

2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Civil Unions Bill 2006

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2006

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Civil Unions Bill 2006

A Bill for

An Act to provide for civil unions, and for other purposes

1

2 **Preamble**

3

1 The ACT is the first jurisdiction in Australia to enshrine human rights in legislation.

4

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2 The *Human Rights Act 2004*, section 8 sets out ‘non-discrimination’ rights derived from the International Covenant on Civil and Political Rights.

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3 The ACT government is systematically rationalising territory law to remove institutionalised discrimination and protect other human rights (for example, privacy and the protection of the family and children).

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4 This Act continues the process of rationalisation by allowing 2 people who choose not to be married, or would not be entitled to be married, to enter into a legally recognised relationship that is to be treated under territory law in the same way as marriage.

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The Legislative Assembly for the Australian Capital Territory therefore enacts as follows:

17

Part 1 Preliminary

Section 4

1 **4** **Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
4 notes.

1 **Part 2** **Civil unions**

2 **Division 2.1** **General**

3 **5** **Civil unions—general**

4 (1) A civil union is a legally recognised relationship that, subject to this
5 Act, may be entered into by any 2 people, regardless of their sex.

6 (2) A civil union is to be treated for all purposes under territory law in
7 the same way as a marriage.

8 *Note 1* **Territory law** includes the common law (see Legislation Act, dict pt 1,
9 def *law*).

10 *Note 2* The Legislation Act, s 168A provides that, in an Act or statutory
11 instrument—

- 12 • a reference to a person’s *spouse* includes a reference to the
13 person’s civil union partner; and
- 14 • a reference to a *marriage* includes a reference to a civil union; and
- 15 • a reference to a person being *married* includes a reference to the
16 person being in a civil union.

17 The Legislation Act, dict pt 1 defines *civil union* as a civil union under
18 this Act.

19 These definitions apply to all Acts and statutory instruments except so
20 far as the contrary intention appears (see Legislation Act, s 144 and
21 s 155 (1)).

22 **Division 2.2** **Eligibility for entering into civil union**

23 **6** **Person not to be under 16**

24 A person may not enter into a civil union if the person is younger
25 than 16 years old.

1 **7 Person not to be married or in civil union**

2 A person may not enter into a civil union if the person is married or
3 in a civil union.

4 **8 Parties not to be in prohibited relationship**

5 A person may not enter into a civil union with someone who has any
6 of the following relationships (a *prohibited relationship*) with the
7 person:

- 8 (a) lineal ancestor;
9 (b) lineal descendent;
10 (c) sister;
11 (d) half-sister;
12 (e) brother;
13 (f) half-brother.

14 **Division 2.3 Entering into civil union**

15 **9 Notice of intention to enter into civil union**

16 (1) Before 2 people enter into a civil union, they must give notice to an
17 authorised celebrant of their intention to enter into a civil union.

18 *Note 1* If a form is approved under s 22 for a notice, the form must be used.

19 *Note 2* The notice must be given not earlier than 18 months and not later than
20 1 month before the civil union is entered into (see s 11 (2)).

21 (2) The notice must be accompanied by—

- 22 (a) a statutory declaration made by each person stating that—
23 (i) the person wishes to enter into a civil union with the other
24 person; and
25 (ii) the person is not married or in a civil union; and

- 1 (iii) the person believes the person and the person's proposed
2 civil union partner do not have a prohibited relationship;
3 and
- 4 (b) the evidence required by section 17 of each person's identity
5 and age; and
- 6 (c) if either or both of them are 16 or 17 years old—a copy of the
7 consents or court order required under section 10; and
- 8 (d) anything else prescribed by regulation.

- 9 (3) As soon as practicable after receiving the notice and statutory
10 declarations, the authorised celebrant must give each person a
11 written notice setting out the nature and effect of a civil union.

12 *Note* If a form is approved under s 22 for a notice, the form must be used.

13 **10 Consent or court order required for 16 or 17-year olds**

- 14 (1) A person who is 16 or 17 years old may enter into a civil union only
15 if—
- 16 (a) each person with responsibility to make long-term decisions
17 for the person (for example, a parent or guardian) gives written
18 consent to the person entering into the civil union; or
- 19 (b) the Childrens Court orders that the person may enter into the
20 civil union.

21 *Note 1* If a form is approved under s 22 for a consent, the form must be used.

22 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
23 does not limit, the meaning of the provision in which it appears (see
24 Legislation Act, s 126 and s 132).

- 25 (2) The consent must—
- 26 (a) be witnessed by someone before whom a statutory declaration
27 may be made; and
- 28 (b) state that the witness is satisfied on reasonable grounds about
29 the identity of the person giving the consent.

- 1 (3) The consent must be given not later than 3 months before the notice
2 is given under section 11.
- 3 (4) In deciding whether to make an order under subsection (1) (b) in
4 relation to a person, the Childrens Court must regard the best
5 interests of the person as the paramount consideration.

6 **11 How civil union is entered into**

- 7 (1) Two people who have given notice to an authorised celebrant in
8 accordance with section 9 of their intention to enter into a civil
9 union with each other may enter into the civil union by making a
10 declaration before the authorised celebrant and at least 1 other
11 witness.
- 12 (2) The declaration must be made not earlier than 1 month, and not later
13 than 18 months, after the day the notice was given to the authorised
14 celebrant.
- 15 (3) The declaration must be made by each person to the other and must
16 contain a clear statement that—
- 17 (a) names both parties; and
- 18 (b) acknowledges that they are freely entering into a civil union
19 with each other.

20 *Note 1* For registration requirements see the *Births, Deaths and Marriages*
21 *Registration Act 1997*, pt 5A (Registration of civil unions).

22 *Note 2* The *Discrimination Act 1991*, provides for exceptions from pt 3
23 (Unlawful discrimination) for religious bodies doing (or failing or
24 refusing to do) certain acts (see that Act, s 4A and s 32).

25 **Division 2.4 Termination of civil union**

26 **12 How civil union is terminated**

- 27 (1) A civil union is terminated on—
- 28 (a) the death of either party; or

1 (b) the marriage of either party.

2 (2) A civil union may also be terminated by—

3 (a) a party (or both parties) under section 13; or

4 (b) a court order under section 14.

5 **13 Termination by parties**

6 (1) If a party (or both parties) to a civil union wish to terminate the civil
7 union, the party (or parties) may give the registrar-general a written
8 notice of intention to terminate the civil union (the *termination*
9 *notice*).

10 *Note 1* If a form is approved under s 22 for a notice, the form must be used.

11 *Note 2* A fee may be determined under s 21 for this provision.

12 (2) However, if the termination notice is given by only 1 party, the
13 notice is effective only if—

14 (a) a copy of the termination notice has been served personally on
15 the other party; and

16 (b) a statutory declaration is given to the registrar-general with the
17 termination notice that—

18 (i) is made by the person who served the termination notice;
19 and

20 (ii) states that the termination notice was served personally by
21 the person on the other party on the date stated in the
22 statutory declaration.

23 *Note* For provision about service of notices, see s 18.

- 1 (3) The termination notice may be withdrawn by written notice (the
2 ***withdrawal notice***) given to the registrar-general by the party (or
3 parties) who gave the notice, before the end of 12 months after the
4 day the termination notice was given to the registrar-general.
- 5 *Note 1* If a form is approved under s 22 for a notice, the form must be used.
- 6 *Note 2* A fee may be determined under s 21 for this provision.
- 7 (4) However, if the withdrawal notice is given by only 1 party, the
8 notice is effective to withdraw the termination notice only if—
- 9 (a) a copy of the withdrawal notice has been served personally on
10 the other party; and
- 11 (b) a statutory declaration is given to the registrar-general with the
12 withdrawal notice that—
- 13 (i) is made by the person who served the withdrawal notice;
14 and
- 15 (ii) states that the withdrawal notice was served personally by
16 the person on the other party on the date stated in the
17 statutory declaration.
- 18 *Note* For provision about service of notices, see s 18.
- 19 (5) At the end of 12 months after the day the termination notice is given
20 to the registrar-general in accordance with this section, the civil
21 union is terminated unless—
- 22 (a) the termination notice has been withdrawn under this section;
23 or
- 24 (b) the Supreme Court makes an order that the termination notice
25 is not effective to terminate the civil union; or
- 26 (c) the civil union has already terminated under section 12 (1).
- 27 (6) On application by a party to the civil union, the Supreme Court may
28 make an order mentioned in subsection (5) (b) if the court considers
29 that it is not the intention, or is no longer the intention, of the party

1 or parties who gave the termination notice to terminate the civil
2 union.

3 (7) If the Supreme Court makes an order mentioned in
4 subsection (5) (b), the court must give a copy of the order to the
5 registrar-general.

6 **14 Termination by court order**

7 (1) On application by a party to a civil union, the Supreme Court may
8 make an order terminating the civil union if the court considers
9 that—

10 (a) the civil union cannot be terminated under section 13; but

11 (b) it is not the intention, or is no longer the intention, of both
12 parties to be in the civil union.

13 (2) If the Supreme Court makes an order under subsection (1), the court
14 must give a copy of the order to the registrar-general no later than
15 28 days after the day the order is made.

1 **Part 3** **Miscellaneous**

2 **15** **Void civil unions**

3 A civil union is void if—

4 (a) either party may not enter into the civil union under
5 division 2.2 (Eligibility for entering into civil union); or

6 (b) either party did not freely enter into the civil union because—

7 (i) the party's agreement to enter into the civil union was
8 obtained by duress or fraud; or

9 (ii) the party was mistaken about the identity of the other
10 party or the nature of the declaration under section 11; or

11 (iii) the party was mentally incapable of understanding the
12 nature and effect of the civil union.

13 **16** **Noncompliance with certain requirements**

14 (1) A civil union is not invalid only because a requirement of section 9
15 or section 10 was not complied with.

16 (2) A civil union is not invalid only because the person to whom the
17 parties gave notice under section 9, or before whom the parties
18 made the declaration under section 11, was not an authorised
19 celebrant if either party believed, when giving the notice or making
20 the declaration, that the person was an authorised celebrant.

-
- 1 **17 Evidence of identity and age**
- 2 (1) For section 9 (2) (b), the evidence of identity and age required for
- 3 each person is—
- 4 (a) the person’s birth certificate; or
- 5 (b) the person’s citizenship certificate; or
- 6 (c) the person’s current passport; or
- 7 (d) a statutory declaration made by the person stating—
- 8 (i) that it is impracticable to obtain a document mentioned in
- 9 paragraph (a), (b) or (c); and
- 10 (ii) to the best of the person’s knowledge and belief, and as
- 11 accurately as the person has been able to find out, when
- 12 and where the person was born.
- 13 (2) In this section:
- 14 *birth certificate*, for a person, means the person’s birth certificate, or
- 15 a certified extract about the person’s birth from the register, under
- 16 the *Births, Deaths and Marriages Registration Act 1997* or a
- 17 corresponding law of a State, external territory or foreign country.
- 18 *citizenship certificate*, for a person, means the person’s citizenship
- 19 certificate issued under the *Australian Citizenship Act 1948* (Cwlth),
- 20 section 46 (Issue and proof of certificates of Australian citizenship)
- 21 or a certified copy of the entry in the register about the person under
- 22 that Act, section 44 (Evidence of entries in register).
- 23 **18 Personal service of termination notices and withdrawal**
- 24 **notices**
- 25 (1) This section applies to a termination notice or withdrawal notice
- 26 required to be served personally on a party to a civil union under
- 27 section 13 (Termination by parties).

- 1 (2) To serve the notice personally on the party, the person serving the
2 notice must—
- 3 (a) give the party a copy of the notice; or
- 4 (b) if the party does not accept the copy—put the copy down in the
5 party’s presence and tell the party in general terms what it is;
6 or
- 7 (c) if the person serving the document is prevented from
8 approaching the party by violence or threat of violence—put
9 the copy down as near as practicable to, but in the sight of, the
10 party.
- 11 (3) However, a person may apply to the Supreme Court for an order
12 allowing the notice to be served in another way (the *alternative*
13 *way*).
- 14 (4) The Supreme Court may make the order if satisfied that—
- 15 (a) it is impracticable, for any reason, for the notice to be served
16 personally as mentioned in subsection (2); and
- 17 (b) the alternative way is reasonably likely to bring the notice to
18 the attention of the party.
- 19 (5) If the Supreme Court makes the order, the court may, in the order,
20 provide that the notice is taken to have been served on the
21 happening of a stated event, at a stated time or at the end of a stated
22 period.
- 23 (6) The Supreme Court may make an order under subsection (4) even
24 though the party is not in the ACT or Australia.
- 25 (7) For section 13, if a notice is served on a party in accordance with an
26 order under subsection (4), the notice is taken to have been served
27 personally on the party.

-
- 1 **19** **Civil unions under corresponding laws etc**
- 2 (1) A marriage solemnised in a foreign country that cannot be
3 recognised as a marriage in Australia because of the *Marriage*
4 *Act 1961* (Cwlth), section 88EA is a civil union for the purpose of
5 territory law.
- 6 *Note* The *Marriage Act 1961*, s 88EA provides as follows:
7 A union solemnised in a foreign country between:
8 (a) a man and another man; or
9 (b) a woman and another woman;
10 must not be recognised as a marriage in Australia.
- 11 (2) A regulation may provide that a relationship under a corresponding
12 law is a civil union for the purpose of territory law.
- 13 (3) In this section:
- 14 *corresponding law* means a law of a State, another Territory or a
15 foreign country prescribed by regulation for this definition (whether
16 or not the law corresponds, or substantially corresponds, to this
17 Act).
- 18 **20** **Offences**
- 19 (1) An authorised celebrant commits an offence if—
- 20 (a) the celebrant allows a civil union, or purported civil union, to
21 be entered into before the celebrant; and
- 22 (b) the notice required under section 9 (including the statutory
23 declaration and anything else required under that section) for
24 the civil union—
- 25 (i) has not been given to the celebrant; or

1 (ii) was not given to the celebrant within the period allowed
2 by section 11 (2).

3 Maximum penalty: 50 penalty units, imprisonment for 6 months or
4 both.

5 (2) An authorised celebrant commits an offence if—

6 (a) the celebrant allows a civil union, or purported civil union, to
7 be entered into before the celebrant; and

8 (b) the celebrant has reasonable grounds to believe that the civil
9 union would be void under section 15.

10 Maximum penalty: 50 penalty units, imprisonment for 6 months or
11 both.

12 (3) A person commits an offence if—

13 (a) the person makes a declaration mentioned in section 11 with
14 the intention of entering into a civil union with someone else
15 (the person's *partner*); and

16 (b) the declaration is made before a person (the *celebrant*) who is
17 not an authorised celebrant; and

18 (c) the person knows the celebrant is not an authorised celebrant;
19 and

20 (d) the person has reasonable grounds to believe that their partner
21 believes that the celebrant is an authorised celebrant.

22 Maximum penalty: 50 penalty units, imprisonment for 6 months or
23 both.

Note The Criminal Code includes offences for—

- 24 • giving false or misleading information etc to a person exercising a
25 function under a territory law (see pt 3.4 (False or misleading
26 statements, information and documents); and
27 • impersonating territory public officials (see s 360); and
28 • making false statements in statutory declarations (see s 336A).

1 **Schedule 1 Consequential amendments**
2 (see s 24)

3 **Part 1.1 Administration and Probate Act**
4 **1929**

5 **[1.1] Section 44 (1), definition of *eligible partner*, note**

6 *substitute*

7 *Note* For the meaning of *domestic partner*, see the Legislation Act, s 169.
8 *Spouse* includes civil union partner (see Legislation Act, s 168A).

9 **[1.2] Section 44 (1), definition of *partner*, new note**

10 *insert*

11 *Note* *Spouse* includes civil union partner (see Legislation Act, s 168A).

12 **[1.3] Section 45A (1), new note**

13 *insert*

14 *Note* *Spouse* includes civil union partner (see Legislation Act, s 168A).

15 **[1.4] Section 46 (1), new note**

16 *insert*

17 *Note* *Married* includes being in a civil union (see Legislation Act, s 168A).

18 **[1.5] Section 49BA (4), note**

19 *substitute*

20 *Note* For the meaning of *domestic partner*, see the Legislation Act, s 169.
21 *Spouse* includes civil union partner (see Legislation Act, s 168A).

1 Part 1.2 Adoption Act 1993

2 [1.6] Section 13, new note

3 *insert*

4 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

5 [1.7] Section 18 (1), new note

6 *insert*

7 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

8 [1.8] Section 18 (4), new note

9 *insert*

10 *Note* **Married** includes being in a civil union and **spouse** includes civil union
11 partner (see Legislation Act, s 168A). For the meaning of **domestic**
12 **partnership**, see the Legislation Act, s 169.

13 Part 1.3 Adoption Regulation 1993

14 [1.9] Section 11 (b) (ix)

15 *substitute*

16 (ix) if not married—whether single or in a domestic
17 partnership other than marriage;

18 *Note* **Married** includes being in a civil union (see Legislation Act,
19 s 168A). For the meaning of **domestic partnership**, see the
20 Legislation Act, s 169.

1 **Part 1.4 Births, Deaths and Marriages**
2 **Registration Act 1997**

3 **[1.10] Section 16 (3) (b), new note**

4 *insert*

5 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

6 **[1.11] Section 24 (1) (d)**

7 *omit*

8 **[1.12] New section 29A**

9 *in part 5, insert*

10 **29A Meaning of *marriage*—pt 5**

11 In this part:

12 *marriage* does not include civil union.

13 **[1.13] New part 5A**

14 *insert*

15 **Part 5A Registration of civil unions**

16 **32A When registration of civil union is required**

17 If a civil union is entered into under the *Civil Unions Act 2006*,
18 section 11, the civil union must be registered under this Act.

19 **32B How civil unions are registered**

20 (1) If a civil union is entered into before the registrar-general, the
21 registrar-general must register the civil union by including in the
22 register the particulars of the civil union prescribed by regulation.

- 1 (2) If a civil union is entered into before another authorised celebrant,
2 the celebrant must give the following to the registrar-general not
3 later than 2 weeks after the day the civil union is entered into:
- 4 (a) written notice of the civil union;
- 5 (b) the notice given to the celebrant under the *Civil Unions*
6 *Act 2006*, section 9 (Notice of intention to enter into civil
7 union) for the civil union.
- 8 Maximum penalty: 5 penalty units.
- 9 *Note* If a form is approved under s 69 for this provision, the form must be
10 used.
- 11 (3) If a notice is given to the registrar-general under subsection (2), the
12 registrar-general must register the civil union by including in the
13 register the particulars of the civil union prescribed by regulation.
- 14 (4) An offence against this section is a strict liability offence.

15 **32C Termination of civil union**

- 16 (1) This section applies if a civil union is terminated—
- 17 (a) by notice given under the *Civil Unions Act 2006*, section 13
18 (Termination by parties); or
- 19 (b) by court order made under that Act, section 14 (Termination by
20 court order).
- 21 (2) The registrar-general must include in the register the particulars of
22 the termination prescribed by regulation.
- 23 (3) Also, for a civil union terminated as mentioned in subsection (1) (a),
24 the registrar-general must give each party to the civil union written
25 notice that the civil union terminated on the date stated in the notice.
- 26 (4) For subsection (3), it is sufficient if the registrar-general sends the
27 notice to the address for each party that is last known to the
28 registrar.

1 **[1.14] Dictionary, note 2, new dot points**

2 *insert*

- 3 • civil union
4 • marriage (see s 168A (2))

5 **[1.15] Dictionary, definition of *registrable event***

6 *after*

7 marriage,

8 *insert*

9 civil union,

10 **Part 1.5 Births, Deaths and Marriages**
11 **Registration Regulation 1998**

12 **[1.16] Section 5 (k), new note**

13 *insert*

14 *Note* **Marriage** includes civil union, and **married** includes being in a
15 civil union (see Legislation Act, s 168A).

16 **[1.17] Section 6 (1) (e)**

17 *omit*

18 **[1.18] Section 7 (b), new note**

19 *insert*

20 *Note* **Spouse** includes civil union partner (see Legislation Act, s 168A).

21 **[1.19] Section 9 (g), note**

22 *substitute*

23 *Note* **Marriage** includes civil union, and **married** includes being in a
24 civil union (see Legislation Act, s 168A). For the meanings of

1 *domestic partner* and *domestic partnership*, see the Legislation
2 Act, s 169.

3 **Part 1.6 Civil Law (Property) Act 2006**

4 **[1.20] Dictionary, note 2, new dot point**

5 *insert*

- 6 • marriage (see s 168A (2))

7 **[1.21] Dictionary, definition of *valuable consideration*, new note**

8 *insert*

9 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

10 **Part 1.7 Civil Law (Wrongs) Act 2002**

11 **[1.22] Section 23, definition of *member*, paragraph (g), new note**

12 *insert*

13 *Note* **Spouse** includes civil union partner (see Legislation Act, s 168A).

14 **Part 1.8 Crimes Act 1900**

15 **[1.23] Section 395 (2) (a), new note**

16 *insert*

17 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

18 **[1.24] Dictionary, definition of *relative***

19 *omit*

1 **Part 1.9 Crimes (Restorative Justice) Act**
2 **2004**

3 **[1.25] Section 44 (1) (d)**

4 *omit*
5 domestic relationship
6 *substitute*
7 personal relationship

8 **[1.26] Section 44 (4), definition of *domestic relationship***

9 *substitute*
10 *personal relationship*—see the *Relationships Act 1994*, section 3.

11 **Part 1.10 Discrimination Act 1991**

12 **[1.27] Dictionary, note 2, new dot points**

13 *insert*
14 • civil union
15 • marriage (see s 168A (2))

16 **[1.28] Dictionary, new definition of *affinity***

17 *insert*
18 *affinity* means affinity derived through marriage or any other
19 domestic partnership.
20 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

- 1 **[1.29] Dictionary, definition of *relationship status*, new**
2 **paragraphs (ca) and (cb)**
3 *insert*
4 (ca) in a civil union; or
5 (cb) in a civil union but living separately and apart from one's civil
6 union partner; or

- 7 **[1.30] Dictionary, definition of *relative*, paragraph (a)**
8 *omit*
9 marriage,

10 **Part 1.11 Domestic Relationships Act 1994**

- 11 **[1.31] Long title**
12 *substitute*
13 An Act to make provision in relation to certain personal
14 relationships

- 15 **[1.32] Section 1**
16 *substitute*

- 17 **1 Name of Act**
18 This Act is the *Relationships Act 1994*.

- 19 **[1.33] Section 3 (1), definitions of *domestic relationship* and**
20 ***domestic relationship agreement***
21 *omit*

1 **[1.34] Section 3 (1), new definitions of *personal relationship* and**
2 ***personal relationship agreement***

3 *insert*

4 ***personal relationship*** means a relationship between 2 people who
5 are at least 16 years old in which one provides personal or financial
6 commitment and support of a domestic nature for the material
7 benefit of the other, and includes a domestic partnership other than a
8 marriage under the *Marriage Act 1961* (Cwlth).

9 *Note* For the meaning of ***domestic partnership***, see the Legislation Act,
10 s 169. It includes a civil union.

11 ***personal relationship agreement*** means—

12 (a) an agreement between 2 people that—

13 (i) is made in contemplation of their entering into a personal
14 relationship or while they are in a personal relationship;
15 and

16 (ii) makes provision in relation to financial matters; or

17 (b) an agreement that varies an agreement mentioned in
18 paragraph (a);

19 regardless of when it is made, whether there are other parties to it or
20 whether it makes provision in relation to non-financial matters.

21 **[1.35] Section 3 (2) (a) and (b)**

22 *omit*

23 *personal*

1 **[1.36] Section 12 (1)**

2 *substitute*

3 (1) A court must not make an order under this part in relation to a
4 personal relationship (other than a civil union) unless satisfied that
5 the personal relationship has existed between the applicant and
6 respondent for not less than 2 years.

7 **[1.37] Section 12 (2)**

8 *omit*

9 If

10 *substitute*

11 However, if

12 **[1.38] Further amendments, references to *domestic relationship***

13 *omit*

14 domestic relationship

15 *substitute*

16 personal relationship

17 *in*

- 18 • section 3 (1), definition of *financial matters*
19 • section 3 (1), definition of *financial resources*
20 • section 3 (1), definition of *property*
21 • section 3 (1), definition of *termination agreement*
22 • section 3 (2), (3), (4) and (5)
23 • section 4
24 • section 5
25 • section 6 (1) (a)
26 • section 11 (1) (a)
27 • section 13 (1)

- 1 • section 14
- 2 • section 15 (1)
- 3 • section 16
- 4 • section 18
- 5 • section 19 (1)
- 6 • section 20
- 7 • section 21
- 8 • section 22 (3) (b)
- 9 • section 24 (2)
- 10 • part 4 heading
- 11 • section 31
- 12 • section 33 (1) (a) and (2)
- 13 • section 38
- 14 • section 40 (1) and (3)

Part 1.12 Domestic Violence and Protection Orders Act 2001

[1.39] Section 10A (b)

omit

legally

[1.40] Section 10A (b), note

substitute

Note For the meaning of *domestic partner*, see the Legislation Act, s 169. *Married* includes being in a civil union (see Legislation Act, s 168A).

For ACT law, a person acquires relatives through civil union in the same way as they acquire them through marriage (see the *Civil Unions Act 2006*).

1 Part 1.13 Duties Act 1999

2 [1.41] Section 72 (1), note

3 *substitute*

4 *Note* The dictionary defines *partner* as a person's spouse or someone with
5 whom the person has a personal relationship. *Spouse* includes civil
6 union partner (see Legislation Act, s 168A). *Personal relationship* is
7 defined in the dictionary to have the same meaning as in the
8 *Relationships Act 1994*, s 3.

9 [1.42] Section 74B (1), note

10 *substitute*

11 *Note* The dictionary defines *partner* as a person's spouse or someone with
12 whom the person has a personal relationship. *Spouse* includes civil
13 union partner (see Legislation Act, s 168A). *Personal relationship* is
14 defined in the dictionary to have the same meaning as in the
15 *Relationships Act 1994*, s 3.

16 [1.43] Section 74B (5)

17 *substitute*

- 18 (5) For subsection (3) (c), in deciding whether a transfer under a
19 personal relationship agreement is consequent on the end of a
20 relationship, the commissioner must have regard to any statutory
21 declaration made by a party to the relationship to the effect that—
- 22 (a) the relationship has ended; or
- 23 (b) if the relationship is a civil union—the party has given, or
24 intends to give, a termination notice to the registrar-general
25 under the *Civil Unions Act 2006*, section 13.

1 **[1.44] Section 115H (1), note**

2 *substitute*

3 *Note* The dictionary defines **partner** as a person's spouse or someone with
4 whom the person has a personal relationship. **Spouse** includes civil
5 union partner (see Legislation Act, s 168A). **Personal relationship** is
6 defined in the dictionary to have the same meaning as in the
7 *Relationships Act 1994*, s 3.

8 **[1.45] Section 115H (5)**

9 *substitute*

10 (5) For subsection (3) (c), in deciding whether a transaction under a
11 personal relationship agreement is consequent on the end of a
12 relationship, the commissioner must have regard to any statutory
13 declaration made by a party to the relationship to the effect that—

14 (a) the relationship has ended; or

15 (b) if the relationship is a civil union—the party has given, or
16 intends to give, a termination notice to the registrar-general
17 under the *Civil Unions Act 2006*, section 13.

18 **[1.46] Section 213 (1), note**

19 *substitute*

20 *Note* The dictionary defines **partner** as a person's spouse or someone with
21 whom the person has a personal relationship. **Spouse** includes civil
22 union partner (see Legislation Act, s 168A). **Personal relationship** is
23 defined in the dictionary to have the same meaning as in the
24 *Relationships Act 1994*, s 3.

25 **[1.47] Section 213 (5)**

26 *substitute*

27 (5) For subsection (3) (c), in deciding whether a transfer under a
28 personal relationship agreement is consequent on the end of a
29 relationship, the commissioner must have regard to any statutory
30 declaration made by a party to the relationship to the effect that—

- 1 (a) the relationship has ended; or
2 (b) if the relationship is a civil union—the party has given, or
3 intends to give, a termination notice to the registrar-general
4 under the *Civil Unions Act 2006*, section 13.

5 **[1.48] Dictionary, note 2, new dot point**

6 *insert*

- 7 • civil union

8 **[1.49] Dictionary, note 2**

9 *omit*

- 10 • domestic relationship (see s 169 (2))

11 **[1.50] Dictionary, definition of *domestic relationship***

12 *omit*

13 **[1.51] Dictionary, definition of *marriage*, new note**

14 *insert*

15 *Note* *Marriage* includes civil union (see Legislation Act, s 168A).

16 **[1.52] Dictionary, definition of *partner*, new note**

17 *insert*

18 *Note* *Spouse* includes civil union partner (see Legislation Act, s 168A).

19 **[1.53] Dictionary, definition of *party*, new note**

20 *insert*

21 *Note* *Marriage* includes civil union (see Legislation Act, s 168A).

22 **[1.54] Dictionary, new definition of *personal relationship***

23 *insert*

24 *personal relationship*—see the *Relationships Act 1994*, section 3.

- 1 **[1.55] Further amendments, references to *domestic relationship***
2 *omit*
3 domestic relationship
4 *substitute*
5 personal relationship
6 *in*
7 • section 17 (7)
8 • section 74A (b)
9 • section 74B (3)
10 • section 115H (3)
11 • section 213 (3)
12 • section 252 (1) (e), (i) and (x)
13 • dictionary, definition of *partner*, paragraph (b)
14 • dictionary, definition of *relationship property*
- 15 **[1.56] Further amendments, references to *Domestic***
16 ***Relationships Act 1994***
17 *omit*
18 *Domestic Relationships Act 1994*
19 *substitute*
20 *Relationships Act 1994*
21 *in*
22 • section 17 (7)
23 • section 74A (b)
24 • section 74B (3)
25 • section 115H (3)
26 • section 213 (3)

1 **Part 1.14 Evidence Act 1971**

2 **[1.57] Section 13**

3 *omit*

4 **Part 1.15 Family Provision Act 1969**

5 **[1.58] Section 7 (1) (b)**

6 *omit*

7 domestic relationship

8 *substitute*

9 personal relationship

10 **[1.59] Section 7 (9), definition of *domestic relationship***

11 *omit*

12 **[1.60] Section 7 (9), definition of *partner*, note**

13 *substitute*

14 *Note* For the meaning of *domestic partner*, see the Legislation Act, s 169.
15 *Spouse* includes civil union partner (see Legislation Act, s 168A).

16 **[1.61] Section 7 (9), new definition of *personal relationship***

17 *insert*

18 *personal relationship*—see the *Relationships Act 1994*, section 3.

19 **[1.62] Section 8 (3) (i)**

20 *omit*

21 *Domestic Relationships Act 1994*

22 *substitute*

23 *Relationships Act 1994*

1 **Part 1.16 First Home Owner Grant Act 2000**

2 **[1.63] Section 6 (2)**

3 *omit*

4 *legally*

5 **[1.64] Section 6 (2), new note**

6 *insert*

7 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

8 **Part 1.17 Guardianship and Management**
9 **of Property Act 1991**

10 **[1.65] Section 7B (d), new note**

11 *insert*

12 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

13 **Part 1.18 Instruments Act 1933**

14 **[1.66] Section 8, definition of *bill of sale*, new note**

15 *insert*

16 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

1 **Part 1.19** **Land (Planning and**
2 **Environment) Act 1991**

3 **[1.67] Section 180 (1) (b) (iii)**

4 *substitute*

5 (iii) an order under the *Relationships Act 1994*, part 3.2
6 adjusting the property interests of the parties in a personal
7 relationship; or

8 **Part 1.20** **Land Titles Act 1925**

9 **[1.68] Section 6 (1), definition of *transmission*, new note**

10 *insert*

11 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

12 **Part 1.21** **Legal Aid Act 1977**

13 **[1.69] Section 10 (1) (i)**

14 *omit*

15 marriage counsellors

16 *substitute*

17 relationship counsellors

1 **Part 1.22** **Legislation Act 2001**

2 **[1.70] New section 168A**

3 *insert*

4 **168A** **References to *spouse*, *marriage* and *married***

- 5 (1) In an Act or statutory instrument, a reference to a person's *spouse*
6 includes a reference to the person's civil union partner.
- 7 (2) In an Act or statutory instrument, a reference to a *marriage* includes
8 a reference to a civil union.
- 9 (3) In an Act or statutory instrument, a reference to a person being
10 *married* includes a reference to the person being in a civil union.

11 **[1.71] Section 169 (1), note**

12 *substitute*

13 *Note 1* The Macquarie dictionary (2005) defines spouse as 'either member of a
14 married pair in relation to the other; one's husband or wife'.

15 *Note 2* *Spouse* includes civil union partner (see s 168A).

16 **[1.72] New section 169 (3)**

17 *insert*

- 18 (3) In an Act or statutory instrument, a reference to a *domestic*
19 *partnership* includes a reference to a marriage under the *Marriage*
20 *Act 1961* (Cwlth) and a civil union.

21 **[1.73] Dictionary, part 1, new definitions**

22 *insert*

23 *civil union* means a civil union under the *Civil Unions Act 2006*.

24 *marriage*—see section 168A (2).

25 *married*—see section 168A (3).

1 **[1.79] Section 12, new note**

2 *insert*

3 *Note* **Spouse** includes civil union partner (see Legislation Act, s 168A).

4 **[1.80] Section 13**

5 *substitute*

6 **13 Applications to decide property disputes**

7 (1) This section applies if any question arises between a person and his
8 or her spouse in relation to the title to, or possession or disposition
9 of, any property (including any question in relation to the
10 investment by a spouse of money of the other spouse without the
11 consent of the other spouse).

12 *Note* **Spouse** includes civil union partner (see Legislation Act, s 168A).

13 (2) The person, or a third party on whom conflicting claims are being or
14 are expected to be made by the person and his or her spouse in
15 relation to any property, may apply to the court to hear and decide
16 the question.

17 **[1.81] Section 15 (5)**

18 *omit*

19 married

20 **Part 1.24 Parentage Act 2004**

21 **[1.82] Section 7 (1)**

22 *omit*

23 husband

24 *substitute*

25 spouse

-
- 1 **[1.83] Section 7 (1), new note**
- 2 *insert*
- 3 *Note* **Married** includes being in a civil union and **spouse** includes civil union
- 4 partner (see Legislation Act, s 168A).
- 5 **[1.84] Section 7 (2) and (3)**
- 6 *omit*
- 7 husband
- 8 *substitute*
- 9 spouse
- 10 **[1.85] Section 7 (4)**
- 11 *omit*
- 12 dissolution
- 13 *substitute*
- 14 end
- 15 **[1.86] Section 7 (4)**
- 16 *omit*
- 17 husband
- 18 *substitute*
- 19 spouse
- 20 **[1.87] Section 7 (4), new note**
- 21 *insert*
- 22 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

1 **[1.88] Section 38 (2), new note**

2 *insert*

3 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

4 **[1.89] Section 38 (5), new note**

5 *insert*

6 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

7 **Part 1.25 Perpetuities and Accumulations**
8 **Act 1985**

9 **[1.90] Section 14 (1) (c)**

10 *omit*

11 spouses, de facto spouses,

12 **Part 1.26 Powers of Attorney Act 1956**

13 **[1.91] Dictionary, note 2, new dot point**

14 *insert*

- 15 • civil union

16 **[1.92] Dictionary, new definition of *affinity***

17 *insert*

18 ***affinity*** means affinity derived through marriage or any other
19 domestic partnership.

20 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

1 **[1.93] Dictionary, definition of *relative*, paragraph (a)**

2 *omit*

3 blood, adoption or marriage

4 *substitute*

5 blood, affinity or adoption

6 **Part 1.27 Rates Act 2004**

7 **[1.94] Section 45, definition of *domestic relationship***

8 *omit*

9 **[1.95] Section 45, definition of *partner***

10 *substitute*

11 ***partner***—a person's ***partner*** is either of the following:

12 (a) the person's spouse;

13 *Note* ***Spouse*** includes civil union partner (see Legislation Act, s 168A).

14 (b) someone with whom the person has a personal relationship.

15 **[1.96] Section 45, definition of *pensioner*, note for par (d), (e)**
16 **and (f)**

17 *omit*

18 ***domestic relationships*** within the meaning of the *Domestic Relationships*
19 *Act 1994*, s 3 (1).

20 *substitute*

21 ***personal relationships*** within the meaning of the *Relationships Act 1994*, s 3.

22 **[1.97] Section 45, new definition of *personal relationship***

23 *insert*

24 ***personal relationship***—see the *Relationships Act 1994*, section 3.

1 **[1.98] Dictionary, definition of *domestic relationship***

2 *omit*

3 **[1.99] Dictionary, new definition of *personal relationship***

4 *insert*

5 *personal relationship*, for part 7 (Deferral and rebates)—see
6 section 45.

7 **Part 1.28 Sale of Motor Vehicles Act 1977**

8 **[1.100] Section 11A (2) (e)**

9 *omit*

10 or marriage

11 *substitute*

12 , marriage or civil union

13 **[1.101] Dictionary, note 2, new dot point**

14 *insert*

- 15
 - civil union

16 **Part 1.29 Supreme Court (Admission of**
17 **Legal Practitioners) Rules 1998**

18 **[1.102] Rule 11 (3) (c), new note**

19 *insert*

20 *Note* **Marriage** includes civil union (see Legislation Act, s 168A).

1 **Part 1.30** **Testamentary Guardianship Act**
2 **1984**

3 **[1.103] Section 2 (1), definition of *child*, new note**

4 *insert*

5 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

6 **[1.104] Section 2 (1), definition of *exnuptial child***

7 *omit*

8 **[1.105] Section 2 (2) and (3)**

9 *substitute*

10 (2) In this Act, a reference to a ***parent*** of a child does not include a
11 reference to a parent whose guardianship of the child has been
12 abrogated by—

13 (a) a judgment, decree or other order of a federal court or a court
14 of a State or Territory that is in force; or

15 (b) a judgment, decree or other order of a court in a foreign
16 country that—

17 (i) is in force; and

18 (ii) would be recognised by a territory court in accordance
19 with the common law rules of private international law.

20 (3) In this Act, a reference to a ***guardian*** of a child (other than a
21 reference to a testamentary guardian) is a reference to a guardian of
22 the child appointed—

23 (a) in accordance with this Act or a law of a State or another
24 Territory; or

25 (b) by a judgment, decree or other order of a federal court or a
26 court of a State or Territory; or

1 (c) in accordance with a law of a foreign country or part of a
2 foreign country or by a judgment, decree or other order of a
3 court in a foreign country, if the appointment would be
4 recognised by a territory court in accordance with the common
5 law rules of private international law;

6 but does not include a reference to the C&YP chief executive or to a
7 Minister of the Commonwealth or a State or Territory who, under a
8 law of the Commonwealth, State or Territory in his or her capacity
9 as Minister is the guardian of the child.

10 Part 1.31 Wills Act 1968

11 [1.106] Section 8 (2), new note

12 *insert*

13 *Note* **Married** includes being in a civil union (see Legislation Act, s 168A).

14 [1.107] Section 15

15 *omit*

16 spouse

17 *substitute*

18 domestic partner

19 [1.108] Section 15, new note

20 *insert*

21 *Note* For the meaning of **domestic partner**, see the Legislation Act, s 169.

1 **[1.109] Section 18**

2 *omit*

3 spouse

4 *substitute*

5 domestic partner

6 **[1.110] Section 18, new note**

7 *insert*

8 *Note* For the meaning of *domestic partner*, see the Legislation Act, s 169.

9 **[1.111] Section 20 (1), new note**

10 *insert*

11 *Note* *Marriage* includes civil union (see Legislation Act, s 168A).

12 **[1.112] Section 20A (1), new note**

13 *insert*

14 *Note* *Marriage* includes civil union (see Legislation Act, s 168A).

15 **[1.113] Section 20A (4) (c)**

16 *omit*

17 Act.

18 *substitute*

19 Act; or

20 **[1.114] New section 20A (4) (d)**

21 *insert*

22 (d) for a civil union—on the termination of the civil union under
23 the *Civil Unions Act 2006*, division 2.4 (other than on the death
24 of a party).

1 **Part 1.32** **Witness Protection Act 1996**

2 **[1.115] Section 10 (c)**

3 *omit*

4 marriage

5 *substitute*

6 marriage or civil union

Dictionary

(see s 3)

Note 1 The Legislation Act contains definitions and other provisions relevant to this Act.

Note 2 For example, the Legislation Act, dict, pt 1, defines the following terms:

- Executive
- Minister (see s 162)
- registrar-general
- statutory declaration
- under.

authorised celebrant means an authorised celebrant under the *Marriage Act 1961* (Cwlth).

Note The following people are authorised celebrants under that Act:

- a minister of religion registered under that Act, pt 4, div 1, subdiv A
- a marriage celebrant registered under that Act, pt 4, div 1, subdiv C
- a State or Territory officer authorised under that Act, pt 4, div 1, subdiv B (which includes the registrar-general).

prohibited relationship—see section 8.

termination notice means a notice given under section 13 (1).

withdrawal notice means a notice given under section 13 (3).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2006.

2 Notification

Notified under the Legislation Act on 2006.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

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