

Inter-Departmental Committee on Reform of Marriage Law

Discussion Paper No. 1

Principles Underpinning Reform of Marriage Law

May 2003

1. Introduction

1.1 The Inter-Departmental Committee has been established by Government to review current marriage procedures and to bring forward a universally applicable framework of clear and simple procedures, which will underpin the solemnity of the marriage contract.

1.2 The key objectives are to:

- Provide a universal system/framework that recognises and underpins marriage as a solemn contract;
- Streamline procedures;
- Provide clarity on formalities to be observed.

1.3 The State's interest in the procedures for marriage stems from the need to ensure the:

- Public nature of marriage;
- Formalities underpin the special status of marriage;
- Legal regularity of marriage ceremonies;
- Proper recording of marriages for future reference;
- Provisions of facilities for persons who do not wish to participate in religious ceremonies.

2. Underlying Principles

2.1 The general principles and criteria underpinning the reform of marriage law including marriage formalities and the framing of a new body of legislation are:

- Validity of Religious, Civil and Other Marriages;
- Standardise Formalities for Marriage;
- Create and Maintain Quality Public Records of Marriage;
- Simplify Systems and Procedures;
- Equal treatment of all religions;
- Common framework for all marriages.

Validity of Religious, Civil and Other Marriages

- 2.2 Under the current law the State recognises the validity of both religious and civil marriage. The present system has served Irish society for over 150 years but needs to be updated to cater for all groups in society. It is therefore proposed to continue to recognise the validity of both religious and civil marriages and to provide for marriages solemnised by other approved bodies.

Standardise Formalities for Marriage

- 2.3 Marriage is both a social contract and a partnership based on a relationship. The solemn nature of the contract and its associated obligations should be easily identified from any other activity. The general purpose of marriage formalities is to lend certainty to the act, remove any ambiguities as to intent and uphold marriage as a solemn contract. These formalities should apply to all marriages which take place in the State irrespective of the form of marriage ceremony - religious, civil or other.

Create and Maintain Quality Public Records of Marriage

- 2.4 The recording of all marriages which occur in the State and the maintenance of such records is vital. Apart from providing a record in relation to marriages in the State, they also satisfy the need for evidence which has a bearing on status, rights, obligations and entitlements.

Simplify Systems and Procedures

- 2.5 Systems and procedures should be streamlined in order to:
- Introduce uniformity and clarity about the steps to be followed, irrespective of the form of marriage;
 - Ensure processes and procedures are easily understood by all concerned - those undertaking marriage, those conducting marriage ceremonies, those administering the law as well as by the general public;
 - Give people easier access to services;
 - Remove ambiguity, uncertainty and complexity;
 - Reduce administrative overheads.
- 2.6 The consequences of procedural irregularity and the circumstances in which marriages will be invalid because of procedural irregularity must be clearly set out in legislation.

Equal treatment of all religions

- 2.7 All religions must be afforded the same rights and privileges in relation to solemnising marriages. Any new legislation must ensure the equal and fair treatment of all adherents of various religious and other groupings. Accordingly, it would not be possible to justify the conferring of a privileged position on any one group in any new legislation.

Common framework for all marriages

- 2.8 The proposed future framework for marriage must be generally applicable to all marriages irrespective of the form of marriage. Persons with differing religious views and practices or with no religious or other affiliations should have equal rights and privileges under the law. Therefore, rules relating to venues, preliminary procedural requirements, registration of churches / buildings / solemnisers, hours and form of marriages and registration requirements must apply equally to all marriages.