

2006

THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

CIVIL UNIONS BILL 2006

**SUPPLEMENTARY
EXPLANATORY STATEMENT**

Circulated by authority of
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CIVIL UNIONS BILL 2006

GOVERNMENT AMENDMENTS

Amendment 1 substitutes a new clause 5(2) and notes for the clause.

The effect of this amendment is to include an explicit statement that a civil union is different to a marriage. The new note 1 notes that marriage is defined in the Commonwealth *Marriage Act 1961* as the union of a man and a woman to the exclusion of all others, voluntarily entered into for life. The purpose of this amendment is to remove any possible perception that because a civil union is treated in the same way as a marriage, then it somehow is a marriage by another name. It is not. This amendment explicitly states this and in doing so removes any possible confusion over the distinction between a marriage and a civil union. It is not the intention of the provision to imply in any way that a civil union is the same as a marriage, only that it is to be treated in the same way as a marriage for the purposes of ACT law.

Amendment 2 replaces a reference to “authorised celebrant” with “civil union celebrant”. This amendment is made as a consequence of the inclusion of new Part 2A in the Bill which provides a separate ACT registration scheme for civil union celebrants.

Amendment 3 amends clause 9(2)(c) which sets out additional material that must accompany a notice of intention to enter into a civil union where one or both of the parties are 16 or 17 years old. The amendment is made as a consequence of the inclusion of new provisions requiring the Childrens Court to give an authorisation for a person who is 16 or 17 years old to enter into a civil union.

Amendment 4 replaces a reference to “authorised celebrant” with “civil union celebrant”. This amendment is made as a consequence of the inclusion of new Part 2A in the Bill.

Amendment 5 substitutes a new clause 10. New clause 10 requires that where a person who is 16 or 17 wishes to enter a civil union, then they must obtain an authorisation from the court, in addition to the consent of each person with responsibility to make long-term decisions for the person. This additional requirement is intended to provide added protection for young people wishing to enter into a civil union.

Amendments 6 to 8 replace references to “authorised celebrant” with “civil union celebrant”. These amendments are made as a consequence of the inclusion of new Part 2A in the Bill.

Amendment 9 inserts a new part 2A for the Bill. The purpose of the new part 2A is to provide a scheme for registering civil union celebrants. This scheme replaces the proposed reliance on Commonwealth *Marriage Act 1961* authorised celebrants.

New section 14A sets out the basis on which a person may be registered as a civil union celebrant. Registration of civil union celebrants will be a function of the Registrar-General. Before registering a person as a civil union celebrant, the Registrar-General must be satisfied that the person has the necessary knowledge and skills or experience to exercise the functions of a civil union celebrant and that they are a suitable person to be registered. In deciding whether a person is suitable the Registrar-General is required to have regard to particular matters and these are listed in clause 14A(4). While the Registrar-General must consider these matters, the Registrar-General may also have regard to any other matter that he or she considers relevant.

New section 14B requires the Registrar-General to keep a register of people who are registered as civil union celebrants. The names and date of registration of civil union celebrants must be available for public inspection. Other information on the register may only be made available for public inspection with the consent of the civil union celebrant.

New section 14C provides that the Registrar-General may cancel a person's registration if the Registrar-General considers that the person no longer meets the criteria for registration.

New section 14D provides a right of review of decisions of the Registrar-General. Review of decisions will be undertaken by the administrative appeals tribunal.

New section 14E requires the registrar-general to give a notice about a decision under section 14A and 14C to the person affected by a decision advising them of their right to have the decision reviewed.

Amendments 10 and 11 replace references to "authorised celebrant" with "civil union celebrant". These amendments are made as a consequence of the inclusion of new Part 2A in the Bill.

Amendment 12 amends the wording of clause 19 concerning unions solemnised in a foreign country so that it is consistent with the wording in section 88EA of the Commonwealth *Marriage Act 1961*.

Amendments 13 to 17 replace references to "authorised celebrant" with "civil union celebrant". These amendments are made as a consequence of the inclusion of new Part 2A in the Bill.

Amendments 18 to 48 make consequential amendments to the Schedule 1 as a consequence of the omission of amendment 1.70 in Schedule 1. These amendments insert specific references to civil unions, civil union partners and the

state of being in a civil union and make other necessary amendments as a consequence of the omission of the general interpretation provision that would have meant these references could be read in. In addition, the proposed amendments to the *Civil Law (Property) Act 2006* are omitted as the Civil Law (Property) Bill has not yet been debated and passed by the Legislative Assembly.

Amendment 49 omits amendment 1.70 of Schedule 1. Amendment 1.70 would have inserted a general interpretation provision in the *Legislation Act 2001* that would have provided that a reference to spouse includes a reference to a civil union partner; a reference to a marriage includes a reference to a civil union; and a reference to being married includes a reference to being in a civil union.

Amendments 50 to 62 make consequential amendments to the Schedule 1 as a consequence of the omission of amendment 1.70 in Schedule 1. These amendments insert specific references to civil unions, civil union partners and the state of being in a civil union as consequence of the omission of the general interpretation provision that would have meant these references could be read in. The proposed amendments to the *Supreme Court (Admission of Legal Practitioners) Rules 1998* are also omitted as these rules are due to expire on 1 July 2006.

Amendment 63 substitutes a new definition of *civil union celebrant for authorised celebrant* as a consequence of the inclusion of new Part 2A in the Bill.