

GETTING MARRIED IN NEW CALEDONIA

Special measures for foreign citizens who are non-residents of France and its Territories

*Application of Article 58 of the LODEOM (Law N° 2009-594 dated 27 May 2009 for Economic Development of French Overseas Countries, Territories and Administrative Districts). **It is to be noted that this article introduces the derogations to the Civil Code, however, apart from these derogations; all of the clauses of the Civil Code apply to the marriage of foreign citizens in New Caledonia.***

The General Directive Relating to Civil Status (IGREC ⁽¹⁾) dated 11 May 1999 effectively supplements the Civil Code.

Principle

Two people, who are not of French nationality, can get married in New Caledonia provided that they are not the same sex and are at least 18 years old.

Each of the future spouses must:

- give their consent,
- not be a close family member or related to the future spouse (in certain cases a dispensation can be granted by the President of the Republic of France),
- not be married in France or overseas.

Place of Marriage

By derogation from Article 74 of the Civil Code, the marriage ceremony can occur in the commune chosen by the future married couple, without either of the future spouses having resident status in the said commune.

The marriage ceremony must be publicly solemnized in the Town Hall, in the presence of a sworn translator/interpreter. Each year the Court publishes the list of Sworn Court Appointed Experts on the website **ca-noumea.justice.fr** (under the heading “*Vos droits et démarches [Your rights and approaches] - Vous voulez connaître la liste des experts judiciaries [Do you want to know the list of Court appointed Experts?]*”).

Required Documents

The future married couple must submit an application file **at least one month before publication of the banns** in the commune chosen for the marriage ceremony.

This application file has to include the following documents which must be attached to it:

<p>A letter signed and dated by the future spouses, addressed to the Mayor of the commune chosen for the marriage ceremony</p>	<ul style="list-style-type: none"> • Asking him to apply the provisions of Article 58 of Law N°2009-594 dated 27 May 2009, • Specifying the date of the marriage ceremony
<p>Full copy of the Birth Certificate of both of the future spouses</p>	<ul style="list-style-type: none"> • The Certificates must have been issued less than 6 months prior to the date of the marriage • If issued by a foreign authority: the certificate must be translated and authenticated in conformity with the applicable provisions according to the country of origin
<p>Proof of identity of both of the future spouses</p>	<ul style="list-style-type: none"> • Copy of the passport • If need be, a copy of the visa (or request for a visa)
<p>Death Certificate of the spouse for widows or widowers</p>	<p>The certificate must be translated and authenticated in conformity with the applicable provisions according to the country of origin</p>
<p>Proof of residence for both of the future spouses</p>	<p>Comment: these documents provide evidence that the future spouses do not reside in France or its territories</p>
<p>Surnames, first names, date and place of birth of the father and mother of the future spouses, their addresses and professions.</p>	<p>Comment: this information often appears on the full copy of the Birth Certificate</p>
<p>Surnames, first names, date and place of birth of the witnesses of the future spouses, their addresses and professions and a copy of their identification papers.</p>	
<p>Any other document according to the country (see <i>IGREC</i> ⁽¹⁾ N°545 to 548)</p>	<ul style="list-style-type: none"> • customary, celibacy or capacity to be legally married certificate; • for some member countries of the International Commission on Civil Status it is necessary to provide: <ul style="list-style-type: none"> -Austria, Spain, Italy, Luxembourg and Portugal: Birth Certificate issued for the purpose of marriage -Germany: Certificate of capacity to be legally married -The Netherlands and Belgium: Extract from the Population Register -Switzerland: Certificate from the Family Register -Turkey: Extract from the Family Register.
<p>Copy of identity paper and proof that the translator(s)/interpreter(s) is/are sworn under oath and his/her address</p>	

Please note: some nationalities benefit from a visa exemption for stays not exceeding one or three months. For all information relating to visas make contact with the Admission to Visit and Nationality Department (SASN) of the High Commission – (687) 26 63 00)

Finally, some documents which are a function of special situations will be subsequently attached and inserted into the file for the marriage ceremony (**these documents must not be attached to the application file submitted one month before the date of the publication of the banns**):

Notary Certificate	<ul style="list-style-type: none"> • If the future spouses have drawn up a marriage contract • Translated and authenticated if drawn up overseas
Certificate relating to the hearing or non hearing of the future spouses	
Certificate of publication and non opposition to marriage	Issued by a French Consulate or a Foreign Authority

Hearing by the Registrar of Births, Deaths and Marriages

The common hearing of the future spouses, provided for in Article 63 of the Civil Code, can be requested by the Registrar of Births, Deaths and Marriages, except in certain cases (for example when it is impossible or if it appears, in the light of the documents in the file, that this hearing is not necessary).

The Registrar can ask the qualified Diplomatic or Consular Authority to carry out this hearing.

If, during this hearing, there are real indications which can lead to the presumption that the marriage may be null under Articles 144, 146, 146-1, 147, 161, 163, 180 or 191 of the Civil Code, the qualified Diplomatic or Consular Authority must immediately refer the matter to the French Public Prosecutor and the Mayor of the chosen commune with a view, if necessary, to applying the provisions of Articles 175-1 and 175-2 of the Civil Code.

Publication of the Banns

The banns must be published at the Town Hall where the marriage ceremony is to take place for a period of 10 days.

The publication of the banns can also be compulsory in the country of origin of the foreign citizens wishing to get married in New Caledonia (see *IGREC*⁽¹⁾ 539-1).

For information: it is not compulsory to publish the banns in South Korea, Australia, New Zealand, China and Japan.

The marriage ceremony can take place from the 11th day – that is one month and ten days after submitting the application file in the chosen commune.

Marriage Contract

A marriage contract is not compulsory.

The Marriage Ceremony

The marriage ceremony must be carried out by a Registrar of Births, Deaths and Marriages, at the Town Hall, in the presence of at least two witnesses, and four or more people, relatives or not, of the spouses, aged at least 18 years old.

The Registrar must ensure that a translator/interpreter has been mandated by the future spouses to carry out the translation of the ceremony.

At the time of the marriage ceremony a French Family Record Book will be issued free of charge to the spouses.

Recording of the Marriage

The future spouses are responsible for contacting their national authorities to enquire as to how a French marriage must be recorded under their country's Law.

Translator's Note

1. *IGREC: Instruction General Relative à l'Etat Civil* - General Directive Relating to Civil Status.

Translated by Margaret DEMPSEY

Expert près la Cour d'Appel de Nouméa

Sworn Expert appointed by the Court of Appeal, Noumea, New Caledonia