

SPECTRUM



Legal ease looks at engagement and marriage

Engagement and marriage are two very symbolic and important events in a person's life. The union of two persons in marriage involves many changes, not the least of which is a change in legal status. When planning a wedding, it is important that you be aware of the requirements for legal marriage and ensure that all the necessary formalities are observed.

Are there any legal consequences attached to be a contract to breaking a marriage engagement?

Many people would be surprised to learn that an engagement is considered to be a contract to marry another person. Under certain circumstances, a person who breaks an engagement may be required to pay damages to the innocent party, his or her former fiancé(e).

What happens to gifts between couples and gifts to couples from other people if an engagement is broken?

When a marriage engagement is broken, problems may arise with respect to the property rights of the parties involved. A common problem is who is entitled to the engagement ring. In general, it seems that if the woman breaks the engagement, the man is entitled to the ring. On the other hand, if the man breaks the engagement, he usually cannot recover the ring. Wedding gifts are said to be conditional to the wedding taking place and in most cases should be returned if the wedding is called off.

What steps must you take in order to get married in New Brunswick?

In order to be married in New Brunswick, you must obtain a marriage license. A marriage license is a document that must be presented to the person performing your marriage. A marriage license is issued to ensure the engaged couple are legally entitled to marry. In order to obtain a marriage

license, you and your spouse-to-be must appear before an issuer of marriage licenses and file an application. The fee for such a license is \$30. Unless the circumstances of your marriage are urgent and exceptional, you must wait five days after making your application before the license will be issued. After you have obtained your license, your marriage must be solemnized (the ceremony performed) within three months.

Who has authority to solemnize a marriage?

Your marriage may be solemnized by either a member of the clergy (a religious ceremony) or by a Clerk of the Court of Queen's Bench (a civil ceremony). At the ceremony, there must be present two or more credible witnesses who are 19 years of age or older. If you are married by a Clerk during regular office hours, the fee is \$25. After the ceremony, the person who has solemnized your

marriage will give you a marriage certificate.

Can a member of the clergy from outside New Brunswick perform your wedding ceremony?

If you wish to have a member of clergy from outside of New Brunswick to solemnize your marriage, that member must apply to the Marriage Act Section of the Vital Statistics Office for a temporary registration permit. He or she will then be able to legally solemnize your marriage. It is important to make such arrangements well in advance of your wedding date, as it could take up to five weeks for the necessary permit to be issued.

How old must you be before you are free to marry?

You must be 18 years of age or older to be married. If you have attained the age of 16 years, you may be married with the consent of your parent(s). If you are under 16, you will require a declaration by a judge of the Court of Queen's Bench permitting marriage in addition to the consent of your parent(s) or legal guardian.

Is there anyone that you are not allowed to marry?

For various reasons, there are certain people that you may not be allowed to marry. For a complete list please consult:

Vital Statistics Office
Dept. of Health and Community Services
P.O. Box 6000
Fredericton, NB
E3B 5H1
Telephone: 453-7411

Do banns of marriage have to be published by a church before you can be married?

No, the publication of banns is not necessary and does not take the place of marriage

licenses as it once did. However, the Marriage Act does not prevent your place of worship from publishing banns according to its tradition.

Does New Brunswick law require blood tests in order to obtain a marriage license?

No, blood tests are not required in New Brunswick.

Do you have a choice about the surname you use after you are married?

The Change of Name Act allows you several options in choosing your surname after you are married. You may retain the surname you used immediately before marriage or you may assume the name of your spouse. You may also use a combination of both your surname and your spouse's surname as long as the name is hyphenated. For example, if your name is Smith and your spouse's name is Jones, you may use the name Smith-Jones. Finally, you may choose to revert to your registered name.

Where can you get a copy of your marriage license after you are married?

You can obtain a copy of your marriage license from the Vital Statistics Office in Fredericton. To get a copy, you must have the following information: name of the bridegroom, name of the bride, surname prior to marriage, place of marriage and date of marriage. There will be a fee of \$10 for a wallet size copy and \$15 for a certified copy.

This column is intended to be used as a guide only. It is not meant to be a replacement for legal advice. If you require any additional legal advice or legal counselling, please contact a lawyer.

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