

Getting married is a big decision and is one of the most significant events in someone's life. Aside from the excitement involved in planning your big day, there are rules and procedures you must follow in order to marry in Ireland. There are also rules and procedures if you are an Irish citizen and choose to marry abroad. Here, we start at the beginning and guide you through the various things you need to know.

Aside from the rules about how and where you can marry, marriage will immediately affect lots of areas of your life. You may not be aware but your legal status, your inheritance rights, and pensions are just some things that will change. Many other areas of life will also change and we examine these and other issues in this document.

## CIVIL MARRIAGE CEREMONIES

- Introduction
- Rules
- Rates
- Where To Apply

### INTRODUCTION

Following the commencement of Part 6 of the Civil Registration Act 2004 on 5 November 2007, to legally marry you require a Marriage Registration Form (MRF) from a Registrar and whoever is solemnising your marriage must be on the Register of Solemnisers. The Registrar issues the MRF when you give your 3 month notification to the Registrar.

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

### RULES

If you are getting married by civil ceremony in a Registry Office or other approved place, you should approach the Registrar of Civil Marriages for the district in which you intend to marry for information on how to proceed. There is no requirement to live in the district where you want to get married.



As well as arranging your civil marriage ceremony there is also a requirement to give 3 months notification to a Registrar. This does not have to be the same 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 the Registry Office you should contact the Registry Office for the district the venue is located in to arrange to have it approved. This may involve the Registrar inspecting the venue.

Venues such as marquees, private dwellings or the open air are not acceptable. 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 will be an additional fee for a civil ceremony held in a venue other than a Registry Office.

## MARRIAGE REGISTRATION FORM

If you fulfill the 3 months notification requirements and there is no impediment to you getting married, the Registrar will issue you with a Marriage Registration Form (MRF) giving you permission to marry. You should give the MRF to the Registrar who will be solemnising the marriage before the marriage ceremony.

Immediately after the marriage ceremony, the MRF should be signed by you and your spouse, the two witnesses and the Registrar. The Registrar will register the marriage as soon as possible after the marriage.

## MARRIAGE CEREMONY

The marriage ceremony is solemnised by the Registrar, who is on the Register of Solemnisers. The ceremony must be performed in the presence of two witnesses aged 18 or over. During 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

## INTERPRETIVE SERVICES

If either you, your intended spouse or either of the two witnesses does 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 the services.

## RATES

There are additional fees for civil ceremonies held in venues other than Registry Offices.

## WHERE TO APPLY

You should serve notice on the Registrar of Civil Marriages for the district where you intend getting married. You can book an appointment with a Registrar online at [crsapointments.ie](http://crsapointments.ie). Contact details for your local Civil Registrar are also available from your Local Health Office in the Health Service Executive (HSE).

## REQUIREMENTS FOR MARRIAGE

### INTRODUCTION

If you are an Irish citizen normally resident in Ireland, you must be at least 18 years old to get married. There are some exceptions to this, so read about age requirements for marriage below.

Essentially, the age rule is the same, irrespective of whether or not you get married in a religious, secular or civil ceremony. In addition, you must have the capacity to marry. That is, you must freely consent to the marriage and have the capacity to understand what marriage means. Read more about legal requirements for marriage in Ireland below.



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 he/she is not able to understand the implications of marriage. Additionally, if someone agrees to marry because of threats or intimidation, his/her apparent consent may also be invalid and the marriage may be void.
- observe the necessary formalities

## 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.
- 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.
- Be of opposite sexes. For legal purposes, a person's gender is deemed to be the one he/she had at birth, even if he/she subsequently had medical procedures to alter his/her gender.
- 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. (See "Further information" below on prohibited degrees.
- If either party doesn't fulfil even one of the above requirements, any subsequent marriage ceremony is legally void.



## AGE REQUIREMENT

If you are ordinarily resident in the Irish 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. Even if you are not ordinarily resident in the Irish State, you must be over 18 years of age if you wish to marry someone in Ireland who is ordinarily resident in the State.

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. 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

You should contact either the Circuit Family Court or the High Court for details on how to proceed. 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 him/her.

## A FOREIGN DIVORCE

Not all foreign divorces are recognised under Irish law. A foreign divorce will only be recognised in Ireland if at least one spouse was domiciled 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.

Where the divorce comes within EU regulations, it is sufficient to confirm that both parties



to the divorce were notified of the proceedings and had an opportunity to give evidence to the court which granted the divorce.

Where EU regulations do not apply, certain information as to place of birth, countries of residence and other relevant facts must be supplied on a questionnaire provided by the Registrar. The information is then forwarded to the General Register Office, whose consent is required before the marriage ceremony can take place.

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 Court's decision on the validity of a foreign divorce in Irish law is final and binding, although you may, of course, 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 of Justice and Equality has made an order recognising the appropriate class of legal relationship in the country in which the dissolution was granted.

## FURTHER INFORMATION: PROHIBITED DEGREES OF RELATIONSHIP

Prohibitions apply to marriage between certain people related by blood or marriage. A couple who fall within the prohibited degrees of relationship cannot marry. These prohibitions are based on:

- Consanguinity – blood relationship including half blood (half blood means having one parent in common, for example a half-brother)
- Affinity – relationship by marriage

The prohibited degrees apply to a wide range of family relationships and include marital and non-marital offspring.



An adopted child is within the prohibited degrees in relation to its natural family and adoptive parents. However, it would appear an adopted child can marry the child of his/her adoptive parents.

The Deceased Wife's Sister Act 1907 and the Deceased Husband's Widow's Marriage Act 1921 allow a man to marry his deceased wife's sister and a woman to marry her deceased husband's brother. Following a High Court decision in October 2006, if a marriage ends due to a divorce rather than a death the prohibition on marrying no longer applies.

There is no legal restriction on the marriage of first cousins.

### *Consanguinity – blood relationships*

A man may not marry his:

- Grandmother
- Mother
- Father's sister (aunt)
- Mother's sister (aunt)
- Sister
- Father's Daughter (half sister)
- Mother's Daughter (half sister)
- Daughter
- Son's Daughter (granddaughter)
- Daughter's Daughter (granddaughter)
- Brother's Daughter (niece)
- Sister's Daughter (niece)

A woman may not marry her:

- Grandfather
- Father.
- Father's Brother (uncle)



- Mother's Brother (uncle)
- Brother
- Father's Son (half brother)
- Mother's Son (half brother)
- Son
- Son's Son (grandson)
- Daughter's Son (grandson)
- Brother's Son (nephew)
- Sister's Son (nephew)

*Affinity – relationship by marriage*

A man may not marry his:

- Grandfather's Wife (step-grandmother)
- Father's Wife (stepmother)
- Father's Brother's Wife
- Mother's Brother's Wife
- Son's Wife
- Son's Son's Wife
- Daughter's Son's Wife
- Brother's Son's Wife
- Sister's Son's Wife
- Wife's grandmother (grandmother-in-law)
- Wife's Mother (mother-in-law)
- Wife's Father's Sister
- Wife's Mother's Sister
- Wife's Daughter (stepdaughter)
- Wife's Son's Daughter
- Wife's Daughter's Daughter
- Wife's Brother's Daughter
- Wife's Sister's Daughter





A woman may not marry her:

- Grandmother's Husband (step-grandfather)
- Mother's Husband (stepfather)
- Father's Sister's Husband
- Mother's Sister's Husband
- Daughter's Husband
- Son's Daughter's Husband
- Daughter's Husband
- Brother's Daughter's Husband
- Sister's Daughter's Husband
- Husband's Grandfather (grandfather-in-law)
- Husband's Father (father-in-law)
- Husband's Father's Brother
- Husband's Mother's Brother
- Husband's Son (stepson)
- Husband's Son's Son
- Husband's Daughter's Son
- Husband's Brother's Son
- Husband's Sister's Son

## NOTIFICATION REQUIREMENTS FOR MARRIAGE

Since November 2007 anyone marrying in Ireland (irrespective of whether they are an Irish citizen or a foreign national) must give three months notification before they marry. You must make this notification in person to any Registrar. Find out how to notify the Registrar that you will be getting married in Ireland [here](#).

## DIFFERENT WAYS OF GETTING MARRIED

There are different legal ways of getting married in Ireland; you may choose a religious ceremony, a secular ceremony or a civil ceremony. We provide a guide to the legal ways of getting married in Ireland only. Find out about civil marriage ceremonies in Ireland [here](#).



Read general information on religious and secular marriage ceremonies in Ireland below. Requirements of different faiths and secular bodies may differ, so check in advance with the relevant member of the clergy or body for further information.

Since November 2007, no matter how you marry (i.e., through a civil, secular or religious ceremony), the registration process is the same. You are issued with a Marriage Registration Form (MRF) by the Registrar, following notification, which gives you authorisation to get married. You give it to whomever will be solemnising your marriage. Following the marriage ceremony, the completed MRF should be given to a Registrar, within one month of the marriage ceremony, for the marriage to be registered.

## GETTING MARRIED OUTSIDE OF IRELAND

### INTRODUCTION

If you are an Irish citizen and are planning to marry abroad, you should realise that the legal validity of your marriage is governed, in part, by the laws of the country in which you marry. In most, if not all cases, the legal formalities abroad are very different to those in Ireland. Information for Irish citizens planning to marry abroad is here.

If you or your partner are an Irish citizen(s) and are thinking of getting married outside of Ireland, you should realise that the legal validity of your marriage is governed, in part, by the laws of the country in which you marry. In most, if not all 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. Because 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 church or denomination in Ireland can be legally binding.



It is very important, therefore, that you make sure to meet all the legal requirements of the country you are marrying in. You should contact the relevant embassy or the religious authorities in that country to find out what is required. View a list of Irish embassies and consulates abroad [here](#).

## REGISTRATION OF MARRIAGES ABROAD

Marriages of Irish citizen(s) abroad are registered in the country where they occur. The General Register Office (central civil repository for records relating to births, deaths and marriages in the Republic of Ireland) has no function in advising on, or the registration of marriages of Irish citizen(s) that take place abroad. Marriages that take place outside the state are not normally registered in Ireland, except in very specific circumstances laid down in Section 2 of the Marriages Act, 1972.

This meant only marriages consisting solely of a religious ceremony, conducted in the département of Hautes Pyrénées, France before 1973 between couples where both or either partner was an Irish citizen on the day of the marriage had to be registered in Ireland.

All other marriages that take place abroad do not need to be registered in Ireland. 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.

## RULES

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 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”.

## HOW TO APPLY

If you are not sure of the legal requirements for marriage in the country you will be marrying in, contact the relevant embassy or the religious authorities in that country in advance to find out what is required.

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

Irish citizens living in Ireland should apply to the Consular Section of 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 for the country concerned or the relevant religious authority.

## WHERE TO APPLY

Department of Foreign Affairs and Trade

Consular Services

69-71 St. Stephen's Green

Dublin 2, Ireland

Tel: + 353 1 408 2000

Homepage: <http://www.dfa.ie/home/index.aspx?id=301>

For a Certificate of Freedom to Marry Abroad contact the Consular Section at (01) 408 2568



## CHANGES TO YOUR STATUS FOLLOWING YOUR MARRIAGE

### PATERNITY

#### INTRODUCTION

The rules governing the presumption of paternity in Ireland may have an effect when a child is claiming an inheritance or maintenance.

The children of parents in Ireland who are married to each other are presumed in law to be the child of their mother's husband. However, the children of parents who are not married to each other may have to prove paternity in order to get their maintenance or inheritance entitlements. This isn't necessary if the father acknowledges paternity or is named as the child's father on the Birth Certificate. If he acknowledges paternity, he can agree to have his name added to the Birth Certificate at a later date.

If the alleged father disputes paternity, he may agree to a medical paternity test. If he doesn't agree to this, it is up to the District Court to decide on paternity.

Where someone refuses to give a sample, the court can draw whatever conclusions it thinks proper from the refusal. For example, if the alleged father refused to give a sample, the court may take the view that he was afraid the tests would indicate he was the father. If the mother refused to give a sample, the court may take the view she was afraid the test may provide the named man was not the father.

Appeals in paternity disputes in Ireland are heard in the Circuit Court.

#### RULES

Paternity testing for Ireland is conducted outside the State. You can either contact the laboratory yourself (they will ask you to select a GP to undertake the tests), or you can go to one of the specialist agencies in Ireland that will organise the test for you. It's important



to be aware, that you cannot use the test results to have the father's name placed on the birth certificate without his consent.

If a father wants to carry out a paternity test to establish legal paternity in order that it would stand up in Court, then all three parties (mother, father, child) would need to be tested, so the mother would have to agree to this test.

Children must be three months old before blood testing can be undertaken for paternity testing purposes. However, a mouth swab of the child can be taken from birth and used for the test. For identification purposes, photos are required of those giving samples.

## **RATES**

Costs of paternity testing vary, depending on the type of test selected. (The most common methods of testing are a blood test, or oral (mouth) swab for the mother, father and child). Rates can be as much as €1,000 (euro) for the test. Paternity testing is not part of the public health system in Ireland and you will have to pay for any tests conducted.

Depending on the circumstances of the individuals involved, the court may make an order for costs, and the parent(s) may be required to make a contribution to the overall cost.

## **HOW TO APPLY**

Further information on paternity testing (including a list of laboratories and specialist agencies) is available from Treoir. If you wish to have a paternity test conducted yourself, you should contact the laboratory (they will ask you to select a GP to undertake the tests), or you can go to one of the specialist agencies in Ireland that will organise the test for you.

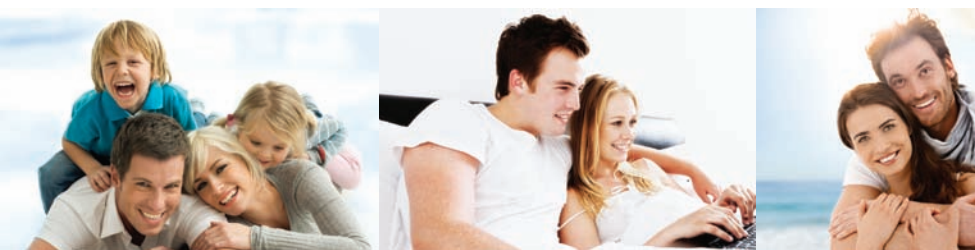
## **WHERE TO APPLY**

Treoir

14 Gandon House

Custom House Square

IFSC



Dublin 1

Ireland

Tel: + 353 (0)1 6700120

Locall:1890 252084

Fax: + 353 (0)1 6700199

Homepage: <http://www.treoir.ie>

Email: [info@treoir.ie](mailto:info@treoir.ie)

## TAX

### INTRODUCTION

If you get married or enter into a civil partnership, both you and your spouse or civil partner continue to be treated as single people for tax purposes in that year. If, however, the tax you pay as two single people is greater than the tax that would be payable if you were taxed as a married couple or civil partners, you can claim the difference. (In other words, you can claim a tax refund). Refunds are only due from the date of marriage and will be calculated after the following 31 December. So, for example, if you get married in 2013, any tax refund due to you will be calculated after 31 December 2013.

Refunds are normally only due where a couple are taxed at different rates and one spouse or civil partner could benefit from the unused standard rate cut-off point or for some of the unused tax credits of the other spouse or civil partner.

When you get married or register a civil partnership therefore, it is important to advise the tax office of the date of your marriage or registration of your civil partnership. You will also need to quote your own and your spouse or civil partner's Personal Public Service (PPS) Number.

For the years following your marriage or civil partnership, there are three options for taxation. All of the options and the outcomes of choosing them are outlined below. The three options are:



- Assessment as a single person (i.e. you are both still taxed as single people)
- Separate assessment
- Joint assessment/aggregation.

## RULES

### ASSESSMENT AS A SINGLE PERSON

Under assessment as a single person, each spouse/civil partner is treated as a single person for tax reasons. With this option:

- Both spouses/civil partners are taxed on their own income
- Both spouses/civil partners get tax credits and the same standard rate cut-off point due to a single person
- Both spouses/civil partners pay their own tax
- Both spouses/civil partners complete their own return of income form and claim their own tax credits. One spouse/civil partner cannot claim relief for payments made by the other. There is no right to transfer tax credits or standard rate cut-off point to each other.

To claim assessment as a single person, you will have to contact your tax office. Either spouse/civil partner can make the claim and the option remains until the person who claims it changes his or her mind. If you wish to claim assessment as a single person, you must apply within the tax year (preferably at the start of the year).

Choosing to be assessed as a single person when you are married or in a civil partnership is unfavourable in some circumstances. This is mainly because you cannot transfer any unused tax credits or standard rate cut-off point. You cannot claim Home Carer's Tax Credit if your spouse/civil partner is caring for a dependent person and would otherwise qualify for the relief.

### SEPARATE ASSESSMENT

Under the separate assessment option, the tax affairs of spouses/civil partners are





independent of each other. The difference between separate assessment and the previous option (assessment as a single person) is that under this option, some tax credits are divided equally between you. These tax credits are:

- Married or Civil Partner's Tax Credit
- Age Tax Credit
- Blind Person's Tax Credit
- Incapacitated Child Tax Credit.

The balance of the tax credits is given to each of you in proportion to the cost borne by you. The PAYE tax credit and expenses (if any), are allocated to the appropriate spouse/civil partner. Any tax credits other than the PAYE tax credit and employment expenses that are unused by one partner can be claimed by the other spouse/civil partner. The tax credits are not usually adjusted until after the end of the tax year.

Any tax credits that are unused (other than the PAYE tax credit and employment expenses) and the standard rate cut-off point up to €41,800 in 2013 can be transferred to the other spouse/civil partner but only at the end of the tax year. The increase in the standard rate tax band of up to €23,800 in 2013 is not transferable between partners.

If you think you have unused tax credits or standard rate cut-off point, contact your tax office for a review after the end of the tax year. Overall, the amount of the tax that is payable under this option (separate assessment) is the same that is payable under the joint assessment option discussed below.

The claim for separate assessment must be between 1 October of the preceding year and the 31 March in the year of the claim. Either spouse or civil partner can request this form of assessment. To withdraw the option, you must contact your tax office. Each spouse or civil partner can complete a separate return of his or her own income.



## JOINT ASSESSMENT

The joint assessment (or “aggregation”) option is usually the most favourable basis of assessment for a married couple or civil partners. This option is automatically given by the tax office when you advise them of your marriage or civil partnership but this does not prevent you from choosing any of the options examined earlier. Under this option, the tax credits and standard rate cut-off point can be allocated between spouses to suit their own circumstances.

If only one spouse/civil partner has taxable income, all tax credits and the standard rate cut-off point will be given to the spouse/civil partner with the income.

If both of you have taxable income, you can decide which of you is to be the assessable spouse/nominated civil partner. You then ask the tax office to allocate the tax credits and standard rate cut-off point between you in whatever way you wish. (The PAYE tax credit, employment expenses and the increase in standard rate cut-off point of €23,800 in 2013 are not transferable).

If your tax office does not get a request from you to allocate your tax credits in any particular way; the tax office will normally give all the tax credits (other than the other partner’s PAYE and expense tax credits) to the spouse/civil partner being assessed. The spouse/civil partner being assessed must complete the return of income for the couple and is chargeable to tax on the joint income of the couple.

If one spouse/civil partner is self-employed, joint assessment can still apply. The flexibility this option brings can be very convenient - especially if one of you pays tax under the PAYE system and the other pays tax under the self-assessment system.

Under joint assessment, you let your circumstances determine if most of the tax should be paid under PAYE or in a lump sum on assessment. This is determined by the way in which the tax credits are allocated. If you choose to pay most of your tax under PAYE, the tax



credits (apart from the PAYE tax credit and employment expenses), should be offset against the self-assessment income.

The choice about who becomes the assessable spouse or nominated civil partner is made by both of you. All you need to do is to inform Revenue which of you is to be the assessable spouse or nominated civil partner. If you have not made your nomination, the spouse or civil partner with the higher income in the latest year for which details of both spouses' incomes are known becomes the assessable spouse or nominated civil partner. This person continues to be the assessable spouse/nominated civil partner until both of you jointly elect that the other spouse/civil partner is to be the assessable spouse/nominated civil partner or until either of you opts for either separate assessment or assessment as a single person.

## REPAYMENTS OF TAX

Repayments that arise from an end of year review will in general be apportioned and repaid on the basis of the tax paid by each spouse/civil partner.

If both of you are in employment, then a Certificate of Tax Credits is issued to each of you. All of the tax credits and reliefs due to a married couple or civil partners where joint assessment applies are shown on the assessable spouse/nominated civil partner's notice - the amount "allocated to other employments" is also shown. This amount ("allocated to other employments") represents the tax credits that are allocated to the other spouse/civil partner and may also include tax credits that are allocated to a subsidiary employment or pension of either spouse/civil partner.

## RATES

The standard rate cut-off point for married couples/civil partners is €41,800 in 2013. This amount is taxed at 20% and the balance is taxed at 41%. Where both spouses/civil partners have income, this standard rate cut-off point can be increased by the lower of the following:



- €23,800 in 2013 or
- The amount of the income of the spouse/civil partner with the smaller income.

The increase in the standard rate cut-off point interacts with the Home Carer's Tax Credit. If the increased standard rate cut-off point is more beneficial than the Home Carer's Tax Credit, you can claim the increase instead. As a matter of course, the tax office will grant you whichever is more beneficial to you.

## HOW TO APPLY

Joint assessment: to nominate or change the assessable spouse for 2013, you must contact Revenue before 31 March 2013. You can also fill in an Assessable Spouse Election Form and send it to Revenue before 31 March 2013.

Separate assessment: to be assessed separately from your spouse in 2013, you must contact Revenue between 1 October 2012 and 31 March 2013.

On registration of a civil partnership you and your civil partner should contact your local Revenue office to tell them the date of registration of your civil partnership, your PPS numbers and to fill in the nominated civil partner's election form (pdf) to confirm which partner is to be the nominated civil partner for future years.

Further information about the taxation of married people and civil partners, with examples showing how income is taxed, is available in the Revenue Commissioners' Leaflet IT2: Taxation of Married Persons and Civil Partners. The Revenue Commissioners have produced some useful frequently asked questions about taxation following marriage and following registration of a civil partnership.

## WHERE TO APPLY

Lo-call telephone numbers for Revenue regional offices are available on Revenue's website. You can also get contact details for offices in your region.



## **SOCIAL WELFARE**

### **INTRODUCTION**

For the purposes of most social welfare claims in Ireland (for example, Jobseeker's Allowance) and supplementary welfare allowance claims, unmarried couples who are living together are treated in the same way as married couples (or civil partners).

Your marital status will affect your entitlement to Widow's/Widower's or Surviving Civil Partner's Pension.

You can only claim Widow's/Widower's or Surviving Civil Partner's Pension if your spouse or civil partner dies. You will not be entitled to this pension if you re-marry or enter into a new civil partnership.

If you are in doubt about how your marital status will affect your claim, you should contact your local social welfare office. In the case of supplementary welfare allowance, you should contact the Department of Social Protection's representative (formerly known as the Community Welfare Officer) in your local health centre or local social welfare office.

### **WHERE TO APPLY**

Further information about how your marital status will or may affect your entitlements is always available from your local social welfare office. Staff will be happy to explain your entitlements and to fill out forms. You can contact the Department of Social Protection's representative at your local health centre or local social welfare office.

## **GUARDIANSHIP OF CHILDREN**

### **INTRODUCTION**

All mothers in Ireland, irrespective of whether they are married or unmarried, have automatic guardianship status in relation to their children, unless they give the child up for adoption. A father who is married to the mother of his child also has automatic guardianship rights in relation to that child. This applies even if the couple married after



the birth of the child. The rights of parents to guardianship are set down in Section 6 the Guardianship of Infants Act 1964. Guardianship rights entitle a parent to make important decisions regarding that child's upbringing, for example, deciding on the child's religion, education, medical treatment and where he/she lives.

However, a father who is not married to the mother of his child does not have automatic guardianship rights in relation to that child. If the mother agrees for him to be legally appointed guardian, they must sign a joint statutory declaration. The statutory declaration (SI 5 of 1998) must be signed in the presence of a Peace Commissioner or a Commissioner for Oaths. If there is more than one child, a separate statutory declaration should be made for each.

If the mother does not agree for him to have guardianship, he may apply for this status to the District Court. Statistics for 2004 show that 70% of the 1,237 unmarried fathers applying for guardianship in Ireland in that year had orders granted in their favour.

However, he may be removed as guardian at a future date whereas a father married to the mother of the child is normally guardian for life.

## LIFE INSURANCE

### INTRODUCTION

Your life insurance or pension policy in Ireland may provide for a lump sum, or pension to be paid to a specified person on your death or retirement. In this case, you may be able to nominate your cohabiting partner as the beneficiary. However, many policies specify that only a spouse may benefit i.e. your husband or wife. A pension scheme that provides a benefit for a spouse is deemed to provide a benefit for a civil partner.

Where a policy specifies that only a spouse may benefit, your cohabiting partner will not have any entitlements. Likewise, you may be entitled to a supplement to your pension in respect of a spouse/civil partner, but not in respect of a cohabitee. Check with your insurer



or the trustees of your pension if you want to be sure about the stipulations of your particular policy. If you are not married, you should check if anything can be changed to allow your partner entitlements that he/she would not otherwise have.

## UNCLAIMED LIFE INSURANCE POLICIES

The Unclaimed Life Assurance Policies Act 2003 requires insurance companies in Ireland to identify and contact the owners of unclaimed life insurance policies. If the owners cannot be traced, the proceeds of the policies will be transferred to the Dormant Accounts Fund, which is managed by the National Treasury Management Agency.

Your civil status affects your rights to inherit from your spouse/partner. Spouses and civil partners have the same legal right to inherit and the same rights on intestacy. A will is automatically revoked when you marry unless it was made in contemplation of that marriage. A bequest in a will to a person who is a witness to the will or to that person's spouse is void.

## RULES

If you are not married, you may only inherit from your partner if you are left a bequest in a valid will. However, a spouse is entitled to what is called a "legal right share" of their deceased spouse's estate even if:

- There is no will
- The will is invalid
- There is a valid will, but it leaves little or nothing to the surviving spouse.
- The marital status of the deceased person may also indirectly affect the inheritance rights of his/her children.

## SPOUSAL INHERITANCE RIGHTS

The amount of the surviving spouse's legal right share depends on two factors:

- Whether or not there is a valid will
- Whether or not the deceased spouse has any children.



You are entitled to the whole estate if:

- There is no will or the will is invalid, and
- The deceased spouse has no children or grandchildren.

You are entitled to two-thirds of the estate if:

- There is no valid will, and
- The deceased spouse has children or grandchildren.

You are entitled to one-half of the estate if:

- There is a valid will, and
- The deceased spouse has no children or grandchildren.

You are entitled to one-third of the estate if:

- There is a valid will, and
- The deceased spouse has children or grandchildren.

If you are the surviving spouse, you must be informed of this right and should apply for your legal right share as soon as possible. You may require that the family home be given to you in satisfaction of your legal right share, even if the home was left to another person under the will. If the family home is worth more than the legal right share, you will normally have to pay the difference into the deceased's estate. However, in cases of hardship, you may apply to the court to have the dwelling house given to you either without paying the difference or by paying such sum as the court thinks reasonable.

## CHILDREN'S INHERITANCE RIGHTS

Both marital and non-marital children have equal rights to inherit from their parents. However, non-marital children may have the additional burden of having to prove paternity if it is disputed. Children's inheritance rights may be affected by their deceased parent's marital status.





The children (minor and adult) are entitled to the entire estate divided equally between them if:

- There is no will or the will is invalid, and
- The deceased parent is not married or his/her spouse is already dead.

But the children are only entitled to one-third of the estate divided equally between them if:

- There is no valid will or the will is invalid, and
- The deceased parent is married and is survived by his/her spouse.

Children have no absolute right to inherit their parent's estate if the deceased parent has made a valid will. However, if a child considers that he/she has not been adequately provided for, he/she may make an application to court. The child need not be a minor or be dependent in order to use this procedure. The court has to decide if the parent has "failed in his moral duty to make proper provision for the child in accordance with his means". Each case is decided on its merits and the court looks at the situation from the point of view of a "prudent and just" parent. Anyone considering challenging a will on these grounds should get legal opinion before applying to the court.

## CIVIL PARTNERSHIP AND INHERITANCE

You can find information on how being in a civil partnership affects your right to inherit in our document on civil partnership and inheritance.

There is a legal responsibility in Ireland on parents, whether married or unmarried, to maintain dependent children and on spouses/civil partners to maintain each other in accordance with their means. Maintenance can be paid periodically (i.e., weekly or monthly) or in a lump sum. In Ireland, paying maintenance does not in itself give a parent access or guardianship rights.



## VOLUNTARY MAINTENANCE

In situations where parents or spouses/civil partners are separated, they can make informal agreements regarding maintenance. This can work well where both parties are reasonable and fair, but it is difficult to assess informally how much maintenance should be paid. You might consider sitting down and writing out the actual expenses (weekly, monthly, etc.).

If you find it difficult to come to an arrangement which satisfies both parties, you may find that mediation can help. Alternatively, each side can engage their own legal advice who will act as negotiator of an agreement. Both parties can then sign this agreement which can later be made a rule of court. A rule of court means that these agreements have the same effect as a maintenance order (see below). A solicitor cannot act for both sides in this situation, given that there may be conflicts of interest.

Informal agreements such as this can include a property transfer or a lump sum payment but it cannot rule out the possibility of applying for a maintenance order through the courts in the future.

## MAINTENANCE ORDERS

If the parties cannot agree upon maintenance, either party can apply to court for a maintenance order. An application for maintenance can be brought either in the District or Circuit Court.

A person seeking a maintenance order can represent himself or herself. However, a person seeking a maintenance order should always check to see if they are eligible for legal aid or contact a private solicitor to assess the cost of the application. The cost of the application can be awarded against the party refusing to pay maintenance if a judge considers it appropriate.

Maintenance awarded to a civil partner is for their own benefit while maintenance



awarded to an unmarried parent is for the benefit of their child. However, maintenance can be awarded to a spouse for their own benefit and/or for the benefit of a child who is under the age of 18, or 23 if the child is in full-time education. If the child is over 18 and under 23 and the financial circumstances do not allow him/her to attend further education, maintenance can be applied for in order to facilitate further education. If the child has a mental or physical disability to such a degree that it will not be possible for the child to maintain him/herself fully, then there is no age limit for seeking maintenance for their support.

Each party must disclose their finances to the court and the judge will consider all of the family's circumstances when making a maintenance order.

## ENFORCING A MAINTENANCE ORDER

In cases where a parent/spouse/civil partner fails to comply with a court order and does not pay the amount awarded, an attachment of earnings order can be sought from the court, if the person is in employment or on a private pension. This order results in the maintenance amount being deducted at source by the parent's/spouse's/civil partner's employer. If the parent/spouse/civil partner is self-employed, an enforcement summons can be applied for.

The Civil Law (Miscellaneous Provisions) Act 2011 has amended the legislation to give the District Court the power to regard a failure by a parent/spouse/civil partner to comply with a court order as contempt of court and to deal with it accordingly, including by means of imprisonment

The District Court in making a maintenance order can direct that the payment under the order be made to the District Court Clerk if the court considers that it would be proper to do so. The Circuit Court may as part of its order direct that a maintenance order is payable through the District Court. The District Court has a fully computerised payments system for the receipt and transmission of payments received. All payments received are



immediately dispatched to the receiving spouse on the day received. A fully computerised print out of all payments is available to either party on request.

Maintenance orders can be enforced in all European Union countries and in countries that are a party to the UN Convention on the Recovery Abroad of Maintenance Payments. See “Further information” below on recovering maintenance from abroad.

## MAINTENANCE FOLLOWING SEPARATION, DIVORCE AND DISSOLUTION

Under Irish law, there is no clean break from the obligation to support one’s spouse and children, or for civil partners to support each other. A clause in a separation agreement stating that a spouse/civil partner will not seek maintenance in the future or seek increased maintenance is unenforceable.

The spouse/civil partner can apply for a maintenance order and a court will consider this application, particularly if the circumstances of the parties have changed or the spouse/civil partner who executed the agreement did not have legal advice at the time.

A divorced spouse can also apply to a court for a maintenance order or a variation of a maintenance order after the divorce decree has been granted.

Similarly, a former civil partner can apply to the court for a maintenance order or a variation of a maintenance order after the dissolution decree has been granted. The only bar to an application is the remarriage or entering into a new civil partnership of the spouse/civil partner applying for the order.

## RULES

If you wish to appeal the decision of the court about a maintenance order, you can do so within 14 days or apply to the court for an extension of time to appeal. You should seek legal advice regarding your appeal.



## RATES

If both parties agree, the amount of maintenance to be paid can be agreed between the parties. If the parties cannot agree on the amount of maintenance to be paid, it will be necessary to apply to the District or Circuit Court, depending on the amount of maintenance that is sought.

At present, the District Court can award any amount up to €500 per week for a spouse/civil partner, and €150 per week for each child. If sums greater than these amounts are being sought, you will need to apply to the Circuit Court.

## VARYING THE AMOUNT OF MAINTENANCE

It is advisable to update weekly maintenance payments annually. Where maintenance orders have been made through the courts, either party can at a later date apply to the court to have the amount varied. (Varied means having the amount increased or decreased). In order to do this, you will require a variation order.

## ARREARS OF MAINTENANCE

If a parent/spouse/civil partner falls behind with payments where there is a maintenance order in place, then it is possible to apply to the court for an attachment of earnings summons. It is possible to get this attachment at the time when you apply for the maintenance order if you fear there may be a default. (In other words, you fear that the other parent/spouse/civil partner may fail to comply with the maintenance order). If the other parent/spouse/civil partner is self-employed, an enforcement summons can be applied for.

If the other parent/spouse/civil partner lives abroad, you should contact the Central Authority for Maintenance Recovery (see 'Where to apply'). You must have an address for the other party in order that a summons can be served. This process may be lengthy but generally involves no legal costs.



If the other parent/spouse/civil partner lives in the UK, you can apply for maintenance to your local District court here in Ireland. Staff in your local court will guide you through this process.

## HOW TO APPLY

A person seeking a maintenance order can go to their local District Court and get the Court Clerk to issue a maintenance summons against the other spouse. Information on applying for maintenance and the forms used is available on the Courts Service website. Legal advice and representation is always advisable. To enquire whether you are eligible for Legal Aid, you can contact your nearest law centre. Legal Aid is not free and everyone must pay a contribution towards costs.

FLAC (Free Legal Advice Centres) is an independent, voluntary organisation that operates a network of legal advice clinics throughout the country. These clinics are confidential, free of charge and open to all. Contact your nearest Citizens Information Centre for information on FLAC services in your area. FLAC also runs an information and referral line during office hours for basic legal information.

If you choose to hire a private solicitor, you should be aware that there is no fixed rate of charges for legal fees. You are advised to obtain some quotes before deciding on a legal firm. Contact information for solicitors firms throughout Ireland is available on the Law Society website.



## **BARRING, SAFETY AND PROTECTION ORDERS**

### **INTRODUCTION**

Domestic violence refers to the use of physical or emotional force or threat of physical force, including sexual violence, in close adult relationships. As well as physical violence it can also involve emotional abuse, the destruction of property, isolation from friends, family and other potential sources of support, threats to others including children, stalking, and control over access to money, personal items, food, transportation and the telephone.

Under the Domestic Violence Act, 1996, Gardai (the Irish police force) have the power to arrest and prosecute a violent family member. Under the law there are two main kinds of protection available, a safety order and a barring order.

A safety order is an order of the court which prohibits the violent person from further violence or threats of violence. It does not oblige the person to leave the family home. If the person lives apart from you it prohibits them from watching or being near your home.

A barring order is an order which requires the violent person to leave the family home. The order also prohibits the person from further violence or threats of violence, and from watching or being near your home.

To get a barring order or a safety order you must attend a District Court hearing. While you are waiting for the court to hear your application, the court can give you an immediate order called a protection order. The protection order has the same effect as a safety order.

In exceptional circumstances the court can grant an interim barring order. This is an immediate order, requiring the violent person to leave the family home.

A safety order can last up to 5 years and a barring order up to 3 years. These orders can be renewed by applying for a further order before the previous one has expired.



The court will grant an order where it believes that your safety or welfare, or the safety or welfare of a dependant, requires that an order is granted. Under the legislation, welfare includes both physical and psychological welfare.

Information on the number of orders granted is available in the Courts Service Annual Report.

## RULES

If you are married or in a civil partnership, and can show the court that your spouse/civil partner is violent in any way towards you or the children, you can get an order against him/her no matter how long you have lived together and even if he/she owns most or all of the house.

Since August 2011, if you are not married or in a civil partnership, you can get a safety order against a violent partner if you are living together in an intimate and committed relationship. You can also get a safety order against a person with whom you have had a child but are not living with or have never lived with the person.

If you are not married or in a civil partnership, you can get a barring order against a violent partner if:

- You have been living together in an intimate and committed relationship for six out of the previous nine months and
- he/she does not own most or all of the house you are living in.

Section 6 of the Domestic Violence Act 1996 sets out that the Health Service Executive (HSE) may seek a Barring Order against a violent adult on behalf of a child, whether or not that violent adult is married to the child's parent. A parent can apply for protection against domestic violence by their own child if the child is over 18.

Others living together can also apply, for example, two relatives living together could be covered.





## PENALTIES FOR OFFENCES

The law in Ireland strictly provides that anyone who contravenes a safety, barring (or interim barring) or protection order is guilty of an offence. Furthermore, if someone prevents you or your dependents from entering or permission to remain in a place to which the order relates (while the barring or interim barring order is in effect), they are also guilty of an offence.

The above offences under the Domestic Violence Act 1996 are punishable by a fine of 1,904.61 euro and or, a prison term of 12 months. These penalties are set down in Section 17 of the Domestic Violence Act, 1996. Statistics from an Garda Síochána show that 1,188 breaches of orders were recorded in 2005.

## SUPPORT

If you are concerned about violence in your home, you should contact your local Garda Station. Members of the Gardai are specially trained to deal with these situations and can offer advice, information and assistance.

Your local Citizens Information Centre can give you information about organisations that will provide you with support. For example, two such organisations are Women's Aid and Amen Support Services.

Women's Aid is a voluntary organisation providing support and information to women and their children who are being physically, emotionally and sexually abused in their own homes. If you are a woman living in a violent situation, you should contact the Women's Aid helpline on 1800 341900.

Amen Support Services is a voluntary organisation which provides a confidential helpline, a support service and information for male victims of domestic abuse. You can contact Amen Support Services by phone at (046) 902 3718.

Further information on domestic and sexual violence as well as information on local and



national support services is available on the website of Cosc, the National Office for the Prevention of Domestic, Sexual and Gender-based Violence.

## HOW TO APPLY

To apply for a barring order or safety order you must go to your local District Court Office. If you live in the Dublin area, you must go to the Dublin District Family Law Office. However you can go to the Dublin District Court Offices in Swords if it is closer to you.

## PROPERTY RIGHTS AND THE BREAKDOWN OF A COHABITING RELATIONSHIP

### INTRODUCTION

If a cohabiting couple in Ireland splits up, the family home (and other family assets) will belong to the person who holds the legal title to the home/assets. This means that in the case of the family home, the person who originally bought the house and whose name is on the title deeds will usually own the house. Read about joint ownership of property and cohabiting couples here.

However, if your relationship breaks down and your name is not on the title deeds to the house, you may still be able to show that you have some ownership rights in relation to the house. These rights are based on the fact that you made a contribution to the purchase price of the house with the intention of gaining a share in the ownership of the house.

Contributions to the purchase price of the house can be direct or indirect. Direct contributions include contributions to the initial down payment for the house or contributions to the mortgage installments. Indirect contributions may include paying some of the other day-to-day household expenses or unpaid work in the legal owner of the house's business. It has been held by the courts that working in the home looking after children and money spent or work done on home improvements are not contributions that give you any right of ownership in relation to the house.



## RULES

Usually, where you can show that you have made a contribution to the purchase price of the house, you will be entitled to a share in the house in proportion to your contribution. For example, if you have shown that you paid off half of a mortgage that represented 90% of the purchase price, you would be entitled to 45% of the ownership of the property.

As well as showing that you made a financial contribution to the purchase price of the house, you must also show that your contribution was made with the intention of gaining a share in the ownership of the house and that you were not making a gift of the money to the legal owner of the house.

Under the redress scheme for cohabiting couples a property adjustment order is one of the remedies available to the courts.

## CONTACT

If you are in a situation where you are concerned about your rights following the breakdown of your cohabiting relationship, you should seek legal advice. Solicitors' fees in Ireland are not fixed and can vary considerably. Shop around and obtain some quotes before you decide on a particular legal firm. Contact information for solicitors firms throughout Ireland is available on the Law Society website.

If you are eligible for legal aid and advice from the Legal Aid Board, you must pay a contribution towards costs. Contact your nearest law centre for information on Legal Aid.

FLAC (Free Legal Advice Centres) is an independent, voluntary organisation that operates a network of legal advice clinics throughout the country. These clinics are confidential, free of charge and open to all. Contact your nearest Citizens Information Centre for information on FLAC services in your area. FLAC also runs an information and referral line during office hours for basic legal information.



# AVALON

The Information above can be found at the Citizens Information Centre website. It is given here as an example of the usefulness of this government service.



MARRIAGE LEGALITIES  
IRELAND