



**Congress submission on Same Sex Marriage  
to Constitutional Convention**

1. Congress welcomes the inclusion of same sex marriage (we prefer to use the term marriage equality) on the agenda of the Constitutional Convention and the open invitation to submit any suggestions, proposals or comments on the issue ahead of the Convention's examination of the issue at its next meeting on the 13th April.
2. The Irish Congress of Trade Unions represents close to 800,000 people in the workplace on the island of Ireland. The trade union movement is committed to the achievement of full equality for lesbians, gay men, bisexuals and transgender people both in terms of legal equality, and also to challenge prejudice against LGBT people that remains in Irish society. Therefore we strongly support marriage equality as a further important step towards both objectives. We welcome the tremendous progress that has been made in the willingness of people in Ireland to accept their lesbian, gay and bisexual (and to a much lesser extent, Trans) fellow citizens as equals over the last 20 years. Steps being taken towards establishing marriage equality in Europe and elsewhere

confirm that this is now seen as the next critical measure of practical support for equality.

3. The basis on which Congress supports marriage equality is support for equality and human rights and our contention that lesbian, gay, bisexual and transgender people continue to face prejudice and discrimination, and that the denial of the right to get married that is available to opposite sex couples is discriminatory.
4. The workers that unions and Congress represent come from all areas of society, and Congress is committed to combating all forms of discrimination and to promoting equality. Congress is striving to ensure that Ireland is a country where all LGBT workers can be themselves at work without any negative consequences for their working life or careers. Congress was the first national organisation to promote LGB equality in the workplace with the publication of *Lesbian and Gay rights in the Workplace and Guidelines for Negotiators* in 1982. Since then Congress has negotiated and won improvements to employment and other anti-discrimination legislation, making discrimination against LGBT people unlawful.
5. LGBT issues are relevant in every workplace. Research has shown that 5-7% of people in society are lesbian or gay, this would equate to 56,000 members of Congress. Developing inclusive workplaces and trade unions is an important issue for all unions. Unions are active in negotiating policies and practices to support inclusive workplaces and trade unions which are free from discrimination. However, despite being unlawful, discrimination on the grounds of sexual orientation or gender identity can and does still happen. Unions will continue to develop and implement workplaces strategies and support mechanisms to combat this. Workplaces however reflect the wider society within which they exist and

therefore we believe that marriage equality is also important in a workplace setting.

6. Civil Partnership commenced in the Republic of Ireland in 2011. As a result same-sex couples are now entitled to enter into a civil partnership to gain legal recognition of their relationship. Civil Partnership has a number of very important practical benefits for LGBT employees. LGBT employees' civil partners are entitled to the same treatment as colleague's married spouses in the workplace.

This includes:

- Pension schemes which provide benefits for married spouses are now deemed by law to provide equally for an LGBT employee's civil partner.
- Employment benefits: The Act also establishes rights for civil partners under the Employment Equality Act 1998. The ground of 'marital status' has been replaced by the new ground of 'civil status' which covers both civil marriage and civil partnership. It is now illegal to discriminate in employment between civil partners and married couples. Any workplace benefits for married spouses must now also cater for civil partners of employees in the same manner. This is also extended to include a 'member of the family' including the child of his or her civil partner. . Any benefits to employee's children must not discriminate between employees on the basis of the "civil status" or the sexual orientation of the employee.
- Workplace benefits: Employees who are in a civil partnership can now apply for a range of workplace partner benefits which their employers might operate including death in service benefit, partner health benefits, marriage leave, study leave or family relocation benefits.
- LGBT employees are already protected under existing Force Majeure and Parental Leave legislation.

7. Civil partnership has helped to increase LGBT visibility in the workplace. Trade unions and employers have used the introduction of civil partnership and the related workplace benefits as an opportunity to convey their commitment to supporting equality for LGBT members and employees.
  
8. However, it stops short of marriage. While many see it as a significant step forward for LGBT people, there are those who see this as a discriminatory and second class piece of legislation. There are still 75 countries across the world where same sex relationships are prohibited and nine countries where they are punishable by death. Despite repeated condemnation by the UN Human Rights Committee, discrimination and denial of people's basic human rights due to their sexual orientation continues. Human rights are universal. Their application should never be qualified. The introduction of a constitutional provision for same-sex marriage here would go a long way towards achieving full equality for LGBT people here and enhance our international reputation as a champion of human rights.
  
9. The Irish Congress of Trade Unions at its 2009 Biennial Delegate Conference debated and passed a motion in support of marriage equality. Delegates, while welcoming the positive changes proposed by the Civil Partnership Bill at the time, pointed out the inherent prejudice in the civil partnership Bill, particularly in relation to children. The conference went on to affirm civil marriage as the only option that affords equal rights to same sex couples. (Full copy of motion in **Appendix One**)

10. Congress notes that the whole area of children is but one area of difference between civil partnership and civil marriage and references the Marriage Equality Report, "Missing Pieces" that identifies over 160 differences that were found between civil partnership and civil marriage, broken down into 7 categories:

1. The Family Home
2. Finance
3. Legal Procedures
4. Administration
5. Parent and Child
6. Immigration
7. Equality

11. In the current economic climate, it is also worth noting that there is a strong business case for tackling any remaining discrimination experienced by the LGBT community. Ireland can enhance its comparative advantage in key sectors of the knowledge economy where people, and their skill, talent and capacity for innovation, have become a central factor of production. The work of Richard Florida highlights the growing importance of diversity and equality to the success of policy areas critical to nurturing, attracting and retaining the skills and capacities on which these advanced internationally traded sectors depend. These are urban planning and development; supporting the innovative workplace; attainment and participation in education; and policies relating to the international mobility of tourists, business visitors, worker and students. The growing importance of diversity and equality across these policy areas means that measures to support equality can be viewed as a part of our economic infrastructure and a component of international competitiveness and economic renewal.

12. Finally, it is our view that the Constitutional Convention provides an opportunity for trade unions to help make marriage equality a reality for our LGBT members. In this submission, we have sought to make the case for provision of equal access to marriage. As the Tanaiste put it in a speech in July 2012,

*"The right of gay couples to marry is, quite simply, the civil rights issue of this generation, and, in my opinion, its time has come".*

Not only is it the right thing to do but there is also huge public support for it amongst the public (this currently stands at 73% as per most recent polls).

Congress wishes the Convention well in its exploration of marriage equality and hopes that you will submit a recommendation to Government to amend the Constitution – if indeed that is necessary – so that there is no impediment to full marriage between same sex couples. By doing so, you will play an important role in ensuring true equality for our LGBT community.

More on our LGBT work here: <http://www.ictu.ie/equality/lgbt.html>

## **Appendix One**

### **Motion 32. Equal Opportunities for Same Sex Couples**

Congress condemns the failure of Governments North and South to ensure that same sex couples have equal rights and opportunities. Congress is dismayed at the outrageous remarks directed against the Gay and Lesbian community by a Minister in the Northern Ireland Assembly. Congress also notes that gay and lesbian couples in the Republic of Ireland do not enjoy parity of esteem with their brothers and sisters in Northern Ireland, whose rights and civil liberties are enshrined in the Civil Partnership Act. The failure to enact a Civil Partnership Bill is indicative of the Government's approach to the Equality Agenda, reflected in the undermining of the equality infrastructure of the Republic of Ireland. Conference calls for a renewed campaign by the incoming Executive Council and by affiliated unions for legal recognition of the rights of same sex couples and affirms civil marriage as the only option that affords equal rights to same sex couples.

Congress reaffirms its commitment to defending the human rights of all minority groups, including members of the LGBT community, and denounces any attempt to discriminate against them or to denigrate them in any way.

**(Congress Biennial Delegate Conference 2009)**