



Relate

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The journal of developments in social services, policy and legislation in Ireland

Getting married

This issue of *Relate* provides an overview of things you may need to know if you are planning to get married, including notification requirements, types of legal ceremony and registration of the marriage.

Engagements

At one time, getting engaged to marry was considered a legally binding contract and if the engagement was broken without lawful justification, the person responsible could be sued for damages for breach of promise. The Family Law Act 1981 abolished legal action for breach of promise, but it allows for legal action where there is a dispute over property or finances between a couple following a broken engagement or involving a third party.

Gifts between an engaged couple

When two people who are engaged give gifts (including an engagement ring) to each other, there is a presumption that they are given on the condition that the gifts will be returned (if requested), should the engagement end. If one of the engaged couple dies, however, it is presumed the gifts the deceased gave were given without any conditions. It is possible to contest either of these presumptions in court if there is evidence to the contrary.

These presumptions only apply to gifts given during the engagement and do not apply to gifts given before or after the engagement.

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Gifts from a third party

Where someone gives an engaged couple or one of the couple a wedding gift, there is a presumption (unless there is evidence to the contrary), that it is given to both of them as joint owners. It is also presumed that the gift will be returned (if requested), should the engagement end and the marriage does not take place for any reason. This includes if the engagement ends due to the death of one of the engaged couple.

A third party can also apply to the courts where one of a couple to a broken engagement received a substantial benefit (not a wedding gift) from the third party as a result of the engagement. For example, if a relative of one of the couple carried out or paid for substantial work to improve a property which the couple intended to use as the family home, the relative can apply to the courts for compensation.

Expenditure on preparations for marriage

Where an engagement has ended and one of the couple has incurred substantial expenses in preparation for the marriage (and has not benefited from the expenses), that person may apply to the courts for compensation. One example might be expenses incurred in booking the wedding reception, honeymoon and photographer. A third party (for example, a family member or friend) who incurs expenditure on behalf of one of the couple in preparation for the marriage and has not benefited, may also apply to the courts for compensation.

Property of engaged couples

Under Section 44 of the Family Law (Divorce) Act 1996, disputes about property between a couple whose engagement has ended are treated in the same way as disputes between a married couple who are separating or divorcing. This only applies to property in which either or both of them had a beneficial interest while they were engaged. It does not apply to property acquired after the engagement ended.

Taking legal action

Legal action must be taken within three years of the engagement ending. Such actions are generally taken in the Circuit Court but if very valuable property is involved, a party to the proceedings may ask that it be heard in the High Court.

Pre-nuptial agreements

A pre-nuptial agreement (also called an ante-nuptial agreement) is an agreement entered into by a couple before they get married. In some cases a couple may enter into a post-nuptial agreement after they get married.

Pre-nuptial agreements vary according to each couple's particular circumstances but generally they make provision for financial and property matters, and other issues, in the event of the breakdown of the marriage. They can cover issues such as lump sum payments, pensions, maintenance and custody. A couple enters into an agreement in order to try to avoid a dispute if they separate. Some pre-nuptial agreements cover issues arising during the marriage. Under Section 113 of the Succession Act 1965 a spouse can renounce their legal right share in a pre-nuptial agreement.

Enforcing a pre-nuptial agreement

There is nothing in Irish law which stops a couple intending to marry from signing a pre-nuptial agreement. Such agreements can serve as guides for the courts in judicial separation and divorce cases, however, the courts are not obliged to enforce them.

Only pre-nuptial agreements entered into following independent legal advice for both parties are likely to be taken into account. The court would have to be satisfied that there had been a complete disclosure of assets before the agreement was signed. It is also advisable for the agreement to provide for reviews:

- Periodically
- If children are born
- If there is a major change in circumstances

Legal prerequisites for marriage

Getting married is a serious commitment. Marriage is a legally-binding contract that will affect both parties for the whole of their lives. There are a number of strict rules and regulations governing marriage. The first set of rules specifies who may and may not marry each other and in what circumstances.

To contract a legally valid marriage in Ireland, the parties to the marriage must:

- Have the capacity to marry each other
- Freely consent to the marriage. Free consent may be absent if, at the time of the marriage, a person is suffering from intoxication, brain damage, mental disability, mental instability or insanity to the extent that they are not able to understand the implications of marriage. Additionally, if someone agrees to marry because of threats or intimidation, their apparent consent may also be invalid and the marriage may be void.
- Observe the necessary formalities and requirements by the State for marriage

Capacity to marry

To be legally entitled to marry, both of you must fulfil all of the following requirements at the time the marriage takes place. Both parties must:

- Be over 18 years of age, or have a Court Exemption Order if this is not the case
- Have given the Registrar three months' notification of the marriage (or have a Court Exemption Order if this is not the case) and have been issued by the Registrar with a Marriage Registration Form. A couple whose civil partnership was registered in Ireland do not have to give the three months' notice.
- Be either single, widowed, divorced, a former civil partner of a civil partnership that ended through death or dissolution, or have had a civil annulment of a marriage or civil partnership or a valid foreign divorce or dissolution. (If you are marrying your civil partner, you do not need to have your civil partnership dissolved before marrying. It will be automatically dissolved when you marry.)
- Have the mental capacity to understand the nature of marriage
- Not be related by blood or marriage to a degree that prohibits you in law from marrying each other. If you are related to your proposed spouse by blood or by marriage, you should contact a solicitor to ensure that you do not fall within the prohibited degree of relationship.

If either party does not fulfil all of the above requirements, any subsequent marriage ceremony is legally void.

Age requirement

If you are ordinarily resident in the State, the minimum age at which you may marry is 18 years (unless you have a Court Exemption Order). This is the case even if you marry outside of Ireland. If you are not ordinarily resident in the State, you must be over 18 years of age if you wish to marry someone in Ireland.

There is no requirement for parental consent to a marriage, irrespective of the ages of the parties concerned.

Exemption from age requirement

In certain special circumstances, you may be able to get a Court Exemption Order allowing the marriage to proceed even if one or both parties are under 18. This is an informal procedure. You may apply in person (without hiring a solicitor). There is no court charge for an application for a Court Exemption Order. The court will require you to show:

- That there are good reasons for your application
- That the granting of such an Exemption Order is in the best interests of the parties to the intended marriage

A foreign divorce

Not all foreign divorces are recognised under Irish law. Generally a foreign divorce will only be recognised in Ireland if at least one spouse was domiciled or habitually resident in the State that granted the divorce when the proceedings started. You may have to provide good evidence that this was the case and, therefore, that the divorce is valid under Irish law.

The rules regarding the recognition of foreign divorces under Irish law are complex and it is advised that specific enquiries in that regard be addressed to the Marriages Unit of the General Register Office or through the website, groireland.ie.

If the General Registrar is of the opinion that the foreign divorce is valid, then the new marriage can go ahead. If not, you can provide additional information to prove validity or else you can apply for a hearing before the Circuit Court. The Circuit Court's decision on the validity of a foreign divorce in Irish law is final and binding, although you may appeal to a higher court. If the Court decides that your foreign divorce is not binding, your only option if you wish to remarry in Ireland may be to get a divorce under Irish law.

A foreign dissolution

If a legal dissolution of a civil partnership is granted outside Ireland, it will be recognised under Irish law if the Minister for Justice and Equality has made an order recognising the appropriate class of legal relationship in the country in which the dissolution was granted. For more information on this, contact the General Registrar's website, groireland.ie.

Notification requirements for marriage

Under Part 6 of the Civil Registration Act 2004, anyone notifying a Registrar of their intention to get married in Ireland must give three months' notification in person to the Registrar. This applies to all marriages, whether solemnised by a Registrar or according to religious or secular rites and ceremonies, unless you intend marrying your civil partner and your civil partnership was registered in Ireland. The Registrar does not have to be the Registrar for the district where you live or where you intend getting married.

You need to make an appointment with the Registrar in order to give the notification. In order to ensure the notification is given at least three months before the date you intend to get married, you need to arrange the appointment well in advance.

If you plan to get married by civil ceremony and a different Registrar will be solemnising the marriage, you must also contact the Registrar's Office for the district where you intend to get married.

When you make the appointment with the Registrar you will be informed what information and documents you need to bring with you. Generally, you and your intended spouse will be required to bring the following:

- Passports as identification
- Birth certificates (must bear an apostille stamp if not issued by the Civil Registration Service in Ireland)
- Original final divorce decrees in respect of all previous divorces if either of you is divorced. Further information will be required if it was a foreign divorce and you will require an approved English translation of the divorce decree.

- Original dissolutions in respect of all previous civil partnerships if either of you has a civil partnership dissolution
- Final decree of nullity and a letter from the relevant court confirming that no appeal was lodged, if either of you was in a civil partnership or marriage that was annulled by an Irish court
- Deceased spouse's death certificate and previous civil marriage certificate if either of you is widowed
- Deceased civil partner's death certificate and previous civil partner's registration certificate if either of you is a surviving civil partner
- PPS numbers

You will also have to provide information about the intended marriage, such as:

- Whether it will be a civil, secular or religious ceremony
- The intended date and location of the marriage
- Details of the proposed solemniser of the marriage
- The names and dates of birth of the two proposed witnesses

You will also have to pay a notification fee which is currently €200. This fee is non-refundable.

Declaration of no impediment

When you attend the Registrar you will have to make a declaration of no impediment stating that you are not aware of any lawful impediment to the marriage. You will be required to sign this in the Registrar's presence.

The Registrar will issue an acknowledgement to both of you and the proposed solemniser of the marriage confirming the date of receipt of notification. This does not give you permission to marry.

If all the information required has been supplied and there is no impediment to the marriage, the Registrar will issue you with a Marriage Registration Form. This gives you permission to marry (see page 5).

Civil partners

If your civil partnership ceremony took place in the State and you now wish to marry your civil partner, you must, by appointment, attend the Registrar at least five days (or as determined by the Registrar) before the intended date of the ceremony to sign a declaration in their presence that there is no impediment to the marriage. You pay a reduced fee of €50.

If your civil partnership ceremony took place abroad you will be required to give the Registrar three months' notice of your intention to marry and complete the standard preliminaries for a valid marriage.

Postal notification

If either of you are living abroad or are unable to attend a registry office due to serious illness, you should contact a Registrar to get permission to give your three months' notification by post. If permission is granted, the Registrar will send you a form which you must complete and return.

You will still have to make arrangements to meet the Registrar at least five days before you get married in order to make the declaration of no impediment. This is required before a Marriage Registration Form can be issued.

Exemption from notification requirement

In certain special circumstances, for example, in the case of very serious illness, you may be able to get a Court Exemption Order allowing the marriage to proceed without the three months' notification.

This is an informal procedure. You may apply in person (without hiring a solicitor). There is no court charge for an application for a Court Exemption Order. However, if you hire a solicitor to represent you, you will have to pay them. The court will require you to show:

- There are good reasons for your application
- The granting of such an Exemption Order is in the best interests of the parties to the intended marriage

If you are granted a Court Exemption Order, you still have to make arrangements to meet the Registrar at least five days before you get married in order to make the declaration of no impediment. This is required before a Marriage Registration Form can be issued.

Marriage Registration Form

A Marriage Registration Form (MRF) is like a marriage licence. It gives authorisation for a couple to marry and you require one in order to get married in Ireland. Providing there is no impediment to the marriage, the Registrar will issue you with an MRF. If you bring all the documentation and information required to the meeting with the Registrar, the Registrar may be able to issue the MRF immediately.

If the marriage does not take place within six months of the date of marriage given on the MRF, a new MRF will be required if you still intend to marry. You will be required to repeat the notification process.

You should give the MRF to the person who will be solemnising the marriage in advance of the marriage ceremony. Immediately after the marriage ceremony, the MRF should be signed by you and your spouse, the two witnesses and the person who has solemnised the marriage. The MRF should be returned within one month to a Registrar, for the marriage to be registered. It does not have to be returned to the Registrar who issued it. If you have a civil ceremony the Registrar may organise this for you.

Cost

You have to pay a notification fee of €200. The reduced fee for civil partners whose civil partnership is registered in Ireland is €50.

Appointments

You can book an appointment with a Registrar online at crsappointments.ie.

Different legal ways of getting married

Once you are sure that you can marry, you can decide how you wish to marry in Ireland. You may choose a civil registry office marriage or opt for marriage by religious or secular ceremony. Marriages that take place in Ireland by certain specified religious or secular ceremonies or by civil ceremony (that is, in a registry office or other approved place) are equally valid and binding under Irish law.

Register of Solemnisers

The person solemnising the marriage must be on the Register of Solemnisers which is maintained by the General Registrar. It lists both civil registrars and the members of the various religious and secular bodies who have been nominated by the bodies as solemnisers. It is available for inspection at your local registry office.

Witnesses

The ceremony must be performed in the presence of two witnesses aged 18 or over.

Marriage ceremony

As part of the ceremony you and your intended spouse must make two declarations:

- That you do not know of any impediment to the marriage
- That you accept each other as husband and wife

The venue for the ceremony is a matter for the religious or secular body. According to the legislation the place where the solemnisation takes place must be open to the public (see below).

Interpretive services

If you, your intended spouse, the witnesses or the solemniser do not have sufficient knowledge of the language in which the ceremony is being held to understand the ceremony, then the services of an interpreter must be provided. It is your responsibility to provide these services.

Religious and secular marriage ceremonies

If you intend getting married by religious or secular ceremony, you should approach the authorities of the body concerned for advice on how to proceed. You will be told what requirements that body has in order to get married under their rites.

Civil marriage ceremonies

It is also possible to get married by civil ceremony in the registry office or in some other venue that is approved by a Registrar.

Venue

A civil ceremony can be held in a registry office or some other venue that is approved by a Registrar. A Registrar will also have to be available to solemnise the marriage.

If you want to get married in a venue other than a registry office, you should contact the registry office for the district where the venue is located to arrange to have it approved. This may involve the Registrar inspecting the venue.

According to legislation the place where the solemnisation takes place must be open to the public. The Civil Registration (Amendment) Act 2014 amended the legislation to clarify that a place that is open to the public means:

- A building that is open to the public, or
- A courtyard, garden, yard, field or piece of ground that is open to the public and is near to and usually enjoyed with a building that is open to the public

The guidelines for marriage venues are available on the General Registrar's website. To ensure the venue is approved in time for your wedding you should arrange for the approval well in advance of notifying the Registrar.

There is an additional fee for a civil ceremony held in a venue other than a registry office.

Renewing your wedding vows

Under Irish law, someone who is already married cannot get married again (even if it is to the same person). This effectively means that you cannot renew your wedding vows in a civil ceremony in Ireland.

However, there is a long tradition of "church blessings" in Ireland. This is where Irish people, who have married in civil ceremonies abroad, marry in a religious ceremony in Ireland. Sometimes, people living in Ireland have their marriage blessed in a religious ceremony, to commemorate a special anniversary or event.

Registration of marriage

If you get married by civil ceremony, the Registrar who solemnised the marriage will register the marriage with the information on the Marriage Registration Form (MRF) as soon as possible after the ceremony. If you get married by religious or secular ceremony, you should give the MRF within one month to a Registrar, for the marriage to be

registered. It does not have to be returned to the Registrar who issued it.

Under Section 50 of the Civil Registration Act 2004, if the completed MRF is not returned to a Registrar within 56 days of the intended date of marriage recorded on the MRF, the Registrar can serve a notice on you requiring you to return the MRF within 14 days of receiving the notice. If you do not comply with this requirement, the Registrar can serve a notice on you requiring you to attend at the office of the Registrar (or other place given in the notice) with the completed MRF on a particular date. If you are unable to give the MRF to the Registrar when you meet, you have a further 14 days to give it. You cannot get your civil marriage certificate until the marriage is registered.

There is no fee charged for the registration of a marriage, or for the correction of errors on a marriage certificate. Fees are charged for copies of certificates.

A certificate is issued for social welfare purposes at a reduced cost. Evidence it is for social welfare purposes is required, such as a letter from the Department of Social Protection.

The fees charged for a certificate are as follows:

- €20 for a full standard marriage certificate
- €1 for a copy for social welfare purposes
- €4 for an uncertified copy of an entry in the Register
- €10 to have a certificate authenticated (only available from the General Register Office)

To obtain a copy of your marriage certificate you should contact any Registrar, specifying the exact date and place of the marriage and the names of the couple. You can also order copies online at certificates.ie.

Registration of marriages outside Ireland

Marriages of Irish citizens abroad are normally registered in the country where they take place. The General Register Office has no function in the registration of marriages of Irish citizens that take place abroad, or in advising on such marriages. Marriages that take place outside the State are not registered in Ireland.

If you get married abroad, your foreign marriage certificate will usually be accepted for official purposes in Ireland where you need to show evidence that you are married. If the certificate is in a foreign language, you must provide

an official translation or a translation from a recognised translation agency.

Getting married abroad

If you or your partner are Irish citizens and are thinking of getting married outside of Ireland, the legal validity of your marriage is governed, in part, by the laws of the country in which you marry. In many cases, the legal formalities abroad are very different to those in Ireland. For example, a church marriage abroad is usually a purely religious ceremony with no legal effect. As it is not recognised in law in the country in which it takes place, it cannot be regarded as a legal marriage in Ireland. This is the case even though a marriage in the same faith or denomination in Ireland can be legally binding.

It is very important that you make sure to meet all the legal requirements of the country where you are getting married. You should contact the civil registration office in that country to find out what is required.

Although you must meet the foreign requirements for formalities, you are still bound by Irish law as far as the capacity to marry is concerned. For example, your marriage abroad will not be recognised under Irish law if one or both of you was ordinarily resident in Ireland and one or both of you was aged under 18 at the time of the marriage and did not have a Court Exemption Order.

You may require a Certificate of Freedom to Marry to get married in some foreign countries. This may also be called "Certificate de Coutume" or "Certificate of Nulla Osta".

To apply for a Certificate of Freedom to Marry, Irish citizens living abroad should contact their nearest Irish embassy or apply online to the Department of Foreign Affairs and Trade at dfa.ie.

Irish citizens living in Ireland should apply online to the Department of Foreign Affairs and Trade. If you are getting married in Italy, for example, your Certificate of Freedom to Marry will be sent by the Department to the Irish embassy in Rome who will then forward it to the district where you will be married. In most other cases, the Certificate of Freedom to Marry will be issued by the Department and sent directly to you.

If you want to get a copy of your foreign marriage certificate, you should contact the embassy or the civil registration office for the country concerned.

The Citizens Information Board provides independent information, advice and advocacy on public and social services through citizensinformation.ie, the Citizens Information Phone Service and the network of Citizens Information Services. It is responsible for the Money Advice and Budgeting Service and provides advocacy services for people with disabilities.

Head office t 0761 07 9000
Ground Floor f 01 605 9099
George's Quay House e info@ciboard.ie
43 Townsend Street w citizensinformationboard.ie
Dublin 2
D02 VK65

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