

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

Registration of Relationships Bill 2006

EXPLANATORY STATEMENT

**Circulated with the authority of
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This Explanatory Statement relates to the Registration of Relationships Bill 2006 (the Bill) as introduced into the Legislative Assembly.

Overview

The purpose of the Bill is to provide for the registration of significant relationships between two adults, either of opposite sex or the same sex. The bill applies to adults who live in the ACT and are not married or a party to a deed of relationship and are in a significant or caring relationship. The bill provides for registration by a registrar-general 28 days after an application is submitted. The deed of relationship is revoked by death or marriage of either partner or otherwise by an order of the Supreme Court or the registrar on the application of one or both of the parties to the deed of application.

Part 1

Clauses 1-4

Part 1 clauses 1 to 4 deal with the name of the Act and the commencement date, the dictionary and clause 4 states that any notes are explanatory and are not part of the Act and refers the reader to the Legislation Act.

Clause 5

Deals with the meaning of a significant relationship. A ‘significant relationship’ is defined as a relationship between two adults who have a relationship as a couple and are not married to each other or related to each other by family.

Sub-clause (2) states that if a ‘significant relationship’ is registered under this Act, proof of registration is proof of that relationship. A ‘significant relationship’ can be between adults of the opposite sex or of the same sex.

Clause 6

Deals with the meaning of a ‘caring relationship.’ A ‘caring relationship’ is defined as being a relationship other than a marriage or a significant relationship between two adults, whether they are related by family or not and where one or the other provides the other with domestic support and care.

Subclause (2) states that a caring relationship between two people does not exist if one of them provides the other with domestic support and personal care for a fee or payment in the nature of wages or under an employment contract between the two people or on behalf of someone else such as a government agency or charitable organisation or other entity.

Subclause (3) states that to remove any doubt, subsection (2) (a) does not include any carer allowance or carer payment under the Social Security Act 1991 of the Commonwealth made to a party to a caring relationship in relation to care provided by that party to the other party to the relationship. In other words, if care is paid, courtesy of Social Security to be a carer as such.

Subclause (4) states if a caring relationship is registered under this Act, proof of registration is proof of the caring relationship.

Clause 7

Deals with the meaning of ‘related by family’. Two people are related by family if one is the parent or another ancestor of the other or if one is the child or another descendant of the other, or they have a parent in common.

Subclause (2) states this will be the case even if the relationship between the two persons is traced through to a person who is or was an adopted child and this even applies if the adoption has been annulled, cancelled or discharged or ceased to have effect and the relationship between an adopted child and the adoptive parent, or each of the adoptive parents, is taken to be or to have been the natural relationship of child and parent. If a person has been adopted more than once they are taken to be the child of each person by whom the person has been adopted.

Part 2

Deals with the registration of relationships.

Clause 8

Deals with the application to register a deed of relationship.

Subclause (1) states that two adults who live in the ACT and are not married or a party to a deed of relationship and are in a significant or caring relationship may apply to the registrar-general for registration of a deed of relationship in relation to that significant or caring relationship.

Subclause (2) states that such application must be accompanied by a statutory declaration by each applicant verifying that the applicant consents to the registration and is not married and is not a party to a deed of relationship and further b) have to give evidence of the identity and age of each applicant and for a caring relationship the certificates required under subsection (3) have to be given and any another document or information the registrar-general requires.

Subclause (3) requires each party to a caring relationship to give the registrar-general a certificate from a lawyer stating that the lawyer has given legal advice to the party, independently of the other party to the caring relationship about firstly the effect of registration of a deed of relationship on the rights of the parties and secondly, the advantages and disadvantages, when the advice was given to the party of registering a deed of relationship. This is essential in terms of ensuring persons are aware of what responsibilities and what financial benefits and the like accrue from a deed of registration.

Clause 9

Deals with withdrawal of applications.

Subclause (1) states that an application for registration can be withdrawn by either or both of the applicants by written notice given to the registrar-general.

Subclause (2) states that notice must be given not later than 28 days after that application is made.

Clause 10

Deals with the registration of the deed of relationship.

Subclause (1) states the registrar-general must not register the deed of relationship before the end of 28 days after the day the application is made. This is to enable persons to have ample time to consider whether they want to go through with this step.

Subclause (2) states the registrar-general may require either or both of the applicants to give the registrar-general further information he or she may reasonably require to decide whether to register the deed.

Subclause (3) states that unless the application is withdrawn under Section 9, at the end of 28 days after the day the application is made or any additional information requested under subsection (2) is given, the registrar-general must register the deed of relationship or refuse to do so.

Subclause (4) states that the registrar-general must not register the deed of relationship if either of the parties is married or a party to a deed of relationship.

Clause 11

Deals with the effect of registration of the deed of relationship.

Subclause (1) provides that if a deed of relationship is registered under this Act, the parties to the deed are, for the purposes of all territory laws, taken to be in the significant or caring relationship to which the deed relates.

Subclause (2) states that the relationship is taken to be a domestic partnership for the purposes of all territory laws.

Subclause (3) states a court may make an order under the Domestic Relationships Act 1994, part 3, (Adjustment of property interests and maintenance) in relation to the relationship whether or not the relationship has existed for at least 2 years. In other words, the relationship and the rights and benefits and responsibilities that flow from it in accordance with all territory laws start once the relationship has been properly registered. There is no time limit. It can occur as soon as the relationship is registered in accord with the Act. It does not matter if the relationship has only existed for one month or five months or five years, the parties are taken to be in a significant or caring relationship as soon as the deed of relationship is registered.

Clause 12

Deals with the revocation of a deed of relationship.

Subclause (1) states a deed of relationship is revoked by the death of either party or the marriage of either party to the deed, by an order of the Supreme Court or by the registrar-general on the application of either or both of the parties to the deed in accordance with section 13. Clause 13 provides for a notice of revocation. Subclause (1) states that one or both parties to a deed of relationship may apply to the registrar-general for revocation of the deed of relationship.

Subclause (2) deals with where the application is made by only one party, then the application must be accompanied by proof that the application has been personally served on the other party.

Subclause (3) states the application may be withdrawn by the applicant by giving written notice to the registrar-general before the end of 90 days after the application is made.

Subclause (4) states at the end of the 90 day period (90 days after the application for revocation has been made) the registrar-general must revoke the deed of relationship unless the application is withdrawn under subsection (3) or the Supreme Court orders otherwise.

Clause 14

Deals with the register of relationships.

Subclause (1) states that the registrar-general must keep a register of deeds of relationships.

Subclause (2) states the register must contain the particulars of deeds of relationships required by regulation to be included in the register.

Subclause (3) states the register may contain further information that the registrar-general considers appropriate.

Subclause (4) states the register may be kept completely or partly in electronic form.

Subclause (5) states a regulation may make provision in relation to access to the register and searching the register and the issuing of certificates by the registrar.

Part 3

Deals with miscellaneous provisions.

Clause 15

Deals with review of decisions. It states that an application may be made to the administrative appeals tribunal for review of a decision of the registrar-general under section 10 (3) to refuse to register a deed of relationship and that a determination is a disallowable instrument.

Clause 16

Deals with determination of fees.

Subclause (1) states the Minister may determine fees for this Act.

Subclause (2) states a determination is a disallowable instrument.

Clause 17

Deals with approved forms.

Subclause (1) states that the registrar-general may approve forms for this Act.

Subclause (2) states that if the registrar-general approves a form for a particular purpose, the approved form must be used for that purpose.

Subclause (3) states that an approved form is a notifiable instrument.

Clause 18

Deals with regulation-making power. The Executive may make regulations for this Act. The remainder of the bill deals with the dictionary and refers people looking at this bill to definitions of caring relationship, related by family and significant relationship.