

**MARRIAGE BILL 2015**  
**REGULATORY IMPACT ANALYSIS**  
**11 SEPTEMBER 2015**

**SUMMARY**

<b>Department / Office:</b> <b>Department of Justice and Equality</b>	<b>Title of Legislation:</b> <b>Marriage Bill 2015</b>
<b>Stage:</b> Publication of Bill	<b>Date:</b> September 2015
<p><b>Related publications:</b></p> <ul style="list-style-type: none"> <li>• Third Report of the Convention on the Constitution: <i>Amending the Constitution to provide for same-sex marriage</i> (June 2013)</li> <li>• General Scheme of the Marriage Bill (March 2015)</li> <li>• 34<sup>th</sup> Amendment of the Constitution (Marriage Equality) Act 2015 (August 2015)</li> </ul>	
<b>Contact for enquiries:</b> Carol Baxter Civil Law Reform Division	<b>Telephone:</b> 01 4790248
<p><b>What are the policy objectives being pursued?</b></p> <p>The aim of the Marriage Bill 2015 is to put in place the legislative provisions to enable couples to marry without distinction as to their sex. The Bill will implement the constitutional obligation in Article 41.4 of the Constitution which provides for two persons to have the right to contract a marriage in accordance with law without distinction as to their sex. Article 41.4 was inserted into the Constitution following the approval of the constitutional amendment in a referendum on 22 May 2015.</p> <p><b>What policy options have been considered?</b></p> <ol style="list-style-type: none"> <li>1. Do nothing</li> <li>2. Publish the Bill as drafted.</li> </ol> <p><b>Preferred option:</b> Option 2</p>	

# MARRIAGE BILL 2015

## REGULATORY IMPACT ANALYSIS

### 1. POLICY CONTEXT

The Convention on the Constitution was asked by the Government to consider the issue of whether or not the Constitution should be amended to provide for same-sex marriage. The Convention devoted its third plenary meeting of 13-14 April 2013 to discussing this question. The Third Report of the Convention on the Constitution: *Amending the Constitution to provide for same-sex marriage* indicates that the outcome of the plenary meeting was as follows:

‘The result of the ballot was that a clear majority of Convention members favoured a change to the Constitution to provide for same-sex marriage, and, if such change were to be made, a similar majority favoured a directive amendment (i.e. requiring the government to legislate) rather than a merely permissive one.’

The Statement of Government Priorities 2014-2016 committed the Government to holding a referendum on same-sex marriage in 2015, in line with the Government decision of 5 November 2013 that a referendum should be held in the first half of 2015 on the question of whether same-sex couples should have the right to marry. The Government subsequently decided at its meeting of 21 January 2015 the 34<sup>th</sup> Amendment of the Constitution (Marriage Equality) Bill and the wording of the proposed constitutional amendment. The Government agreed at its meeting of 3 March 2015 the General Scheme of the Marriage Bill 2015.

Article 41.4 was inserted into the Constitution, following a referendum approved by the people on 22 May 2015 and the signing into law by the President on 29 August of the 34<sup>th</sup> Amendment of the Constitution (Marriage Equality) Bill 2015. The insertion of Article 41.4 into the Constitution requires the enactment of legislation on marriage to enable two persons to contract marriages in accordance with law without distinction as to their sex. The Marriage Bill 2015 is the implementing legislation in this regard.

Detailed data is not available as to the number of additional couples likely to marry in Ireland over the years to come. However, civil partnership registrations provide a certain comparator as to expected numbers of additional marriages likely to take place. Statistics from the Central Statistics Office indicate that 1,693 civil partnerships were registered in Ireland between 2011 and 2014. The annual breakdown of civil partnerships is as follows:

- 392 civil partnerships in 2014
- 336 civil partnerships in 2013
- 429 civil partnerships in 2012
- 536 civil partnerships in 2011

It is anticipated that up to 90% of civil partnered couples will seek to marry over the coming years. It is likely that the number of couples choosing to marry will be somewhat higher annually than that currently for civil partnerships for three reasons:

- As the population increases and ages, the proportion of couples wishing to marry without distinction as to their sex will also increase.
- Some couples may consciously have chosen not to enter into a civil partnership because they did not wish to enter an institution other than marriage. Such couples may now seek to marry.
- Some couples with children may choose to marry as it will provide constitutional protection for them as a family.

In addition, it is anticipated that same-sex couples from other jurisdictions may choose to marry in Ireland because of the positive reputation that it enjoys because of the referendum. Tourism Ireland has launched a campaign to promote Ireland as a wedding destination to same-sex couples which is likely to increase the number of couples choosing to marry in Ireland.

## **2. OBJECTIVES**

The aim of the Marriage Bill 2015 is to put in place the legislative provisions to enable two persons to marry without distinction as to their sex. The Bill will implement the constitutional obligation in Article 41.4 which provides for two persons to have the right to contract a marriage in accordance with law without distinction as to their sex. Article 41.4 was inserted into the Constitution following the approval of the constitutional amendment in a referendum of the people on 22 May 2015.

## **3. IDENTIFICATION OF OPTIONS**

**Option One:** Do nothing.

The “do-nothing” approach (option 1) is not an option in this case given the positive outcome of the Referendum on the 34<sup>th</sup> Amendment to the Constitution. It is likely that if the Marriage Bill were not enacted, couples would have recourse to the courts to enforce their right to marry without distinction as to their sex.

**Option Two:** Publish the Marriage Bill.

This option will provide a legislative mechanism to enable couples to contract marriages without distinction as to their sex.

The key provisions are as follows:

- The impediment to marriage of the parties being of the same sex, set out in section 2(2)(e) of the Civil Registration Act 2004, will be removed, enabling two persons to marry without distinction as to their sex.

- Couples who are already civilly partnered to one another will be able to marry one another without having to dissolve their civil partnership. The civil partnership will be dissolved as of the date of the marriage.
- Couples who have given notice of their intention to enter a civil partnership will, if they choose, be able to convert that notification into notice of their intention to marry.
- Civil partnership will, in general, be closed to new couples. Only couples who have already completed their civil partnership registration forms or whose civil partnership has been delayed by an objection will be able to register in a civil partnership once the relevant sections of Part 7A of the Civil Registration Act 2004, as inserted by the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, have been repealed.
- The Bill specifies that nothing in it can be construed as compelling a religious body to recognise a particular form of marriage ceremony or a religious solemniser to solemnise a marriage with a form of marriage ceremony that is not recognised by the religious body of which he or she is a member.
- Foreign marriages between same sex couples will be recognised under Irish law as marriages.

## **COSTS**

Some costs have arisen for the General Register Office and for the civil registration system as computer systems and forms have needed to be adapted to provide for the marriages of same-sex couples. These are once-off costs which are not significant.

There may be some staffing costs arising from the increased number of marriages needing to be registered.

## **BENEFITS**

The Bill is anticipated to bring the following benefits (1) to couples and (2) to Irish society.

### ***Benefits to couples***

- Couples will have the right to marry without distinction as to their sex. A greater proportion of couples will be able to enter relationships that enjoy constitutional protection.
- A greater proportion of couples will be able to enjoy the same rights in terms of taxation, social welfare, succession etc.
- A greater proportion of couples who have children will be able to form constitutionally protected families.

### ***Benefits to Irish society***

- The decision of the people in the referendum of 22 May will be implemented in law so to enable persons to marry in accordance with law without distinction as to their sex.

**IMPACTS**

The legislation would have a positive impact in terms of equality. In particular, enactment of the legislation would remove the existing impediment which prevents persons of the same sex from marrying each other and therefore would benefit greatly lesbian, gay, bisexual and transgender persons who wish to marry.

No impact is envisaged on national competitiveness, on economic markets, including consumer and competition impacts, on the environment or on North-South or East-West relations. There are no compliance burdens arising.

**CONSULTATION**

The Constitutional Convention sought submissions from interested parties prior to its consideration of the question of whether the Constitution should be amended to provide for same-sex marriage. It received 1,077 submissions from interested parties, church organisations and private individuals on this issue.

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