

Read about the difference between void and voidable marriages and then decide which marriage is void and which voidable.

A void marriage is one that is considered never to have taken place, whatever procedure may have been followed by the people concerned. They are simply not married.

A voidable marriage is one that is not void from the outset, as may be the case with a marriage conducted illegally, but may be declared void in course of time.

Children born in a void marriage are technically **illegitimate**, as the marriage is considered never to have happened. In contrast, children of a voidable marriage are considered **legitimate** if born before the annulment.

If a marriage is thought to be void, either partner can apply to the High Court for a '**declaration of nullity**', indicating that the marriage effectively never took place. If a marriage is voidable, but not void, either party can apply to a competent court for an **annulment**. Annulment is technically different from divorce, because it rests on the state present at the time of marriage, not events that happened after marriage.

Void or voidable?

- either partner does not, or can not, consummate the marriage
- either partner was under 16 years of age
- either partner did not consent to the marriage (marriages made under duress)
- either partner was not mentally competent to consent to the marriage (eg. under the influence of drugs)
- the partners are related in a forbidden degree (eg. incestuous or bigamous)
- either partner was suffering from a sexually-transmitted disease
- the formal procedures of marriage were not correctly followed; for example, the wedding may not have been in a registered building, or open to the public
- the partners were of the same gender at birth
- the woman was pregnant by another man
- either partner is tricked by some fraudulent representation of the other (such as concerning impotency or sterility)