bishops of two or more dioceses may establish a Joint Commission to deal with all applications made thereafter within any of the dioceses concerned. If the dioceses are in different ecclesiastical provinces, the consent of the metropolitan of each province shall be required.
- b) The diocesan bishops of the dioceses concerned shall at the time of the meeting of each provincial synod involved or otherwise from time to time as required elect a bishop to be president of the Joint Commission or confirm the appointment of one already in office. If the jurisdiction of the Joint Commission extends into two ecclesiastical provinces, the bishops of the dioceses concerned shall arrange the election of a president among themselves.
- c) The president of a Joint Commission shall appoint the registrar from time to time during the president's term of office as president.
- d) While a Joint Commission is in existence, its composition, organization, powers and procedure shall with all necessary changes be the same as those of a diocesan Commission, and no diocesan Commission within its jurisdiction shall act, provided that:
  - i) the diocesan bishops of the dioceses concerned shall join in the appointment of members of and consultants to the Joint Commission;
  - ii) applications shall be submitted by the appropriate incumbent to the diocesan secretary of each diocese concerned and forwarded by the secretary to the registrar forthwith; and
  - iii) after a decision in an application has been made and promulgated, the registrar shall forward the decision, together with the application and all related documents, to the diocesan secretary of the diocese in which it was made, who shall submit the decision for confirmation to the authority mentioned in subsection 30 g) of this Part. On obtaining the determination of that authority the secretary shall keep it with the application and accompanying documents in the diocesan records in a confidential manner, and communicate the decision to the appropriate incumbent and the applicant or applicants.
- e) The diocesan bishop of a diocese under a Joint Commission may with the consent of the diocesan synod and of the metropolitan of the province withdraw the diocese from the jurisdiction of the Joint Commission in respect of applications made after the withdrawal. On so doing the bishop shall forthwith establish a diocesan Commission.

*32. Procedure*

The procedure followed by a Commission shall be governed by the provisions of Schedule D.

*33. Avoidance of Delay*

Each application shall be dealt with as expeditiously as possible.

*34. Limitation of Jurisdiction*

Every finding and determination by a Commission or a diocesan bishop shall be expressly stated to be made solely for the purposes of this Canon and not for the purpose of performing any function of a civil court or other civil authority, and shall be confined to granting or refusing permission to remarry.

*35. Persons Serving In or Attached To the Canadian Forces*

- a) This section applies to a person who is enrolled in the Canadian Forces who is serving in the regular forces or who is a member of the reserve forces on continuous duty with the regular forces, or a person who in accordance with the *National Defence Act*, accompanies the Canadian Forces, and the dependents of all such persons.
- b) A person described in subsection a) may forward an application under this Part to the Anglican chaplain responsible for his or her pastoral care.
- c) On receiving an application the chaplain may forward the application to the Ecclesiastical Matrimonial Commission or to the bishop of the diocese in which the applicant resides or to the Bishop Ordinary to the Canadian Forces.
- d) Nothing in this section prevents a person from making an application in the manner prescribed by this Part.

## **VII. Forms**

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**36.** The Council of the General Synod, a Commission, a diocesan bishop or the Bishop Ordinary to the Canadian Forces may approve forms for use in the administration of this Canon.

## *Schedule A*

### **Declaration**

*See part I, section 2.*

We, \_\_\_\_\_ and \_\_\_\_\_, hereby declare that we intend to enter into marriage which we acknowledge to be a union in faithful love, to the exclusion of all others on either side, for better or for worse, until we are separated by death.

We undertake to prepare ourselves for the exchange of vows at our wedding, recognizing that by this mutual exchange our union in marriage will be established.

We intend to strive thereafter to fulfill the purposes of marriage: the mutual fellowship, support, and comfort of one another, the procreation (if it may be) and the nurture of children, and the creation of a relationship in which sexuality may serve personal fulfillment in a community of faithful love.

## *Schedule B*

### **Application for Declaration of Marital Status**

*See part III, sections 19 a) and 21 c), and schedule C, section 3.*

The following information, or so much of it as is necessary for a decision by the Chancellor, shall be provided as far as it is known:

1. The full name, and place of residence, of the applicant.
2. The date and place of the marriage ceremony in question, its nature and form, by or before whom it was celebrated or solemnized, and the authority or purported authority of the celebrant.
3. The full name, and the place of residence if known, of the other party to the ceremony, at the time of the application.
4. The ages of the parties at the time of the ceremony, their then respective places of residence, domiciles and nationalities, their relationships towards each other by blood or marriage, whether either of them was under any disability or prohibition with respect to marriage generally or with respect to the other party, and the respective marital conditions of the parties immediately before the ceremony.
5. The proper law applicable to the ceremony and to the marriage otherwise than with reference to the ceremony, the relevant provision of the proper law or laws and authorities for such provisions.
6. Whether the requirements of the proper law or laws with respect to banns, license or permit, to consent of parents or others, to examinations and other preliminary matters were duly complied with.

7. The alleged defects in the ceremony or in the marriage or purported marriage.
8. Whether (if relevant) either party has exercised any legal right to avoid the marriage or purported marriage or has approbated the marriage.
9. Full particulars of any proceedings in any court or ecclesiastical tribunal or commission in which the validity of the marriage or purported marriage was questioned directly or indirectly and the result of such proceedings.
10. Full particulars of any proceedings in any court or legislature or of any other act or event by which the marriage or purported marriage was or is alleged to have been dissolved or terminated.
11. Whether there have been children of the marriage or purported marriage and, if so, the full name, age, place of residence and present marital status of each child now living.
12. If any child of the marriage or purported marriage is a minor or under any disability or otherwise dependent on one or both of the parties to the marriage or purported marriage a statement showing who has the custody or is directly or indirectly responsible for the care and maintenance of the child and full details of present financial and other arrangements and future plans for the care, maintenance, education, and advancement of the child.
13. A statement showing what provision has been made by the applicant for the present and future maintenance of the former spouse or purported spouse, or an explanation why there is no such provision.
14. If one or both of the applicants do not reside in the parish, the procedures outlined in section 26 c) may apply.
15. Any other facts that would assist the Chancellor.

### *Schedule C*

## **Application for Permission to Remarry According to the Rites of the Church**

*See part IV, section 26 d).*

The following are required:

1. The full name and place of residence and religious affiliation, if any, of each applicant;
2. The date and place and solemnizing officiant of any former marriages of each applicant with a person now living and the present marital status of the applicant and the ages of the parties immediately before such marriage;
3. The information mentioned in paragraphs 3, 9, 10, 11, 12, 13, 14 and 15 of Schedule B.

## *Schedule D*

### **Procedure of the Chancellor**

*See part III, section 22.*

1. Unless a marriage or purported marriage in respect of which an application is made has been civilly annulled or declared null and void or dissolved or terminated by a competent legislature or a competent court at the instance of or after due notice to the party thereto other than the applicant herein, the Chancellor shall before making a finding or determination cause the other party to be notified of the application in a manner that satisfies the Chancellor that the notice has been brought to the attention of the other party, if it is feasible to give such notice.
2. In any case the Chancellor may cause the other party to the marriage or purported marriage, or any other person whom the Chancellor believes to be concerned, to be notified of the application, if notification is feasible.
3. The notice shall be accompanied by a copy of the application and shall inform the person notified that he or she may assert or dispute any statement of fact, submit evidence orally or in writing and make any submission or representation he or she sees fit to make in person or by representative.
4. Any statement, dispute, evidence, submission or representation made in response to the notice shall be communicated to the applicant who shall be given an opportunity of making answer or rebuttal.
5. The Chancellor may:
  - a) require proof of any additional fact which appears to be relevant to the matters involved in the application;
  - b) require proof of any fact to be made by statutory declaration or to be made orally by affirmation, and require any document to be satisfactorily authenticated;
  - c) require the applicant, in order to remove doubt, to take such proceedings in a competent civil court as may be necessary to establish or confirm the nullity of any purported marriage not already annulled or declared null and void by a court or legislature or the dissolution or termination of any marriage not dissolved or terminated by a court or legislature, or the competence in the premises of any court or legislature whose act, judgment or decree is relied on in relation to the marital status of the applicant;
  - d) permit an applicant to be represented or assisted by counsel or by a person having special skill and knowledge in Canon Law and pastoral care;
  - e) make findings of fact based on any evidence satisfactory to the Chancellor submitted in a manner satisfactory to the Chancellor, whether written or oral and direct or hearsay and whether or not verified by oath, affirmation or statutory declaration;
  - f) conduct a hearing, if the Chancellor sees fit, in the presence of the applicant and of the other party to a marriage or purported marriage if the other party desires to

attend, and of their representatives or assistants, or make a determination without a hearing if the Chancellor does not consider a hearing necessary, and no application for a hearing is made by the applicant;

- g) permit an application to be reopened or a fresh application to be made if further information is available after the Chancellor has disposed of an application.

### *Schedule E*

## **Marriage Preparation**

*See part I, section 2.*

It is suggested that the incumbent or designate in discussing marriage preparation with the parties to a marriage, in addition to recommending strongly to the parties that they avail themselves of a marriage preparation course or program, review with the parties the following specific issues:

1. The attitudes and expectations of the parties as to how they will deal with financial planning including budgeting, sharing of incomes and expenses.
2. The attitudes and expectations of the parties as to how they will deal with any potential religious differences.
3. The attitudes and expectations of the parties as to how their families including parents and siblings will react to the marriage and how supportive they will be.
4. The attitudes and expectations of the parties towards lifestyle including interests and friends in which there may be common interests and differences.
5. The attitudes and expectations of the parties towards work sharing in the home relationship and management of the household.
6. The attitudes and expectations of the parties as to their understanding of the importance of communication between partners in a marriage.
7. The attitudes and expectations of the parties in regard to sexual relations.
8. If either party has been previously married or has cohabited in a common law or *de facto* marriage, it is important that there be specific discussions about the past relationships, the reasons for the breakdown of any past relationships, the effect of any continuing obligations, financial or otherwise, to a former partner or children of a previous marriage or relationship, potential problems related to access to or custody of such children, and the potential integration of such children into a new family unit.
9. Their views regarding number of children, rearing and education of same and potential career conflicts.
10. The solemnity of the marriage covenant which the parties are making in the sight of God.