

# Q&A: The same-sex marriage referendum

## Everything you need to know ahead of vote on constitutional change on May 22nd



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[Mon, Apr 13, 2015, 23:14](#)

**First published:** Mon, Apr 13, 2015, 2015

### **What are we voting on?**

On Friday, May 22nd, voters will be asked whether the Constitution should be changed so as to extend civil marriage rights to same-sex couples. The proposed amendment to Article 41 is the insertion of the line: “Marriage may be contracted in accordance with law by two persons without distinction as to their sex.” The Irish version, which takes precedence, reads: “Féadfaidh beirt, gan beann ar a ngnéas, conradh pósta a dhéanamh de réir dlí.” If the proposal is passed, a marriage between two people of the same sex will have the same status under the Constitution as a marriage between a man and a woman. Married couples of the opposite sex or the same sex would be recognised as a family and be entitled to the Constitutional protection for families.

### **Why are we voting on this now?**

Before the 2011 election, the [Labour](#) Party said it favoured a referendum on same-sex marriage. [Fine Gael](#) was non committal. When the two parties formed a coalition, their compromise was to send the issue to the Constitutional Convention, a deliberative forum comprising 33 politicians and 66 members of the public. The convention’s overwhelming support for the idea (79 per cent were in favour) gave momentum to advocates, who were pushing for a referendum. In November 2013, the cabinet formally agreed to put the question to the people and Taoiseach Enda Kenny made his first public declaration of support for the campaign.

### **Where do the political parties stand?**

Fine Gael, Labour, [Fianna Fáil](#) and Sinn Féin are all calling for a Yes vote. Beyond Leinster House,

the key force on the side of reform is Yes Equality, an umbrella group incorporating the [Gay and Lesbian Equality Network](#), [Marriage Equality](#) and the Irish Council for Civil Liberties. It plans to co-ordinate with [LGBT Noise](#), a grassroots organisation that specialises in street demonstrations. The Yes side also has the support of the trade union movement.

### **So who is against the proposal?**

The most prominent opponents to date have been the [Iona Institute](#), a religious think-tank, and Independent Senator Rónán Mullen. The organisational focal point for the No side is expected to be [Mothers and Fathers Matter](#), a group set up to challenge parts of the Children and Family Relationships Bill, which was recently passed by the [Oireachtas](#). By far the most influential voice on the No side, however, will be the [Catholic Church](#). A bishops' pastoral letter, The Meaning of Marriage, has been circulated to 1,360 parishes nationwide, and the church's ability to reach and mobilise people will be vital to the No side's chances. A lot depends on how actively the hierarchy decides to make its case.

### **If we vote Yes, will there be legal consequences for religious marriage ceremonies?**

No. The proposal is to extend civil marriage rights. Any church retains its right to marry whoever it wishes. The Marriage Bill 2015, which will be enacted in the event that the referendum is passed, explicitly states that priests or any other solemnisers will not be obliged to perform same-sex marriages. However, the Catholic hierarchy has recently suggested that if the referendum is passed, the church could itself opt no longer to perform the civil aspects of weddings. At present, the signing of the Marriage Registration Form, a document required by the State in order to recognise a marriage, is normally done after a wedding Mass. If the church decides not to allow this in future, on the basis that the State's view of marriage differs so fundamentally from its own, couples would have to go elsewhere to have their union legally recognised by the State.

### **We already have civil partnerships. What's different about civil marriage?**

Civil partnership was introduced in [Ireland](#) in 2010 to give same-sex couples similar legal protection to married couples. More than 1,000 same-sex couples have availed of it. They enjoy extensive rights that are similar or identical to those of married couples in areas such as property, tax, social welfare, maintenance, immigration and pensions.

Some of the differences between partnership and marriage have been eliminated by the Children and Family Relationships Bill, notably those relating to adoption and guardianship. But Dr Fergus Ryan, lecturer in law at [NUI Maynooth](#), identifies 21 differences that remain. For example, civil partners do not enjoy the protection the Constitution gives to the family. Nor are they entitled to a judicial separation and it's not clear whether next of kin rules apply to civil partners. The most obvious difference is the name. Same-sex couples who formalise their union must go through a different process to opposite-sex couples; the State is saying that it regards them differently. Supporters of the referendum proposal say this is a chance to show generosity of spirit and secure equality for same-sex couples. Opponents say there's nothing wrong with treating two types of union differently.

### **Will civil partnership still exist if the referendum is passed?**

There will be no new civil partnerships after the Marriage Act comes into effect. Existing civil partners will retain that status and the rights, privileges, obligations and liabilities associated with it unless they choose to marry. Whether they marry is up to them. If they do, their civil partnership will be dissolved.

### **Are we voting to change the definition of marriage?**

The Constitution does not define marriage. Nor does it specify who is entitled to marry and who is not. So a Yes vote would not change the Constitutional status of marriage. In the absence of a constitutional definition, the [Referendum Commission](#) explains, the generally accepted common law definition of marriage is "the voluntary union of one man and one woman, to the exclusion of all others". This definition has been adopted by the Irish courts on a number of occasions.

### **If I vote Yes, am I voting to allow same-sex couples adopt children?**

Up until recently, only a married couple or a single person (regardless of sexuality) could adopt a child. Some children in Ireland have been and are being raised by same-sex couples, though in such cases only one of the two individuals, in the eyes of the law, was the child's parent. In recent weeks, however, the Oireachtas passed the Children and Family Relationships Bill. This major reform of family law allows civil partners and cohabiting couples who have lived together for three years to adopt. That will remain the case irrespective of the outcome of the referendum.

### **Have other countries introduced same-sex marriage?**

If the referendum passes, Ireland will become the first country in the world to approve a national referendum expressly guaranteeing same-sex marriage in its constitution. A number of other countries have introduced it via the courts or by parliamentary vote. At present, 17 countries (including France, Argentina, Denmark, Norway and Spain), as well as a number of US states, allow same-sex couples to marry.

### **What do the opinion polls suggest?**

All polls to date have put the Yes side ahead. An [Ipsos MRBI](#) survey for *The Irish Times* last month found that, when undecided voters were excluded, support for a Yes vote stood at 74 per cent, while support for the No side was at 26 per cent. Urban voters, women and young people are most likely to vote for change.

The Yes side has been more active and organised so far. A huge registration drive among young people will help push up turnout among one of its key demographics, while its recent tone and strategy suggest it is tacking towards the middle-ground where the referendum will be won or lost. If the political parties actively campaign, their ground operations will be important to the Yes side.

### **So it's a done deal?**

Far from it. That same Ipsos MRBI poll showed the Yes vote was declining: support for same-sex marriage was down six points since the previous poll in December. The No side was up by six points. And that's before the campaign proper has kicked into life. The Yes campaign has set the pace, but the No side also has reasons to be confident. Ireland's is a conservative electorate, and one that has shown itself slow to change the Constitution. It's quite possible that some people are reluctant to admit their reservations to pollsters. In relatively secular France in 2013, a campaign against the government's plan to introduce same-sex marriage and adoption by gay couples by way of parliamentary vote led to some of the biggest conservative protests in decades. Moreover, recent Irish history offers cautionary lessons. In 2012, polls at one stage showed 80 per cent in favour of the children's referendum. But despite a poorly funded No campaign whose most prominent faces were a former MEP and a newspaper columnist, the Yes vote on polling day was only 58 per cent. Finally, the age group where support for same-sex marriage is strongest (18-24 year olds) is also the one that tends to be least inclined to vote. The result is unpredictable.

### **If the proposal were rejected, what would happen?**

Nothing. The Constitution would remain unchanged and civil marriage would be open only to opposite-sex couples. The issue would fade from the political agenda in the short-term. There's an outside possibility that a government could test the view, held by some lawyers, that a constitutional amendment is not necessary to allow same-sex marriage. It's more likely that another referendum would be held in a few years' time.

### **Am I too late to register?**

No. You have until close of business on May 5th to add your name to the electoral register. To check that you're on it, and that your personal information is correct, see [checktheregister.ie](http://checktheregister.ie)