



UCD Constitutional Studies Group
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A Guide to the referendum on the 34th Amendment to the Constitution

What is the referendum about?

On 22 May 2015, voters will be asked to approve or reject the Thirty-fourth Amendment of the Constitution (Marriage Equality) Bill 2015, which proposes to insert a definition of marriage in the Constitution. If passed, this amendment would provide that civil marriage in Ireland may be entered into by couples of the same sex, as well as by opposite-sex couples.

What is the current constitutional position?

“Marriage” is referred to a number of times in the Constitution and the Family is said to be founded upon it. The Constitution commits the State to “guard with special care the institution of marriage” and provides for the dissolution of marriage (divorce).

However, “marriage” is not defined. In a number of cases Irish judges have interpreted the word “marriage” in the Constitution as referring to a union between a man and a woman. For this reason many people consider that a constitutional amendment is required to introduce same-sex marriage in Ireland.

What will change if the referendum is passed?

If voters accept the proposed amendment by voting yes, the following definition of marriage will be added to Article 41 of the Constitution: “Marriage may be contracted in accordance with law by two persons without distinction as to their sex.”

The insertion of this definition would make it clear that marriage in Irish law would no longer be confined to opposite-sex couples. At present there is no constitutional obligation on the State to recognise committed homosexual relationships.

Committed same-sex relationships are currently protected under legislation providing for the rights of cohabitants and civil partners. However, these amendments could be removed by the Oireachtas in the future as they are not constitutionally recognised as marriage is.

What will not change if the referendum is passed?

The marriage rules of religious denominations would not be affected by approval of this constitutional amendment. The proposal relates to civil or State marriage only.

The proposed amendment does not address the law in relation to surrogacy. That would remain, as it is currently, a matter for the Oireachtas to deal with within the framework of the Constitution.

The amendment does not address adoption law or parental rights in general.