

DRAFT

of

GENERAL SCHEME OF MARRIAGE BILL 2015

IMPORTANT: The General Scheme of the Marriage Bill 2015 presents, in the form of 11 Heads, measures which would, in the event that the 34th Amendment of the Constitution (Marriage Equality) Bill 2015 is passed by both Houses and approved in a referendum, be drafted as a formal Bill and introduced by the Government following the referendum. It should be noted that the General Scheme will, if introduced in these circumstances, be subject to change consequent on formal drafting.

GENERAL SCHEME OF MARRIAGE BILL 2015

ARRANGEMENT OF HEADS

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FIRST SCHEDULE

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ACTS REFERRED TO

Civil Registration Act 2004	2004, No. 3
Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010	2010, No. 24
Civil Registration (Amendment) Act 2012	2012, No. 48

PART 1
PRELIMINARY AND GENERAL

Head 1: Short title and commencement.

Provide that:

1. (1) This Act may be cited as the Marriage Act 2015.

(2) This Act shall come into operation on such day or days as the Minister for Justice and Equality may, following consultation with the Minister for Social Protection, appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Head 2: Interpretation.

Provide that:

2. In this Act:

“Act of 2004” means the Civil Registration Act 2004;

“Act of 2010” means the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010;

“registered solemniser” means a person standing registered in the Register of Solemnisers established by section 53 of the Act of 2004.

Head 3: Repeals and transitional provisions.

Provide that:

3. (1) Each enactment specified in the First Schedule is repealed to the extent specified in the third column of that Schedule.

(2) The repeals specified in the First Schedule shall not affect the rights, privileges, obligations or liabilities accrued or incurred under the repealed enactment including the rights and obligations of any subsisting civil partnership.

(3) The repeal of Part 7A of the Act of 2004 effected by this section shall not affect the validity of any notification given or form completed, or any application before the Court in being, under that Part immediately before its repeal, and any such notification, form or application shall continue in full force and effect as if such repeal had not been effected.

(4) Notwithstanding subhead (3), any notification of intention to enter into a civil partnership given under section 59B of the Act of 2004 and in force immediately before the repeal of Part 7A of that Act may, with the consent of the parties, be deemed by an tArd-Chláraitheoir to be a notification of their intention to marry under section 46 of that Act.

Head 4: Expenses.

Provide that:

4. The expenses incurred by the Minister or any other Minister of the Government in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Public Expenditure and Reform, be paid out of monies provided by the Oireachtas.

PART 2

IMPEDIMENT TO MARRIAGE

Head 5: Amendment of Act of 2004.

Provide that:

5._ The Act of 2004 is hereby amended –

(a) in subsection (2) of section 2, by -

(i) the insertion of the following new paragraph after paragraph (a):

“(aa) the marriage would be void by virtue of section 6 of the Marriage Act 2015,”

(ii) the deletion of paragraph (e),

(iii) the insertion in paragraph (f) after “partnership” of “other than a civil partnership with each other”,

(b) by the insertion of the following new section after section 2:

“2A. For the purposes of this Act there is not an impediment to a marriage if both of the parties to the marriage are parties to a subsisting civil partnership with each other.”,

(c) in subsections (4)(b) and (7) of section 51 by the insertion after “husband and wife” of “or spouses of each other”.

Head 6: Prohibited degrees of relationship in marriage

Provide that:

6. (1) Any prohibition on marriage between persons of the opposite sex based on the degree of consanguinity or affinity between them contained in any provision of law shall, with the necessary changes, be construed as applying to marriage between persons of the same sex within the equivalent degree of consanguinity or, as the case may be, affinity.

(2) Any marriage entered into contrary to the prohibition contained in subsection (1) shall be void.

Head 7: Religious solemnisers not obliged to perform marriages.

Provide that:

7._ Nothing in this Act shall be construed as obliging:

- (a) a religious body, within the meaning of section 45 of the Act of 2004, to recognise a particular form of marriage ceremony for the purposes of section 51(3(c) of that Act; or
- (b) a registered solemniser, who is registered in the Register of Solemnisers on behalf of a religious body, to solemnise a marriage in accordance with a form of ceremony which is not recognised by that religious body.

PART 3
IMPLICATIONS FOR EXISTING RELATIONSHIPS

Head 8: Impact on relationships recognised under section 5 of Act of 2010.

Provide that:

8. The provisions of section 5 of the Act of 2010 and of any order made under it shall not apply to any legal relationship entered into by two parties of the same sex after the repeal of Part 7A of the Act of 2004 effected by section 3.

Head 9: Dissolution of civil partnerships as a consequence of marriage.

Provide that:

9. Notwithstanding the provisions contained in Part 12 of the Act of 2010, where the parties to a subsisting civil partnership with each other marry each other, the subsisting civil partnership shall stand dissolved from the date of the marriage.

Head 10: Change of gender of spouse to have no effect on marriage.

Provide that:

10. The Gender Recognition (Bill) 2014 is hereby amended –

- (a) in section 9 by the deletion of paragraph (b) of subsection (2),
- (b) in section 10 by the deletion of subparagraph (i) of subsection (1)(f),
- (c) in section 11 by the deletion of subparagraph (ii) of subsection (2)(a),
- (d) in section 15 –
 - (i) by the deletion of paragraph (c) of subsection (8),
 - (ii) by the deletion of subparagraph (ii)(I) of subsection (8)(d), and
- (e) in section 18 by the deletion of subsections (3) and (8).

PART 4
MISCELLANEOUS PROVISIONS

Head 11: Consequential amendments of other Acts.

Provide that:

11. The enactments specified in the Second Schedule to this Act are amended to the extent specified in the fourth column thereof.

First Schedule

Head 3

Repeals

Act	Provision	Extent of Repeal
Civil Registration Act 2004	Section 2(2A) (inserted by section 7 of the Act of 2010)	The whole section
Civil Registration Act 2004	Part 7A (inserted by section 16 of the Act of 2010)	The whole Part

Consequential Amendments

Item	Act	Provision Affected	Amendment
1.	Army Pensions Act 1923	Section 2	By the substitution of “spouse” for “wife” in each place it occurs.
2.	Army Pensions Act 1927	Section 22	By the substitution of “spouse” for “wife” in each place it occurs.
3.	Army Pensions Act 1927	Section 23	By the substitution of “spouse” for “wife” in each place it occurs.
4.	Army Pensions Act 1932	Section 11	By the substitution of “spouse” for “wife” in each place it occurs.
5.	Mental Treatment Act 1945	Section 77	In subsection (2), by the substitution of “spouse” for “husband”.
6.	Army Pensions Act 1946	First Schedule	By the substitution of “spouse” for “wife” in each place it occurs.
7.	Army Pensions Act 1949	Section 4	In subsection (1)(b), by the substitution of “spouse” for “wife”.
8.	Army Pensions Act 1949	Section 5	In subsection (2)(a), by the substitution of “spouse” for “wife”.
9.	Army Pensions Act 1949	Section 6	By the substitution of “spouse” for “wife” in each place it occurs.
10.	Army Pensions Act 1949	First Schedule	By the substitution of “spouse” for “wife” in each place it occurs.
11.	Army Pensions Act 1953	Section 39	In subsection (4), by the substitution of “spouse” for “wife”.
12.	Army Pensions Act 1953	Section 40	In subsection (6), by the substitution of “spouse” for “wife” in each place it occurs.
13.	Defence Act 1954	Section 99	In subsection (1) by the substitution of “spouse” for “wife” in each place it occurs.
14.	Married Women’s Status Act 1957	Section 2	In subsection (2), by the substitution of “spouse” for “husband”.

15.	Married Women's Status Act 1957	Section 4	By the substitution of "Spouses" for "A husband and wife".
16.	Married Women's Status Act 1957	Section 9	In subsection (1), by the substitution of "spouse" for "husband". In subsection (2), by the substitution of "spouse" for "wife" in each place it occurs.
17.	Married Women's Status Act 1957	Section 18	By the substitution of the following for Section 18: "Nothing in this Act shall be construed as validating, as against creditors of a spouse , any gift, by the spouse to the other spouse , of any property which, after such gift, continues to be in the order or disposition or reputed ownership of the first-mentioned spouse or any deposit or other investment of moneys of that spouse made by or in the name of the other spouse in fraud of the first-mentioned spouse's creditors, and any such moneys so deposited or invested may be followed as if this Act had not been passed."
18.	Army Pensions Act 1959	Section 4	In subsection (1)(d), by the substitution of "spouse" for "wife".
19.	Army Pensions Act 1959	Section 12	By the substitution of "spouse" for "wife" in each place it occurs.
20.	Army Pensions Act 1959	Section 13	By the substitution of "spouse" for "wife" in each place it occurs.
21.	Army Pensions Act 1960	Section 29	In subsection (3), by the substitution of "spouse" for "wife".
22.	Army Pensions Act 1962	Section 7	In subsection (4), by the substitution of "spouse" for "wife" in each place it occurs.
23.	Army Pensions Act 1968	Section 8	By the substitution of "spouse" for "wife" in each place it occurs.
24.	Army Pensions Act 1971	Section 1	By the substitution of "spouse" for "husband" in each place it occurs.
25.	Defence (Amendment)(No. 2) Act 1979	Section 5	By the repeal of section 5.

26.	Army Pensions Act 1980	Section 2	In subsection (3) by the substitution of “his or her spouse” for “her husband”.
27.	Army Pensions Act 1980	Section 3	In subsection (1) by the substitution of “spouse” for “husband”.
28.	Army Pensions Act 1980	Section 5	In subsection (2) by the substitution of “spouse’s” for “husband’s”.
29.	Bankruptcy Act 1988	First Schedule	By the substitution of the following for paragraph 11: 11. Spouses may prove a debt against each other as if they were not married.
30.	Judicial Separation and Family Law Reform Act 1989	Section 8	In subsection (2) by the substitution of “spouses” for “husband and wife”.
31.	Criminal Evidence Act 1992	Section 25	By the substitution of “(being either spouses or persons who were formerly spouses)” for “(being either a husband and wife or persons who were formerly husband and wife)”.