



If I am married to more than one person and get caught will any of the marriages be valid?

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The focus of this blog is on the act of entering into a marriage while lawfully married to another person, known as *bigamy*.

The institution of marriage means different things to different people. Marriage can carry with it significant personal, cultural, social, legal and economic meaning for the parties. It is a contract, both private and public, between the parties getting married, and between them and the state.

The definition of marriage provided in the *Marriage Act 1961(Cth)* ("the Act"), which regulates the law of marriage in Australia, is *'The union of a man and a woman to the exclusion of all others, voluntarily entered into for life.'*

The laws regulating marriage in Australia have been adopted from the English common law. A fundamental principle of the law is that marriage is monogamous. It can only involve one man and one woman, to the exclusion of all others.

What is a valid marriage in Australia?

Marriage is strictly regulated. The Act sets out who can marry, who can perform the marriage ceremony, and how the ceremony must be conducted and in which circumstances it may be performed.

Only persons who are 18 or over may marry, as long as they are not already married, have legal capacity to consent, and are not in a prohibited relationship (for example with a close relative). In exceptional circumstances the marriage of a person who is 16 years of age or above may occur in accordance with the formal requirements of the Act. At present (July 2013) marriage is only permitted

between persons of opposite sex.

So, if I marry a second time without lawfully ending my first marriage will either marriage be valid?

A marriage is void if either of the parties is already lawfully married to another person. Accordingly, the first marriage will remain valid and the second unlawful marriage will be null and void (invalid) as the marriage is bigamous.

Bigamy is also a criminal offence which, under the Act, carries a penalty of imprisonment for up to 5 years. It is a defence to a charge of bigamy if the defendant can prove that at the time of the second marriage the defendant believed his or her spouse was dead, and that the length and circumstances of the absence provided reasonable grounds for presuming they were dead.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.