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*Number 35 of 2015*

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**Marriage Act 2015**

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ACTS REFERRED TO

Bankruptcy Act 1988 (No. 27)

Children and Family Relationships Act 2015 (No. 9)

Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 (No. 24)

Civil Registration (Amendment) Act 2014 (No. 34)

Civil Registration Act 2004 (No. 3)

Criminal Evidence Act 1992 (No. 12)

Family Law (Divorce) Act 1996 (No. 33)

Gender Recognition Act 2015 (No. 25)

Guardianship of Infants Act 1964 (No. 7)

Judicial Separation and Family Law Reform Act 1989 (No. 6)

Married Women's Status Act 1957 (No. 5)

Mental Treatment Act 1945 (No. 19)

Succession Act 1965 (No. 27)





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*Number 35 of 2015*

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## **MARRIAGE ACT 2015**

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An Act to amend the Civil Registration Act 2004 to remove the impediment to marriage of the parties being of the same sex; to repeal certain provisions of Part 7A of that Act relating to registration of civil partnerships; to make provision in relation to religious bodies; to provide for the recognition of marriages under the law of a place other than the State; to amend the Succession Act 1965, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and the Gender Recognition Act 2015; to amend other enactments and to provide for matters connected therewith.

[29th October, 2015]

**Be it enacted by the Oireachtas as follows:**

### PART 1

#### PRELIMINARY AND GENERAL

#### **Short title and commencement**

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 may, after 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 provisions.

#### **Definitions**

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;  
“Minister” means the Minister for Justice and Equality.

#### **Expenses**

3. The expenses incurred by the Minister 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

### IMPEDIMENTS TO MARRIAGE

#### **Amendment of section 2(2) of Act of 2004**

4. Section 2(2) of the Act of 2004 is amended by—

(a) the deletion of paragraph (e),

(b) the substitution of the following paragraph for paragraph (f):

“(f) one of the parties to the marriage is, or, other than where section 2B applies, both are, already party to a subsisting civil partnership, or”,

and

(c) the insertion of the following paragraph after paragraph (f):

“(g) the marriage would be void by virtue of section 2A.”.

#### **Prohibited degrees of relationship**

5. The Act of 2004 is amended by the insertion of the following section after section 2:

“**2A.** (1) For the purposes of this Act, any prohibition in this Act or any other enactment or rule of law on marriage between two persons of the opposite sex arising by virtue of a relationship of consanguinity or affinity between them, shall, subject to any necessary modifications, apply to marriage between two persons of the same sex as it applies to marriage between two persons of the opposite sex.

(2) A marriage purported to be solemnised which contravenes a prohibition referred to in subsection (1) shall be void.”.

#### **No impediment where subsisting civil partnership with each other**

6. The Act of 2004 is amended by the insertion of the following section after section 2A (inserted by *section 5*):

“**2B.** There is not an impediment to a marriage by virtue of both of the parties to the intended marriage being parties to a subsisting civil partnership with each other.”.

PART 3

RELIGIOUS BODIES

**Religious bodies**

7. (1) Nothing in this Act or any other enactment shall be construed as obliging—
- (a) a religious body to recognise a particular form of marriage ceremony for the purposes of section 51(3)(c) of the Act of 2004, or
  - (b) a religious solemniser to solemnise a marriage in accordance with a form of marriage ceremony which is not recognised by the religious body of which the religious solemniser is a member.
- (2) In this section—
- “form of marriage ceremony” includes that form in so far as it relates to the sex of the parties to the ceremony;
- “religious body” has the meaning assigned to it by section 45 of the Act of 2004;
- “religious solemniser” means a member of a religious body standing registered in the Register of Solemnisers maintained under section 53 of the Act of 2004.

PART 4

CIVIL PARTNERSHIP

**Repeal of certain provisions of Act of 2004 relating to civil partnership**

8. The following provisions of the Act of 2004 are repealed:
- (a) section 2(2A);
  - (b) section 59B;
  - (c) section 59C (other than subsection (5));
  - (d) section 59D (other than subsections (6)(c), (7), (8) and (9));
  - (e) section 59E;
  - (f) section 59F;
  - (g) section 59G;
  - (h) section 59H;
  - (i) section 59I.

**Amendment of section 46(1) of Act of 2004**

9. Section 46(1) of the Act of 2004 is amended by the substitution of the following paragraph for paragraph (a):

- “(a) (i) notify any registrar in writing in a form for the time being standing approved by an tArd-Chláraitheoir of their intention to marry—
- (I) not less than 3 months prior to the date on which the marriage is to be solemnised, or
- (II) at any time prior to the date on which the marriage is to be solemnised where the parties to the intended marriage are parties to a subsisting civil partnership with each other and have previously either complied with section 59B(1)(a) in respect of that civil partnership or been exempted from such compliance by order of the Circuit Court or the High Court under section 59B(2),
- or
- (ii) are granted an exemption from the application of subparagraph (i)(I) under section 47 and give a copy of the court order granting the exemption to any registrar before the date aforesaid.”.

### **Dissolution and transitional**

- 10.** The Act of 2004 is amended by the insertion of the following Part before section 60:

#### “Part 7C

##### DISSOLUTION AND TRANSITIONAL

#### **Registration of dissolution of civil partnership on marriage**

**59K.** Where a civil partnership which is registered in the register of civil partnerships stands dissolved by virtue of section 109A (inserted by *section 11* of the *Marriage Act 2015*) of the Act of 2010 on the marriage of two persons solemnised under and in accordance with this Act, the registrar shall enter that dissolution as a particular in the entry concerning that civil partnership in that register.

#### **Transitional provisions consequent on *Marriage Act 2015***

- 59L.** (1) On the commencement of *section 8* of the *Marriage Act 2015*, a notification of an intention to enter into a civil partnership given under section 59B and in force immediately before that commencement, may, if requested by the parties concerned, be taken to be and treated by a registrar as if it were a notification of their intention to marry given under section 46.
- (2) Notwithstanding the commencement of *section 8* of the *Marriage Act 2015*, the provisions of this Act referred to in that section shall continue to apply—

- (a) where a civil partnership registration form was duly completed under section 59C and that form is valid under subsection (4) of that section immediately before that commencement, or
- (b) in relation to a civil partnership registration in respect of which an objection under section 59F is made, whether the objection is made before or after that commencement.”.

### **Dissolution of civil partnership on marriage**

**11.** The Act of 2010 is amended by the insertion of the following section after section 109:

“**109A.** Notwithstanding any provision of this Part, a civil partnership subsisting between two persons immediately before their marriage to each other shall stand dissolved on and from the date of that marriage.”.

## PART 5

### RECOGNITION OF CERTAIN FOREIGN RELATIONSHIPS

### **Recognition of certain foreign marriages**

- 12.** (1) A marriage under the law of a place other than the State shall not be precluded from being recognised as a marriage by reason of the sex of the parties to the marriage.
- (2) Where a marriage under the law of a place other than the State of two persons of the same sex is recognised as a marriage, it shall be so recognised from the later of—
- (a) the date of the commencement of this section, or
  - (b) the date of the marriage.
- (3) Subject to *subsection (4)*, a marriage under the law of a place other than the State of two persons of the same sex shall not be precluded from being recognised by reason of the fact that it falls within a class of legal relationship in respect of which the Minister has made an order under section 5 of the Act of 2010.
- (4) A marriage under the law of a place other than the State of two persons of the same sex, which falls within a class of legal relationship in respect of which the Minister has made an order under section 5 of the Act of 2010, shall not be recognised as a marriage where on or before the date of the commencement of this section—
- (a) a decree of dissolution of the legal relationship concerned has been granted under section 110 of the Act of 2010, or
  - (b) under section 5(4) of the Act of 2010, a dissolution of the legal relationship that is deemed to be a dissolution under section 110 of that Act became effective.
- (5) Where the marriage under the law of a place other than the State of two persons of the same sex is recognised and the two persons concerned live apart from one another, the period or periods during which they live apart from one another shall, for the purposes of the Judicial Separation and Family Law Reform Act 1989, the Family Law

(Divorce) Act 1996, or any other enactment, be calculated from the date (notwithstanding that it occurs before the date, under *subsection (2)*, that the marriage falls to be recognised) on which they begin to live apart.

- (6) The Schedule to the Civil Partnership (Recognition of Registered Foreign Relationships) Order 2010 (S.I. No. 649 of 2010) is amended by—
- (a) the deletion of the class of legal relationship specified in column (3) of the Schedule opposite reference numbers 1, 3, 4, 10, 11, 14, 15, 16, 20, 22, 23 and 27 specified in column (1) of that Schedule, and
  - (b) the deletion of the part, being marriage, of the class of legal relationship specified in column (3) of the Schedule opposite reference numbers 9, 13, 17, 21, 24 and 26 specified in column (1) of that Schedule.
- (7) The Schedule to the Civil Partnership (Recognition of Registered Foreign Relationships) Order 2011 (S.I. No. 642 of 2011) is amended by the deletion of the class of legal relationship specified in column (3) of the Schedule opposite reference number 4 specified in column (1) of that Schedule.
- (8) The Schedule to the Civil Partnership (Recognition of Registered Foreign Relationships) Order 2012 (S.I. No. 505 of 2012) is amended by the deletion of the class of legal relationship specified in column (3) of the Schedule opposite reference numbers 1 and 4 specified in column (1) of that Schedule.
- (9) The Schedule to the Civil Partnership (Recognition of Registered Foreign Relationships) Order 2013 (S.I. No. 490 of 2013) is amended by the deletion of the class of legal relationship specified in column (3) of the Schedule opposite reference numbers 1, 2, 3, 5, 6, 8, 9, 10, 11, 12, 13 and 14 specified in column (1) of that Schedule.
- (10) The Civil Partnership (Recognition of Registered Foreign Relationships) Order 2014 (S.I. No. 212 of 2014) is revoked.

### **Certain registered foreign relationships**

**13.** The Act of 2010 is amended by the insertion of the following section after section 5:

**“5A.** Neither section 5, nor any order made (whether before or after the date of the commencement of this section) under section 5, shall apply to a legal relationship entered into by two parties on or after the date that is 6 months after the commencement of *section 8* of the *Marriage Act 2015*.”.

## **PART 6**

### **CONSEQUENTIAL AMENDMENTS**

#### **Amendment of section 77(2) of Mental Treatment Act 1945**

**14.** Section 77(2) of the Mental Treatment Act 1945 is amended by the substitution of “spouse” for “husband”.

**Amendment of Married Women's Status Act 1957**

15. The Married Women's Status Act 1957 is amended—

- (a) in section 2(2), by the substitution of “spouse” for “husband”,
  - (b) in section 4, by the substitution of “Spouses of each other” for “A husband and wife”,
  - (c) in section 9—
    - (i) in subsection (1), by the substitution of “spouse” for “husband”, and
    - (ii) in subsection (2), by the substitution of—
      - (I) “against his spouse” for “against his wife”, and
      - (II) “as if he were unmarried” for “as if she were not his wife”,
- and
- (d) by the substitution of the following section for section 18:

**“Gifts in fraud of creditors**

18. Nothing in this Act shall be construed as validating, as against creditors of a spouse (in this section called the ‘first-mentioned spouse’), any gift, by the first-mentioned spouse to his or her 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 first-mentioned spouse made by or in the name of his or her 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.”.

**Amendment of Guardianship of Infants Act 1964**

16. The Guardianship of Infants Act 1964 is amended—

- (a) in section 6—
    - (i) by the substitution of the following subsection for subsection (1):
      - “(1) The following persons shall be guardians of a child jointly:
        - (a) the father and mother of the child, or
        - (b) where a married couple of the same sex have jointly adopted a child under an adoption order, each of the married couple.”,
- and
- (ii) by the insertion of the following subsection after subsection (3A) (inserted by section 47 of the Children and Family Relationships Act 2015):
    - “(3B) On the death of a spouse who has jointly adopted a child with his or her spouse of the same sex, the other spouse, if surviving, shall be

guardian of the child, either alone or jointly with any guardian appointed by the deceased spouse or by the court.”,

and

- (b) in section 6B(1) (inserted by section 49 of the Children and Family Relationships Act 2015), by the substitution of “person” for “man”.

**Amendment of section 85 of Succession Act 1965**

17. Section 85 of the Succession Act 1965 is amended by the insertion of the following subsection after subsection (1):

“(1A) Notwithstanding subsection (1), where the parties to a subsisting civil partnership with each other marry each other, a will made in contemplation of entry into the civil partnership or during the civil partnership by a testator who is a party to the marriage shall not be revoked by that marriage and a reference in the will to the testator’s civil partner shall be construed as a reference to the testator’s spouse.”.

**Amendment of First Schedule to Bankruptcy Act 1988**

18. The First Schedule to the Bankruptcy Act 1988 is amended by the substitution of the following paragraph for paragraph 11:

“11. A person may prove a debt against his or her spouse as if they were not married.”.

**Amendment of section 8(2) of Judicial Separation and Family Law Reform Act 1989**

19. Section 8(2) of the Judicial Separation and Family Law Reform Act 1989 is amended by the substitution of “spouses of each other” for “husband and wife”.

**Amendment of section 25 of Criminal Evidence Act 1992**

20. Section 25 of the Criminal Evidence Act 1992 is amended by the substitution of “(being either spouses of each other or persons who were formerly spouses of each other)” for “(being either a husband and wife or persons who were formerly husband and wife)”.

**Amendment of section 51 of Act of 2004**

21. Section 51 of the Act of 2004 is amended—

(a) in subsection (4)(b), by—

- (i) the substitution of “declaration by each of the parties to the marriage” for “declaration by the parties to the marriage”, and

- (ii) the substitution of “to the effect that each of them accepts the other as a husband, a wife or a spouse, as the case may be” for “to the effect that they accept each other as husband and wife”,

and

- (b) by the substitution of the following subsection for subsection (7)—

“(7) The parties to a marriage solemnised in accordance with this Act shall be taken to be married to each other when each of them has made a declaration in the presence of the other, the registered solemniser and the two witnesses that each of them accepts the other as a husband, a wife or a spouse, as the case may be.”.

#### **Amendment of section 26 of Civil Registration (Amendment) Act 2014**

- 22. Section 26 of the Civil Registration (Amendment) Act 2014 is amended by the substitution of “following section before Part 7B” for “following section after section 59I”.

#### **Amendment of Children and Family Relationships Act 2015**

- 23. The Children and Family Relationships Act 2015 is amended by the substitution of “spouse” for “husband” in each place where it occurs in—

- (a) subsection (1)(b), and paragraphs (a) and (b) of subsection (8), of section 5,
- (b) section 9(3)(d),
- (c) subsections (1) and (3)(a) of section 11,
- (d) paragraph (b)(ii) of section 25(3), and
- (e) section 27(5)(e).

#### **Amendment of Gender Recognition Act 2015**

- 24. The Gender Recognition Act 2015 is amended—

- (a) in section 2, by the deletion of the definition of “civil partner”,
  - (b) in section 9, by the deletion of subsection (2)(b),
  - (c) in section 10, by the deletion of subsection (1)(f)(i),
  - (d) in section 11, by the deletion of subsection (2)(a)(ii),
  - (e) in section 15(8)—
    - (i) in paragraph (b), by the insertion of “and” after “certificate,”,
    - (ii) by the deletion of paragraph (c), and
    - (iii) by the deletion of paragraph (d)(ii)(I),
- and

- (f) in section 18—
  - (i) by the deletion of subsection (3), and
  - (ii) by the deletion of subsection (8).