

ACCESS

Guide

Marriage, Cohabitation, Registered Partnership and ending a Relationship

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Contents

- Introduction** 3
 - Marriage and registered partnership** 3
 - Cohabitation** 3
 - Cohabitation agreement** 3
 - Same-sex marriage**..... 3
- Who can marry in the netherlands?** 3
 - Foreign partners or partners living abroad**..... 4
- Procedure and documents**..... 4
 - For a marriage** 4
 - For a registered partnership (*geregistreerd partnerschap*)** 5
 - For cohabitation**..... 5
 - The main formalities in the case of marriage or registered partnership**..... 5
- Rights and obligations** 6
- Children and family law** 6
 - Acknowledging paternity** 7
- Recognition of relationships abroad** 8
- Ending a relationship**..... 8
 - Marriage**..... 8
 - Registered partnership** 8
 - Cohabitation** 8
 - Rights and obligations after ending a relationship** 9
- Useful websites and addresses**..... 9

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Introduction

This ACCESS Guide provides information about marriage, registered partnership, cohabitation, same-sex marriage and ending a relationship in the Netherlands. Couples of the same gender, or different genders, that want to formalize their relationship have three options:

- Civil marriage
- Registered partnership
- Cohabitation agreement

For each option, there are different conditions, rules, rights and obligations.

Marriage and registered partnership

Marriage (*huwelijk*) and registered partnership (*geregistreerd partnerschap*) are similar in many ways. They are both relationships formalized by law. To a large extent the law specifies the partners' rights and obligations, the conditions they must meet to formalize their relationship, and the procedures involved, including ending a relationship. However, there are significant differences when it comes to children.

Cohabitation Even if a couple living together choose not to formalize their relationship, the fact that they live together still has legal consequences. There are implications, for instance, for income tax and social security deductions and benefits.

Cohabitation agreement

A cohabitation agreement (*samenlevingscontract*) is a contract between two people. It covers a variety of matters relevant to living together and sharing a home. For instance, a couple may agree to support each other financially and share the costs of running a household. They may also want to make arrangements about the use of each other's bank accounts, or dividing or sharing their property. They can either arrange these matters themselves or ask a notary to make provision in an official cohabitation agreement. However, pension schemes that include a partner, as well as certain fringe benefits, always need an official agreement drawn up by a notary.

Same-sex marriage

Since April 2001, couples of the same sex or different sexes can be married, or form a registered partnership or enter into a cohabitation agreement, in the Netherlands. Both the registered partnership and the marriage between two persons of the same sex afford nearly the same rights as heterosexual marriage and differ only in regard to children and adoption. It may not be legally recognized outside the Netherlands.

Who can marry in the Netherlands?

Anyone of Dutch nationality can be married here, regardless of whether they live here and regardless of their partner's nationality. Two foreign nationals may marry in the Netherlands if one of them legally resides in the Netherlands. The above also applies to

Marriage, registered partnership, cohabitation and ending a relationship

entering into a registered partnership.

Foreign partners or partners living abroad

The following rules apply to non-Dutch nationals or residents:

- A couple may not marry or enter into a registered partnership in the Netherlands if neither is a Dutch national, and both live abroad.
- If neither partner is a Dutch national, they may marry or enter into a registered partnership in the Netherlands provided at least one of them is resident here.
- They may marry or enter into a registered partnership in the Netherlands if at least one partner is Dutch, even if they both live abroad.
- A couple may marry or enter into a registered partnership in the Netherlands if both partners live in the country, even if neither of them is a Dutch national.

Rights of residence to prevent marriages of convenience, non-Dutch nationals who wish to marry or enter into a registered partnership must either have a permanent residence permit or obtain a statement from the Aliens Police regarding their status under the Aliens Act.

Procedure and documents

For a marriage

The **intention to marry** (notice of engagement or *ondertrouw*) must be made at the local municipality (*Gemeente*) or Town Hall (*Stadhuis, Afdeling Huwelijkszaken*) of the district of residence of one of the couple wishing to marry. This is the **notice of marriage** and must be done no less than two weeks and no more than a year before the wedding (*huwelijk*) is planned to take place.

The documents needed may vary depending on nationality, previous marriages and residence status in the Netherlands. It is advisable to have documents ready at the time of announcing the intention to marry.

Required documents for both partners include:

- A full birth certificate;
- Proof of identity;
- Document of authorisation from a legal guardian (if under 18);
- Extract from the municipality registry (*Gemeentelijke Basis Administratie, GBA*) declaring marital status and nationality;
- A marriage certificate in the case of a previous marriage with divorce decree in the case of a previous divorce or death certificate in the case of being widowed ;
- Foreign nationals complete a Form M46 (issued by [Immigratie- en Naturalisatiedienst, IND](#)) available from the Town Hall;
- Foreign nationals may also need to present a certificate of no impediment to marriage or certificate of civil status proving they are not married elsewhere. This is available from their Consulate.
- Completed witness forms for the two to four witnesses (they must be 18 or older) should be presented at this time.

Marriage, registered partnership, cohabitation and ending a relationship

Note:

A certificate of no impediment to marriage is issued after a notice of marriage has been displayed at the Consulate General for 21 days, and if no objection has been made about the proposed marriage. It is issued in Dutch. There may be a requirement that foreign documents (birth, marriage, divorce and death certificates) be legalised with an Apostile. This can be done by the relevant Consular office. If the couple both live abroad and wish to marry in the Netherlands they must give notice of their intention to marry at the City of The Hague Registrar's Office.

For a registered partnership (*geregistreerd partnerschap*)

The Registered Partnership (established 1998) was created for same-sex and opposite sex partners and provides the same rights and responsibilities as married partners except in relation to children. Unlike a marriage, a registered partnership may not be blessed in a religious service.

A registered partnership is recorded at the Registry of Births, Deaths and Marriages of the municipality of residence.

The necessary documents are:

- A full birth certificate
- A death certificate in the case of being widowed
- A marriage certificate in the case of a previous marriage
- A divorce decree in the case of a previous divorce

For cohabitation

Couples who wish to live together need not go through any formalities or deal with any official bodies. They may enter into a cohabitation agreement, if they choose to do so. In that case, they sign a contract arranging a variety of matters relevant when people share a home.

The couple may arrange these affairs on their own. But it is often advisable to have an official agreement drawn up by a notary. In any event, an official agreement is needed to be eligible for certain benefits, such as partner's pension schemes and employment fringe benefits. The notary will charge a fee for these services.

The main formalities in the case of marriage or registered partnership

Notice of intention to be married or to register a partnership

A couple intending to marry or to register their partnership first have to give notice of their intention to the registrar of births, deaths and marriages, usually in the municipality (*gemeente*) in which one of them is resident. They also have to provide documents showing that they are eligible to marry or register their partnership. The nature of these documents will depend on the situation. In addition to a copy of their birth certificates, they may have to submit evidence that a previous marriage has been dissolved or their registered partnership terminated or a document giving

Time lapse

The registrar formally records that notice has been given of the couple's intention to

Marriage, registered partnership, cohabitation and ending a relationship

marry or register their partnership. As a rule, the marriage or registration ceremony cannot take place until two weeks have elapsed. Exceptions can be made in special circumstances.

Witnesses

The marriage or registration ceremony must take place in the presence of no fewer than two and no more than four witnesses, who are over the age of 18. Their names and addresses must be submitted to the registrar when the couple gives notice of their intention to marry or register their partnership.

Vows

The couple solemnizes their relationship before the law by taking vows before the registrar of births, deaths and marriages. The marriage vows are prescribed, but couples registering as partners may choose the vows they wish to make.

Marriage or partners' certificate

After taking their vows, the couple, their witnesses and the registrar of births, deaths and marriages sign the marriage or partners certificate.

Costs

There are costs associated with a civil marriage ceremony and the registration of a partnership. However, every municipality reserves certain times of the week during which these ceremonies are performed free of charge.

Church ceremony

Marriages may only be blessed in church after the civil marriage has taken place. It is up to the church communities themselves whether to bless or solemnize the marriage. They are not obliged to do so.

Rights and obligations

Both marriage and registered partnership automatically entail rights and obligations, most of which are laid down by law. Couples that live together without formalizing their relationship are bound only by the rights and obligations they commit themselves to in a cohabitation agreement. A cohabitation agreement covers whatever provisions the partners choose. The obligation to provide for one another financially is an interesting example; it is an automatic obligation in marriage and registered partnership, but it only applies to other couples if it is specified in the contract.

In principle, all possessions and debts are generally shared jointly in marriage and registered partnership, but different arrangements can be made by instructing a notary to draw up a premarital or pre-partnership agreement.

Children and family law

Marriage, registered partnership, cohabitation and ending a relationship

The nature of a couple's relationship has significant implications if a child is born. In this respect, there are major differences between heterosexual marriage, marriage between people of the same sex and, registered partnership and cohabitation.

A husband and wife are by law the parents of any children born of their marriage. The woman who bears the child is the mother, and the law regards her husband as the child's father.

Marriage creates a family-law relationship between the married couple and the child, which entails various rights and obligations. It has implications for the child's surname, parental responsibility, access, nationality and rights of succession.

In all cases other than marriage between a man and a woman, the birth of a child creates a family-law relationship only between the mother and the child. Family-law ties between the child and the mother's partner can be created through acknowledgement (*erkenning*) or adoption (*adoptie*).

The main rules applying to couples other than a married couple of different sexes are as follows:

- The woman who bears a child is the mother, according to the law.
- A man, who acknowledges paternity of a child, is its father, according to the law.
- If a man acknowledges the child of an unmarried woman who is not his registered partner, he does not automatically acquire parental responsibility. For this to be the case, the parents must make a joint application to the court.
- No family-law ties exist between a child and a person who assumes responsibility for its care and upbringing, if that person is not the child's parent. Such ties can be created through acknowledgement or adoption.
- A parent and non-parent may assume equal responsibility for a child's care and upbringing by exercising joint responsibility.

Acknowledging paternity

In every case except that of a marriage between a man and a woman, a man who acknowledges paternity of a child becomes the child's father. He may do this before the child is born by having a deed of acknowledgement drawn up by the registrar of births, deaths and marriages or a notary. Alternatively, he can acknowledge the child when registering the birth or at any time afterwards. This is usually done before the registrar of births, deaths and marriages.

Conditions:

- The man acknowledging the child must be at least 16 years old.
- The mother must give written consent in advance, if the child is under 16. Children aged 12 or over are required to give their consent as well. In other words, a child aged between 12 and 16 can only be acknowledged with the consent of that child and its mother.
- If the man is married to a person other than the child's mother, he must have close relationship with the mother or a close personal relationship with the child.

Marriage, registered partnership, cohabitation and ending a relationship

- A man who is too closely related by blood to the mother to marry her may not acknowledge her child.
- If the man acknowledging the child is under special guardianship (*onder curatele*), he must obtain the consent of a subdistrict judge.

Recognition of relationships abroad

Some European countries have introduced registered partnership, but the Netherlands has set an international precedent by according equal status to same-sex marriage as marriage between people of different sexes. This means that same-sex married couples and registered partners should be aware that their relationship and its legal consequences will not always be accepted in other countries.

Ending a relationship

Marriage

A marriage is dissolved when the court pronounces a divorce and the judgment is entered in the marriage register in the municipality where the marriage took place. Married couples can apply for a legal separation; this option is not open to registered partners.

The court also usually makes access arrangements between the children and the parent they are not living with. Both parents are obliged to contribute financially towards their children's care and upbringing, each according to their means. They can decide on child maintenance themselves or ask the court to set an amount that one parent will pay to the other for child maintenance.

Registered partnership

Registered partners can end their relationship without going to court, as long as both parties agree. However, they must be able to demonstrate that they agree and have arranged their affairs to the satisfaction of both. For this purpose, they must have an agreement drawn up by a lawyer or notary, confirming that they wish to end their relationship and making arrangements regarding property, maintenance and so forth. This agreement must be entered in the registers of births, deaths and marriages. Only once this has been done is the registered partnership deemed officially ended.

Cohabitation

Couples with a cohabitation agreement decide for themselves when they wish to regard their relationship and contract as having ended. To avoid any disagreement, they are advised to provide for this situation when drawing up their cohabitation agreement.

When a cohabitation agreement ends, the only rights and obligations the partners have towards one another are those which are laid down in the agreement and which specifically apply after the relationship has ended. For example, the couple may want to

Marriage, registered partnership, cohabitation and ending a relationship

provide for the division of their communal property, the right of one party to occupy their home, and possibly maintenance. It is important to note that neither party is obliged to pay maintenance unless the couple has made alternative arrangements in their cohabitation agreement.

Rights and obligations after ending a relationship

The parties to a marriage or registered partnership continue have rights and obligations towards one another after the relationship has ended. Child and partner maintenance (*alimentatie*) obligations and the division of pension rights (*pensioenrechten*) are two important examples. The partner who is in a stronger financial position is obliged to support the other. This applies equally to married and registered partners.

Useful websites and addresses

1. The Ministry of Justice website has a booklet about the requirements for same-sex marriage in the Netherlands:
<http://english.justitie.nl/themes/family-law/index.aspx>
2. Municipality (*gemeente*) Den Haag and Amsterdam website:
<http://www.denhaag.nl/en/expats-and-students/to/getting-married-in-the-hague.htm>
<http://www.iamsterdam.com/en/living/official-matters/registering-marriage>
3. Expatica has an article about marriage and divorce in English on their Website:
www.expatica.com/nl/essentials_moving_to/country_facts/marriage-and-divorce-in-the-netherlands-17013.html?ppager=0
This article explains the main conditions for expats considering marriage in the Netherlands. There is also a section about divorce.
4. When a couple with children decide to divorce, it has to be decided who will have authority over the children.
The Ministry of Justice has published a booklet on the subject, "Responsibility, access and information": <http://english.justitie.nl/themes/family-law/index.aspx>

For further information, please contact:

- The Population Affairs Department (*bevolkingszaken* or *burgerzaken*) of your municipality (*gemeente*), www.overheid.nl
- The Notary Helpline (*notaristelefoon*): 0900 346 9393 (cost: EUR 0.80 Per min), www.notaris.nl
- The National Child Protection Agency: tel. (030) 888 2400, www.kinderbescherming.nl
- The Central Office of FIOM (for information on and help with adoption and step-parenting): tel. (073) 612 8821, www.fiom.nl
- Legal Aid (Het Juridisch Loket): tel. 0900 8020 (cost: EUR 0.10 Per min), www.hetjl.nl
- Legal Expat Desk of GMW Advocaten (lawyers): tel. (070) 361 5048, www.gmw.nl/internationale-gemeenschap/legal-expat-desk.html

Marriage, registered partnership, cohabitation and ending a relationship

- Thomas Consultancy, civil law notary office, tel. (070) 338 8338, www.thomasconsultancy.nl

Marriage, registered partnership, cohabitation and ending a relationship

ACCESS guides available for downloading, free of charge, from the ACCESS website:

- Banking
- Childcare and playgroups
- Food from home
- Having a baby in The Netherlands
- Health care
- Housing and accommodation
- Inheritance and wills
- International primary and secondary education
- Learning the Dutch language
- Marriage , registered partnership, cohabitation and ending a relationship
- Obtaining a driving license in the Netherlands
- Post Office
- Public Transport
- Social Security
- Starting your own business
- Studying in the Netherlands
- Telephone, internet and television
- What to do when leaving the Netherlands
- Working in the Netherlands

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If you need more information about this subject, please contact the organisations listed or look at the websites mentioned.