



Name of Country and Jurisdiction:  
**Republic of Ireland**

- 1. What forms of legally recognized relationships are available?
- 2. What are the requirements to be able to enter into the above relationships?
- 3. Differences between marriage and civil unions and how the two sets of laws interact.
- 4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?
- 5. When a couple comes to the Republic of Ireland, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?
- 6. How can each form of relationship be dissolved? What is the residency requirement or other link to the Republic of Ireland for an authority to grant a divorce/dissolution?



**1. What forms of legally recognized relationships are available?**



LEGAL RECOGNITIONS FOR OPPOSITE-SEX COUPLE	GEOGRAPHY	LAW	AVAILABLE TO SAME-SEX COUPLE?
Secular or religious marriage, registered	Republic of Ireland	Marriage Act 2015	Yes
Civil marriage, registered		Marriages Act, 1972 Civil Registration Act 2004	
Cohabitation, <i>de facto</i>	Republic of Ireland	Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, Part 15 (in force 1 January 2011)	Yes

Under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, civil partnerships became available exclusively to same-sex couples. However, since the Marriage Act 2015 legally recognized same-sex marriage, it is no longer possible to enter into civil partnerships. Existing civil partnerships may now be converted into marriages.

**Q**

**2. What are the requirements to be able to enter into the above relationships?**

**A**

(i) Geographic requirements:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	No residency requirement.

(ii) Other substantive eligibility criteria:

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Secular or religious marriage, registered	<ol style="list-style-type: none"> <li>1) Both parties must: <ul style="list-style-type: none"> <li>• Be 18 or over or have a Court Exemption Order.</li> <li>• Be either: (i) single; (ii) widowed; (iii) divorced; (iv) a former civil partner in a civil partnership that ended through death or dissolution; or (v) have had a civil annulment of a marriage or civil partnership or a valid foreign divorce or dissolution.</li> <li>• Have the mental capacity to understand the nature of marriage.</li> <li>• Not be related by blood or marriage by a prohibited degree.</li> <li>• Freely consent.</li> </ul> </li> <li>2) Notification of the marriage must be given to the Registrar three months before the intended date of marriage (or a Court Exemption Order must be obtained). The Registrar must issue a Marriage Registration Form, which gives permission to marry. After the ceremony, the marriage must be registered.</li> <li>3) The couple must comply with the requirements of the religious or secular organization in order to get married under its rites. A religious body is not compelled to recognise or solemnise the marriage of a same-sex couple.</li> <li>4) The person solemnising the marriage must be on the Register of Solemnisers, maintained by the Registrar General.</li> <li>5) The ceremony must be performed in the presence of two witnesses aged 18 or over. As part of the ceremony, both parties must declare: (i) that they do not know of any impediment to the marriage; and (ii) that they accept each other as husband, wife or spouse.</li> <li>6) Same-sex persons already in a civil partnership may marry one another without having to dissolve their civil partnership. Once civil partners marry one another, their civil partnership is automatically dissolved. To give notice to marry, the couple must attend the Registrar's Office at least five days in advance to sign a declaration that there is no impediment to the marriage. They must have an actual marriage ceremony and may not substitute a statutory declaration.</li> </ol>

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Civil marriage, registered	<ol style="list-style-type: none"> <li>1) Both parties must: <ul style="list-style-type: none"> <li>• Be 18 or over or have a Court Exemption Order.</li> <li>• Be either: (i) single; (ii) widowed; (iii) divorced; (iv) a former civil partner in a civil partnership that ended through death or dissolution; or (v) have had a civil annulment of a marriage or civil partnership or a valid foreign divorce or dissolution.</li> <li>• Have the mental capacity to understand the nature of marriage.</li> <li>• Not be related by blood or marriage by a prohibited degree.</li> <li>• Freely consent.</li> </ul> </li> <li>2) Notification of the marriage must be given to the Registrar three months before the intended date of marriage (or a Court Exemption Order must be obtained). The Registrar must issue a Marriage Registration Form, which gives permission to marry. After the ceremony, the marriage must be registered.</li> <li>3) The ceremony must be held in a Registrar's Office or other approved venue. The person solemnising the marriage must be on the Register of Solemnisers, maintained by the Registrar General.</li> <li>4) The ceremony must be performed in the presence of two witnesses aged 18 or over. As part of the ceremony, both parties must declare: (i) that they do not know of any impediment to the marriage; and (ii) that they accept each other as husband, wife or spouse.</li> <li>5) Same-sex persons already in a civil partnership may marry one another without having to dissolve their civil partnership. Once civil partners marry one another, their civil partnership is automatically dissolved. To give notice to marry, the couple must attend the Registrar's Office at least five days in advance to sign a declaration that there is no impediment to the marriage. They must have an actual marriage ceremony and may not substitute a statutory declaration.</li> </ol>
Cohabitation, <i>de facto</i>	<p>The couple must be:</p> <ul style="list-style-type: none"> <li>• Same-sex or opposite-sex persons at least 18 years of age;</li> <li>• Who are not married to each other and are not in a registered civil partnership; and</li> <li>• Are not related within the prohibited degrees of relationship; and</li> <li>• Are living together in an intimate (although not necessarily currently sexual) and committed relationship.</li> </ul> <p>In determining whether two adults are cohabitants, the court shall take into account all the circumstances, including:</p> <ul style="list-style-type: none"> <li>• The duration of the relationship;</li> <li>• The basis on which these adults live together;</li> <li>• The degree of financial dependence of either adult on the other and any agreement in respect of their finances;</li> <li>• The degree and nature of any financial arrangements between these adults (including joint purchase of real estate or joint acquisition of personal property);</li> <li>• Whether there are one or more dependent children;</li> <li>• Whether one of the adults cares for and supports the children of the other; and</li> <li>• The degree to which the adults present themselves to others as a couple.</li> </ul>

**Q**

**3. If both marriage and civil unions exist:**

- (a) Identify any significant differences in eligibility; and
- (b) Briefly highlight how they interact if both are in effect (e.g., in some countries, entering into a marriage with the same or a different person automatically dissolves any civil union that the two parties were previously party to, making the latter vulnerable and potentially circumventing separation laws).
- (c) If both marriage and civil unions are available to same-sex couples, briefly highlight areas where major differences exist between marriage and civil unions (e.g., taxes, adoption, immigration, etc.).

**A**

(a)–(c)	Not applicable; civil partnerships are no longer available in Ireland.
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**Q**

**4. What kinds of pre-existing relationships make you ineligible to enter each kind of relationship?**

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage (religious or civil)	Persons already married may not marry. Same-sex individuals in a civil partnership, however, may marry one another.
Cohabitation, <i>de facto</i>	<ul style="list-style-type: none"> <li>• Persons who are married to or in a civil partnership with one another will fall outside the definition of “cohabitant” in section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.</li> <li>• Persons who currently are, or at any time during the relevant relationship were, married to someone else and have not lived apart from each other for a period of at least four years during the previous five cannot be “qualified cohabitants” for the purpose of section 172 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010.</li> </ul>

**Q**

**5. When a couple comes to the Republic of Ireland, is their pre-existing relationship recognized? If not, is there any formalized avenue for obtaining recognition?**

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Traditional marriage	Marriages of Irish citizens abroad are registered in the countries where they occur and are registered in Ireland only in very narrow circumstances. A foreign marriage certificate will usually be accepted for official purposes in Ireland. Same-sex marriages contracted abroad are recognised as marriages in Ireland.

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FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Same-sex relationships	<p>Civil partnerships contracted abroad after 16 May 2016 will not be recognised as civil partnerships in Ireland. Certain foreign partnerships contracted prior to 16 May 2016 are recognised and can be registered as civil partnerships under section 5 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 if, under the law of the jurisdiction in which the relationship was entered into:</p> <ul style="list-style-type: none"> <li>• The relationship is exclusive in nature;</li> <li>• The relationship is permanent unless the parties dissolve it through the courts;</li> <li>• The relationship has been registered under the law of the jurisdiction in which it was entered into; and</li> <li>• The rights and obligations attendant on the relationship are in the opinion of the Minister sufficient to indicate that the relationship would be treated comparably to a civil partnership.</li> </ul> <p>A number of statutory instruments have been passed that specify the foreign relationships which are recognised under this provision.</p>

**Q**

**6. How can each form of relationship be dissolved? What is the residency requirement or other link to the Republic of Ireland for an authority to grant a divorce/dissolution?**

**A**

FORM OF LEGAL RELATIONSHIP	REQUIREMENTS
Marriage	<ul style="list-style-type: none"> <li>• The couple can: (i) enter into a separation agreement; (ii) obtain a judicial separation; or (iii) obtain a divorce. Only divorce dissolves the marriage so that either party can remarry or enter into a civil partnership. In certain circumstances, it is possible to obtain a nullity decree, with the effect that the court determines that no marriage ever existed.</li> <li>• A court can grant a divorce if: (i) either of the spouses was domiciled in Ireland on the date of the institution of the proceedings; or (ii) either of the spouses was ordinarily resident in Ireland throughout the period of one year ending on the date the proceedings were instituted (section 39 of the Family Law (Divorce) Act, 1996).</li> </ul>
Civil partnership	<ul style="list-style-type: none"> <li>• The couple can: (i) enter into a separation agreement; or (ii) obtain a decree of dissolution. Only a decree of dissolution dissolves the civil partnership so that each party can marry or enter into a new civil partnership. In certain circumstances, it is possible to obtain a nullity decree, with the effect that the court determines that no civil partnership ever existed.</li> <li>• A court will exercise its jurisdiction in civil-partnership law proceedings (which include dissolution under the terms of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010) only if one party to the proceedings: (i) is domiciled in Ireland on the date on which the proceedings are commenced; or (ii) is ordinarily resident in Ireland throughout the one-year period that ends on the date proceedings are commenced (section 140 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010).</li> </ul>

## ■ Sources:

### Statutes:

- Marriage Act 2015, available at <http://www.irishstatutebook.ie/eli/2015/act/35/enacted/en/html>.
- Marriage Bill 2015—Explanatory Memorandum, available at <https://www.oireachtas.ie/documents/bills28/bills/2015/7815/b7815d-memo.pdf>.
- Marriages Act, 1972, available at <http://www.irishstatutebook.ie/eli/1972/act/30/enacted/en/html>.
- Family Law (Divorce) Act, 1996, available at <http://www.irishstatutebook.ie/eli/1996/act/33/enacted/en/print.html>.
- Civil Registration Act 2004, <http://www.irishstatutebook.ie/eli/2004/act/3/enacted/en/html>.
- Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010, available at <http://www.irishstatutebook.ie/eli/2010/act/24/enacted/en/html>.
- Finance (No. 3) Act 2011, available at <http://www.irishstatutebook.ie/eli/2011/act/18/enacted/en/html>.

### Statutory Instruments:

- Civil Partnership (Recognition of Registered Foreign Relationships) Order 2010, S.I. No. 649/2010, available at <http://www.irishstatutebook.ie/eli/2010/si/649/made/en/print>.
- Civil Partnership (Recognition of Registered Foreign Relationships) Order 2011, S.I. No. 642/2011, available at <http://www.irishstatutebook.ie/eli/2011/si/642/made/en/print>.
- Civil Partnership (Recognition of Registered Foreign Relationships) Order 2012, S.I. No. 505/2012, available at <http://www.irishstatutebook.ie/eli/2012/si/505/made/en/print>.
- Civil Partnership (Recognition of Registered Foreign Relationships) Order 2013, S.I. No. 490/2013, available at <http://www.irishstatutebook.ie/eli/2013/si/490/made/en/print>.
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- Marriage Act 2015 (Commencement) Order, S.I. No. 504/s2015, available at <http://www.irishstatutebook.ie/eli/2015/si/504/made/en/print>.

### Secondary Sources:

- Citizens Information, Family and Relationships/Getting married: [http://www.citizensinformation.ie/en/birth\\_family\\_relationships/getting\\_married](http://www.citizensinformation.ie/en/birth_family_relationships/getting_married).
- Health Service Executive, HSE Civil Registration Service: <http://www.civilregistrationservice.ie>.
- Department of Justice and Equality, “Minister Fitzgerald announces Commencement of Marriage Act 2015” (including Q&A) (10 Nov. 2015): <http://www.justice.ie/en/JELR/Pages/PR15000577>.