

APPENDIX I

**SUBMISSION TO THE LAW REFORM COMMISSION
RIGHTS AND DUTIES OF COHABITEES**

In January 2005, the Church of Ireland made a submission on Articles 40.3 and 42.5 of the Constitution of Ireland relating to the Family to the All Party Oireachtas Committee on the Constitution. In relation to the issue of how the family should be defined, the following view was expressed:

The family protected by the Constitution is the family based on marriage. The present day understanding of the family, however, is something much broader than the traditional marriage-based family. A clear distinction needs to be made between the definition of marriage and the definition of the family. We favour the inclusion in the Constitution of a broad definition of the family which will not only continue to protect the institution of marriage but will also allow the state to recognise the numerous units which are generally regarded as family units but which are not marriage based. The Church of Ireland of course continues to stress marriage as the optimum context particularly for the nurture of children but at the same time we feel that other domestic situations should be accommodated and legislative provision made for them.

In line with this stated position, we accept the general approach adopted by the Law Reform Commission in its Consultation Paper *Rights and Duties of Cohabitees (LRC CP 32-2004)*.

At this preliminary consultative stage we do not feel it necessary to comment on the specific proposals contained in the Consultation Paper (+) but reserve the right to do so at some future stage as the proposals become more definite.

Essentially, we take the view of the LRS that the Oireachtas should not be precluded from legislating in respect of cohabitees - so long as the legislation does not diminish the institution of marriage by offering equal advantages or superior rights to those who do not choose it.

(+) Unless the view is taken that a specific point does need to be made about pension matters as they concern the Church of Ireland when an internal report on the matter has been digested.

The Church of Ireland submission to the All Party Oireachtas Committee on the Constitution is attached as Appendix I to the Standing Committee.