

**Inter-Departmental Committee on  
Reform of Marriage Law**

**Position Paper No. 9**

**Cross Border Implications**

**September 2004**

## **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 to underpin the solemnity of the marriage contract.
- 1.2 The Committee has been asked to review the cross border implications of its proposals.

## **2 Current Cross Border Provisions in Relation to Marriage.**

2.1 Until January 2004, the two jurisdictions shared a common body of marriage law, based on the Marriages Ireland Act 1844 and subsequent 19th and early 20th century marriage legislation.

2.2 However, since 1924 changes have been introduced to the law in both jurisdictions which means that there are some differences in the rules which now apply to marriage. For example:

- The minimum age for marriage in the State is 18 years while the minimum age for marriage in Northern Ireland is 16 years.
- The requirement to give three months written notification of marriage to the registrar applies to marriages in the State. No similar provision exists in the marriage law of Northern Ireland.

2.3 The implication of the shared legislation was that the procedural preliminaries in relation to residence/notice requirements and licences applied equally in both jurisdictions until January 2004. This meant that a person resident in Northern Ireland, intending to marry in the State could fulfil most procedural preliminaries in Northern Ireland, with the converse also applying.

2.4 This also meant that, in the case of some marriages by religious ceremony and marriage by a registrar, a registrar's licence or a registrar's certificate was required. Before a registrar could issue a registrar's certificate or a registrar's licence, one of the parties to the intended marriage had to establish residence in the registrar's district and serve notice of marriage under the provisions of the Marriage Ireland Act 1844. Notice was served in each district in which a party to the marriage resided. A person could serve notice of marriage on a registrar of marriages in Northern Ireland for marriage in the State and vice versa. The registrar for the district in which the marriage was to take place had to wait for the certificate issued by the other registrar before issuing his/her own certificate or licence as the case may be.

2.5 In the case of the marriages between two Roman Catholics, couples may still marry in the State irrespective of their place of residence.

2.6 In the case of marriage by other religious ceremonies, a marriage may be solemnised in the State, between parties, one or both of whom are normally resident in Northern Ireland on foot of a special licence issued by

the head of a religious denomination or by a bishop of the Church of Ireland if his superintendence incorporates both jurisdictions.

- 2.7 A licence for marriage may also be issued by authorised members of specified religious bodies in border regions where the parish or church district encompasses areas on both side of the border. These licences allow persons living in Northern Ireland to marry in a church in the State.

### **3 Proposed Future Approach.**

#### **Implications of Recent Changes in the Marriage Law of Northern Ireland**

- 3.1 The Law Reform Advisory Committee for Northern Ireland carried out a review of the existing Marriage Law and practice in Northern Ireland. It produced a number of discussion papers containing recommendations for reform of Marriage Law in Northern Ireland. A new Northern Ireland Marriage Bill was published and enacted as The Marriage Law (Northern Ireland) Order 2003.
- 3.2 The Marriage Law (Northern Ireland) Order 2003 commenced on 1 January 2004. From that date the requirements to be fulfilled for marriage in the State and for marriage in Northern Ireland differ.
- 3.3 If a person residing in Northern Ireland wishes to marry in the State they have to comply with current legislative provisions in relation to marriage - marriage notification requirements and procedural preliminaries including residence and notice requirements if the marriage is to be by registrar's licence or registrar's certificate. Such a person, who wishes to marry in the State, can no longer serve notice on a registrar of marriage in Northern Ireland for the issue of a registrar's licence or registrar's certificate for marriage in the State.
- 3.4 Similarly, any person residing in the State who wants to marry in Northern Ireland will have to comply with the marriage laws of Northern Ireland and serve a written notice in the prescribed form on the relevant registrar of marriages in Northern Ireland.

#### **Proposals for Reform of Marriage Law in the State**

- 3.5 The proposals for reform of marriage law, which were set out in Position Papers 2, 3 and 4, rationalise and simplify the rules in relation to marriage in the State. These proposals have been provided for in the Civil Registration Act 2004. When these provisions of the Act are commenced, they will apply equally to all persons wishing to marry in the State, irrespective of their place of residence.
- Couples wishing to marry in Northern Ireland will continue to have to comply with the marriage laws there.