

**Marriage for Civil Purposes Act**

**2005, c. 33**

[Assented to July 20, 2005]

An Act respecting certain aspects of legal capacity for marriage for civil purposes

Preamble

WHEREAS the Parliament of Canada is committed to upholding the Constitution of Canada, and section 15 of the *Canadian Charter of Rights and Freedoms* guarantees that every individual is equal before and under the law and has the right to equal protection and equal benefit of the law without discrimination;

WHEREAS the courts in a majority of the provinces and in one territory have recognized that the right to equality without discrimination requires that couples of the same sex and couples of the opposite sex have equal access to marriage for civil purposes;

WHEREAS the Supreme Court of Canada has recognized that many Canadian couples of the same sex have married in reliance on those court decisions;

WHEREAS only equal access to marriage for civil purposes would respect the right of couples of the same sex to equality without discrimination, and civil union, as an institution other than marriage, would not offer them that equal access and would violate their human dignity, in breach of the *Canadian Charter of Rights and Freedoms*;

WHEREAS the Supreme Court of Canada has determined that the Parliament of Canada has legislative jurisdiction over marriage but does not have the jurisdiction to establish an institution other than marriage for couples of the same sex;

WHEREAS everyone has the freedom of conscience and religion under section 2 of the *Canadian Charter of Rights and Freedoms*;

WHEREAS nothing in this Act affects the guarantee of freedom of conscience and religion and, in particular, the freedom of members of religious groups to hold and declare their religious beliefs and the freedom of officials of religious groups to refuse to perform marriages that are not in accordance with their religious beliefs;

WHEREAS it is not against the public interest to hold and publicly express diverse views on marriage;

WHEREAS, in light of those considerations, the Parliament of Canada's commitment to uphold the right to equality without discrimination precludes the use of section 33 of the *Canadian Charter of Rights and Freedoms* to deny the right of couples of the same sex to equal access to marriage for civil purposes;

WHEREAS marriage is a fundamental institution in Canadian society and the Parliament of Canada has a responsibility to support that institution because it strengthens commitment in relationships and represents the foundation of family life for many Canadians;

AND WHEREAS, in order to reflect values of tolerance, respect and equality consistent with the *Canadian Charter of Rights and Freedoms*, access to marriage for civil purposes should be extended by legislation to couples of the same sex;

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Short title

1. This Act may be cited as the *Civil Marriage Act*.

Marriage —  
certain aspects  
of capacity

2. Marriage, for civil purposes, is the lawful union of two persons to the exclusion of all others.

Religious officials

3. It is recognized that officials of religious groups are free to refuse to perform marriages that are not in accordance with their religious beliefs.

Freedom of  
conscience and  
religion and  
expression of  
beliefs

3.1 For greater certainty, no person or organization shall be deprived of any benefit, or be subject to any obligation or sanction, under any law of the Parliament of Canada solely by reason of their exercise, in respect of marriage between persons of the same sex, of the freedom of conscience and religion guaranteed under the *Canadian Charter of Rights and Freedoms* or the expression of their beliefs in respect of marriage as the union of a man and woman to the exclusion of all others based on that guaranteed freedom.

Marriage not  
void or voidable

4. For greater certainty, a marriage is not void or voidable by reason only that the spouses are of the same sex.

## CONSEQUENTIAL AMENDMENTS

### CANADA BUSINESS CORPORATIONS ACT

5. [Amendments]

### CANADA COOPERATIVES ACT

6. [Amendments]

### CIVILIAN WAR-RELATED BENEFITS ACT

7. [Amendment]

### DIVORCE ACT

8. [Amendments]

**FEDERAL LAW AND CIVIL LAW OF THE PROVINCE OF QUEBEC  
ACT**

9. [Amendment]

**INCOME TAX ACT**

10. [Amendments]

11. [Amendment]

11.1 [Amendment]

12. [Amendments]

**MARRIAGE (PROHIBITED DEGREES) ACT**

13. [Amendment]

14. [Amendment]

**MODERNIZATION OF BENEFITS AND OBLIGATIONS ACT**

15. [Amendment]

<http://www.canlii.org/ca/sta/c-31.5/whole.html>