

MARRIAGE (NORTHERN IRELAND) ORDER 2003

EXPLANATORY MEMORANDUM

INTRODUCTION

1. This draft Marriage Order (“the Order”) will be made under Paragraph 1(1) to the Schedule to the Northern Ireland Act 2000 subject to the approval of each House of Parliament.

BACKGROUND AND POLICY OBJECTIVES

2. The Order aims to reform, simplify, update and consolidate the existing procedures in relation to the formalities to and preliminaries for marriage. It does not deal with the concept of marriage, that being the voluntary union of a man and woman to the exclusion of all others, but instead focuses on the steps that must be undertaken before a marriage ceremony can take place.

3. The Order largely implements the recommendations made to Government by the Law Reform Advisory Committee for Northern Ireland, which had the matter of the law relating to marriage preliminaries referred to it in 1998 by the Secretary of State for Northern Ireland.

CONSULTATION

4. Both the Advisory Committee and the Department consulted widely on the proposed changes to marriage law in Northern Ireland. The responses to three separate consultation exercises revealed widespread support for modification and the legislation received cross party and cross community support when being considered in the Assembly.

OVERVIEW

5. The Order focuses on the central concept of equality, removing the existing complex and anomalous system that applies in many different ways to many different

denominations and religions and replaces it with a uniform system of civil preliminaries applicable to all. It is based on the model that has operated in Scotland since 1977.

6. There are several main features of the Order. *Articles 3-8* outline the new preliminaries, based on the use of a marriage schedule. *Articles 10-17* reflect the shift in emphasis in the case of religious marriages from a system based on the registration of buildings to one based on the registration of officiants. This has the effect of allowing religious bodies to nominate persons to solemnise marriage but does not prescribe where a ceremony can take place (without in any way removing the right of an officiant to refuse to solemnise a marriage in a particular location). *Articles 18-21* reflect changes to civil marriages. The rules that dictate that marriages can only currently take place in a registration office will be relaxed to permit marriages to be solemnised in other places, subject to control by the local registration district. Finally, *Articles 22-38* deal with some supplementary and miscellaneous matters with a view to consolidating the existing law.

7. The Order makes the above changes within the context of the continued validity of religious as well as civil marriages, the minimal interference with existing freedoms of individual denominations and religions, equal treatment between those wishing to have a civil or religious marriage, certainty, simplicity, transparency and ease of application.

FINANCIAL EFFECTS OF THE ORDER

8. It is anticipated that the Order will have a positive impact upon employment and business generally. The legislative change will result in certain administrative functions being undertaken by registrars and the expected costs will be met by the fees levied by the General Register Office in respect of the preliminaries to and solemnisation of marriage.

EUROPEAN CONVENTION ON HUMAN RIGHTS

9. The provisions of the Order are compatible with the Convention on Human Rights.

EQUALITY

10. Copies of an equality impact document are available from the Department of Finance and Personnel.

REGULATORY APPRAISAL

11. The regulatory impacts of the Order will be minimal.