
CIVIL UNIONS BILL 2006

ARRANGEMENT OF SECTIONS

Section

1. Civil unions.
2. Capacity to enter civil union.
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4. Benefits, protections and responsibilities of parties to a civil union.
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6. Jurisdiction of court in relation to civil unions.
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Acts referred to

Adoption Acts 1952 to 1998

Civil Registration Act 2004

2004, No. 3

CIVIL UNIONS BILL 2006

BILL

entitled

AN ACT TO PROVIDE FOR THE RECOGNITION AND REGISTRATION OF CIVIL UNIONS, AND TO PROVIDE FOR RELATED MATTERS.

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

1. – In this Act, “civil union” means a conjugal status relationship entered into and recognised under this Act by virtue of which two persons of the same sex as each other receive the benefits and protections, and are subject to the responsibilities, of parties to a marriage.

2. – (1) Subject to this Act, the law as to capacity to enter into a civil union is the same as the law as to capacity to marry.

(2) A person who is a party to a civil union or to a marriage has no capacity to enter a civil union or to marry.

(3)(a) A person has no capacity to enter a civil union with –

- (i) a lineal ancestor or descendant,
- (ii) a sibling, or
- (iii) a sibling of a lineal ancestor or descendant.

(b) In *paragraph (a)* –

- (i) “sibling” means a brother, sister, half-brother or half-sister;
- (ii) a child by adoption stands in the same relationship to his or her parents by adoption and their relatives as does a child born to those parents.

(4) A civil union between persons without capacity under *section 1* or *2* is void.

3. – (1) Subject to this Act, the law as to the notification, solemnisation and registration of a civil union is, with such modifications as may be necessary, the same as the law as to the notification, solemnisation and registration of a marriage; and Part 6 of the Civil Registration Act 2004 applies accordingly.

(2) Nothing in this Act requires a registered solemniser who is not a registrar to solemnise a civil union if the religious body of which he or she is a member has no recognised form of ceremony for the purpose of if he or she has a conscientious objection to so doing.

(3) In *subsection (2)*, “registered solemniser” and “registrar” have the meanings assigned to them by section 2 of the Civil Registration Act 2004.

4. – (1) Parties to a civil union are entitled to the same rights, privileges and benefits and are subject to the same obligations, penalties and other sanctions, whether deriving from an enactment, a rule of law or an administrative scheme, policy, rule, procedure or practice, as those to which spouses in a marriage are entitled or subject.

(2) Parties to a civil union shall be included in any definition or use of the terms “married couple”, “spouse”, “family”, “dependent”, “next of kin”, and other terms that denote a spousal relationship, as those terms are used in law.

(3) For the purposes of any enactment, the expressions “brother-in-law”, “daughter-in-law”, “parent-in-law”, “sister-in-law”, “son-in-law”, “step child” and “step-parent” and similar expressions include relationships arising by virtue of a civil union as well as relationships arising by virtue of a marriage.

(4) Parties to a civil union are responsible for the support of one another to the same degree and in the same manner as is provided by law for married persons.

(5) (a) The rights and obligations of parties to a civil union with respect to a dependent child are the same, *mutatis mutandis*, as those of a married couple with respect to such a child.

(b) In *paragraph (a)*, “dependent child” means any child –

- (i) adopted by both parties under the Adoption Acts 1952 to 1998, or in relation to whom both spouses are *in loco parentis*, or
- (ii) of either party or adopted by either party under those Acts, or in relation to whom either spouse is *in loco parentis*, where the other party has treated the child as a member of the family,

who is under the age of 18 years or if the child has attained that age –

- (I) is or will be or, if an order were made in proceedings under *section 6* providing for periodical payments for the benefit of the child or for the provision of a lump sum for the child, would be receiving full-time education or instruction at any university, college, school or other educational establishment and is under the age of 23 years, or
- (II) has a mental or physical disability to such extent that it is not reasonably possible for the child to maintain himself or herself fully.

(6) Persons who are entering or who are parties to a civil union may agree particular terms and conditions with respect to their union in the same manner, to the same extent and with the same effect in law as persons who are entering a marriage or who are married.

5. – (1) Where the laws of a place outside the State –

- (a) allow for two persons of the same sex to marry, or
- (b) provide for a status relationship between two people who are of the same sex, whether the relationship is called a civil union, civil partnership or otherwise, and, under the laws of that place –
 - (i) the relationship is of indeterminate duration and the effect of entering into it is that the parties are treated as a couple either generally or for specified purposes or are treated as married, and
 - (ii) the relationship may not be entered into if either of the parties is already a party to a relationship of that kind or is lawfully married,

such a status relationship, entered into in such a place, shall be recognised as a civil union if the same rules as would, *mutatis mutandis*, apply to the recognition of a marriage solemnised outside the State are satisfied as to –

- (I) the capacity of the parties to enter the relationship, and
- (II) the obligation to meet any requirements for the formal validity of the relationship.

6. – (1) The law relating to –

- (a) annulment (other than annulment on grounds of non-consummation),
- (b) separation (other than judicial separation on grounds of adultery) and divorce,

- (c) child custody and support, and
- (d) property division and maintenance,

applies to a civil union as it applies to a marriage.

- (2)(a) The Circuit Court, concurrently with the High Court, has jurisdiction to hear and determine proceedings referred to in *subsection (1)* relating to civil unions and shall, in relation to that jurisdiction, be known as the Circuit Family Court.
- (b) The rules of law as to the jurisdiction and venue of the courts, the transfer of business and the hearing and conduct of proceedings referred to in *subsection (1)* relating to civil unions are the same as those applying to the Circuit Family Court and the High Court in proceedings referred to in that subsection relating to marriages.
- (c) Proceedings relating to civil unions referred to in *subsection (1)* shall follow the same procedures and be subject to the same substantive rights and obligations as are involved in proceedings relating to a marriage; and rules of court shall be interpreted and applied accordingly.

(3) The rules of law as to –

- (a) the jurisdiction of the courts in relation to civil unions solemnised outside the State and recognised under *section 5 (2)*, and
- (b) the recognition of the judgments and orders of the courts of other states in proceedings relating to civil unions,

are the same as the rules of law relating to jurisdiction and recognition in matrimonial matters.

7. – (1) The Minister for Justice, Equality and Law Reform may make regulations for the purpose of giving effect to this Act, including regulations –

- (a) making such general or specific adaptations of or modifications in any enactment, in conformity with the purposes, principles and spirit of this Act, as are in his or her opinion necessary or expedient in order to enable such enactment to have the same force and effect in relation to civil unions as it does to marriages;
- (b) adapting forms and the information to be contained in any notice to be used for any purpose to which this Act relates.

(2) Regulations under this Act may contain such consequential, supplementary and ancillary provisions as the Minister for Justice, Equality and Law Reform considers necessary or expedient.

(3) Every regulation under this Act shall be laid before each House of the Oireachtas as soon as may be after it is made and, if a resolution annulling the regulation is passed by either House within the next 21 days on which that House has sat after the regulation is laid before it, the regulation shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

8. – (1) Subject to *subsection (2)*, parties to a civil union who are living together may apply to adopt a child.

(2) In any decision on or relating to an application to adopt a child, whether made by parties to a civil union or otherwise, due regard shall be had to –

- (a) the principle that the first and paramount consideration is the best interests and welfare of the child, throughout his or her life,
- (b) the concomitant principle that no person, whether by virtue of membership of a particular class of persons or otherwise, has a right to adopt a child or any particular child or a right to preferential consideration of his or her application to adopt a child or any particular child,
- (c) the child's ascertainable wishes and feelings regarding the decision, considered in the light of the child's age and understanding,
- (d) the child's particular needs,
- (e) the likely effect on the child, throughout his or her life, of having ceased to be a member of the original family and become an adopted person,
- (f) the likely effect on the child, throughout his or her life, of having become an adopted child of the person or persons who applied to adopt that child,
- (g) the child's age, sex, religion or religious background, national origin and cultural and linguistic background and any other relevant characteristics,
- (h) any harm which the child has suffered or is at risk of suffering,
- (i) the relationship which the child has with relatives and with any other relevant person, including –
 - (i) the likelihood of any such relationship continuing and the value to the child of its doing so,

- (ii) the ability and willingness of any of the child's relatives, or of any such person, to provide the child with a secure environment in which the child can develop and otherwise to meet the child's needs,
 - (iii) the wishes and feelings of any of the child's relatives, or of any such person, regarding the child,
- (j) the child's right to know the identity of his or her parents and as far as practicable to be brought up by his or her parents and each of them or by other family members.

9. – (1) Where an enactment, a rule of law or an administrative scheme, policy, rule, procedure or practice confers rights, privileges or benefits or imposes obligations, penalties or other sanctions on a cohabiting couple or either of them, whether as between themselves or as regards other persons, the same rights, privileges, benefits, obligations, penalties or sanctions are conferred or imposed, as the case may be, regardless as to whether each of the couple are of different sexes or the same sex.

(2) In this section, a “cohabiting couple” means two individuals who are not married to each other or parties to a civil union with each other and who enter a personal relationship of indeterminate duration with each other and live together as a couple.

(3) This section is without prejudice to any rights, privileges, benefits, obligations, penalties or sanctions that may arise by virtue of –

- (a) any other personal or status relationship to which either such person may be or have been party, or
- (b) the parental status of either such person.

10. – (1) This Act may be cited as the Civil Unions Act 2006.

(2) This Act comes into operation six months after its passing.

(3) *Section 8* and the Adoption Acts 1952 to 1998 may be cited together as the Adoption Acts 1952 to 2006 and shall be construed together as one Act.