

APPENDIX E

REFORM OF MARRIAGE LAW

NORTHERN IRELAND

**REPORT TO THE STANDING COMMITTEE FROM THE
ADVISORY COMMITTEE ON LAW REFORM (NI)**

Rt Rev JE Moore (Chairperson), Lady Sheil, Rev Canon JPO Barry, Mr M Davey, Rev Canon RE Turner, Rev Prof RAB Mollan.

**EQUALITY IMPACT CONSULTATION ON REVIEW OF MARRIAGE LAW
(NORTHERN IRELAND)**

The Committee has replied to the Deputy Registrar General on behalf of the Church of Ireland and submits its report to Standing Committee for reference.

The Committee believes that the drafting of legislation is at an advanced stage. Standing Committee is advised that the fundamental changes proposed in the reform will have significant implications for the Church and clergy. Prior to enactment, clergy will need to be advised of the changes and implications to their practice.

The legislation, by removing the unique position of the Rector in a geographical area, will create important alterations in the internal discipline within the Church. The Church must ensure that the local ecclesiastical authority can decide which categories of clergy will be authorised, and that names may be added or removed as may become necessary. The position of the rector in a parish will require protection from visiting clergy officiating at venues within the parish. The widening of the venues for marriage ceremonies will require discussion and guidance. Directions about the local retention of a marriage register may be necessary - possibly by a canon. The rubrics of the rite of marriage will require revision, and the Committee will inform the Liturgical Advisory Committee of the need for change in legislation. These and other matters should be investigated and preparations made.

The new legislation will produce practical difficulties for the Church, and while the Committee is aware of the need to proceed, it is also aware of the need to have discussions prior to enactment, to prevent further difficulty.

The Committee recommend a small working party to investigate the practical implications for this law reform on marriage. Mindful that reform is also underway in the Republic of Ireland, this will be an opportunity for representation from both jurisdictions.

November 2001

ADVISORY COMMITTEE ON LAW REFORM (NI)**REPORT TO DEPUTY REGISTRAR GENERAL**

Rt Rev IE Moore (Chairperson), Lady Sheil, Rev Canon JPO Barry, Mr M Davey, Rev Canon RE Turner, Rev Prof RAB Mollan

EQUALITY IMPACT CONSULTATION ON REVIEW OF MARRIAGE LAW (NORTHERN IRELAND)

The Committee appreciates the opportunity to respond to the Report on Marriage Law published by the Law Reform Advisory Committee for Northern Ireland, December 2000 and the Recommendations contained in the Equality Impact Consultation issued by the Department of Finance in August 2001. The Committee welcomes the fundamental changes to the existing system. Conscious of the major practical changes, which are proposed, it is pleased to note the very positive practical outcome of the legislation in Scotland.

The list of main recommendations in annex B required to be complemented by the more complete explanations and reasoning in the full report, as otherwise some of the points might be taken out of context, and lead to misunderstanding. A good example would be recommendation 8, where it clearly is not the intention to exclude a prayer, but seeks to differentiate between a civil and religious ceremony.

The Committee would wish to re-emphasise its concerns to protect the integrity of the Church in terms of both authorising the clergy and stipulating the venue for a religious ceremony. It is important that when a schedule is being sought, the clergy, acting within the statutes and regulations of the Church, have the right to refuse to officiate and the right to refuse permission to use the venue. This will protect the authority of the Church, just as the proposals seek to protect the authority of the civil administration. The Committee affirms those efforts to ensure equality, without compromising either the Church or the clergy.

The Committee had a number of issues that it wishes to present for clarification and emphasis.

When the Registrar General identifies “fit and proper persons” it would be important that a suitable list is sought directly from the appropriate ecclesiastical authority - in our case the Bishop of the Diocese - rather than any other source of information. This would apply to all faiths that would wish to determine suitable persons within their own rules.

The Church would also wish to retain the authority to specify which buildings are ecclesiastical within their statutes and regulations. This is specifically referred to in sections 5 and 7 of our submission.

The Church would wish to pre-empt embarrassment and disappointment in the event of a failure to clarify the preliminary arrangements in regard to the officiant and venue. In preparing the schedule, the Registrar would be advised to have specific prior approval from both the officiant and with regard to the venue. This could be in the form of a certificate required for the preparation of the schedule. Time constraints might sometimes preclude adequate notification of the schedule to the officiant and the venue. Here the committee thought that prior certification would prevent difficulty.

A practical matter, but one of great importance in these fundamental changes, is the issue of local records. With the abolition of the statutory Marriage register, churches would be advised to retain their own records for future use.

The word “outwith” in recommendation 22 requires further clarification. Is it intended to authorise the rites and ceremonies of one denomination in another? If this were the case, permission would have to be sought from the ecclesial authority, which in the case of the Church of Ireland would be the Bishop of the Diocese.

Under recommendation 29 of the Consultation document the Committee would seek to protect the absolute requirement for parental consent below the age of eighteen, and this should be specifically stated in section 11.11 of the Report.

The Church would endorse the sanctions stated in recommendation 32 of the Consultation, namely that any minister whose ecclesiastical recognition is withdrawn should not be permitted to solemnise marriage.

REPLIES

The Church does not envisage any equality impact in the new legalisation, but sees problems in its implementation. The Committee has made clear its concerns, which will affect all religious denominations.

1. To protect the integrity of the Church in terms of both the clergy and the venue the clergy, acting within the statutes and regulations of the Church should have the right to refuse to officiate and the right to refuse permission to use the venue.
2. To protect the authority of the Bishop the Registrar General should seek from the Bishop of the Diocese a list of approved persons.
3. To protect the authority of the Church the Church should retain the authority to specify which buildings are ecclesiastical, within its statutes and regulations.
4. To prevent embarrassment and disappointment in preparing the schedule, the Registrar would be advised to have specific prior approval from both the officiant and the venue.
5. To ensure the provision of local records Churches should be advised to retain their own records of marriage ceremonies.
6. To protect the authority of the Church; no Church should impose its rites and ceremonies on another Church. In the case of temporary authorisations, the Church would wish to retain the right to permit clergy from other denominations either to assist in the rites and ceremonies of the church or ecclesiastical building in which the ceremony is to take place, or, with the requisite permission, to allow clergy of another denomination to use the building for their rites.

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