

# **Civil Partnerships Amendment Bill 2009**

## **Explanatory Statement**

### **OVERVIEW**

The purpose of the Civil Partnerships Amendment Bill 2009 (the Bill) is to provide a mechanism for two people, regardless of their sex, to enter a formally recognised relationship, known as a civil partnership, by making a declaration before a civil partnership notary, if they so chose; and to establish the registration of civil partnership notaries.

This Bill also facilitates the recognition of civil partnerships made in other jurisdictions.

### **SUMMARY OF CLAUSES**

Clause 1 sets out the name of the Bill

Clause 2 provides for commencement of the Act

Clause 3 identifies the Acts and other legislation amended by this Bill.

#### **General**

Clause 4 sets out the general nature of a civil partnership as a legally recognised relationship.

Clause 5 amends the heading for Div 2.3

#### **Entering into civil partnership**

Clause 6 inserts new section 6A which makes it clear that a couple can enter into a civil partnership either through having that relationship registered by the registrar-general, or, by making a declaration before a civil partnership notary.

Clause 7 inserts a reference to new section 6A (a) for people applying to the registrar-general to register their relationship as a civil partnership.

Clause 8 inserts new sections 8A and 8B

New Section 8A requires parties who intend to enter a civil partnership through public declaration, under section 6A(b), to give notice of that intention to a civil partnership notary. The notice must be accompanied by a statutory declaration that goes to the eligibility requirements for entering a civil partnership. As soon as practicable after the notice is given, the civil partnerships notary must give the parties a notice of information about the effect of a civil partnership. The intention of this notice is to ensure that the parties are aware of the nature of the relationship they are creating.

New Section 8B sets out the formal process for entering a civil partnership. The parties must make a declaration that they intend to enter into a civil partnership and that they are doing so of their own free will. The declaration must be made not earlier than 5 days, and not later than 18 months, after the day the notice referred to in New Section 8A has been given. The section also contains witnessing requirements.

## **Part 2A – Civil Partnerships Notaries**

Clause 9 inserts new part 2A which provides for registration of people as civil partnership notaries and new part 2B which provides for notification and review of decisions made by the registrar-general.

New section 11A sets out the basis on which a person may be registered as a civil partnership notary. Registration of civil partnership notaries will be a function of the registrar-general.

Before registering a person as a civil partnership notary, the registrar-general must be satisfied that the person has the necessary knowledge and skills or experience to exercise the functions of a civil partnership notary 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 new section 11A(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 11B requires the registrar-general to keep a register of people who are registered as civil partnership notaries. The register may be kept in an electronic form.

New section 11C 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 as a civil partnership notary.

## **Part 2B - Notification and review of decisions**

New section 11D defines the term reviewable decision.

New section 11E requires the registrar-general to give a reviewable decision notice to certain people if making a reviewable decision.

New section 11F provides for certain people to apply to the ACT Civil and Administrative Tribunal for review of a reviewable decision.

## **Miscellaneous**

Clause 10 inserts new section 12A which provides that a civil partnership is not invalid only because of a failure to comply with formalities.

Clause 11 amends the definition of corresponding law to include reference to the law of another country.

Clause 12 inserts a new section 15A which identifies a range of offences for the Act that apply to civil partnerships entered into before a civil partnership notary. These offences are intended to maintain the integrity of the civil partnership scheme.

Clause 13 omits sections 16 and 17 which deal with reviewable decisions. Reviewable decisions are now dealt with under the new part 2B.

Clause 14 inserts Schedule 1 to list decisions that are reviewable and those people that can apply for review.

Clause 15 inserts a definition of civil partnership notary in the Dictionary.

## **Schedule 1 Other Amendments**

### **Part 1.1 Births, Deaths and Marriages Registration Act 1997**

Amendment 1.1 replaces section 32A with new 32A and 32AA to specify what is required of the registrar-general when civil partnerships are registered, and where a partnership is entered into before another civil partnership notary, what is required of the notary to facilitate that registration.

### **Part 1.2 Births, Deaths and Marriages Registration Regulation 1998**

Amendment 1.2 amends section 8A(1) to reflect the re-numbering made by Amendment 1.1.

Amendment 1.3 specifies the place as well as the date of the entry into the civil partnership.

Amendment 1.4 adds witness details to the information prescribed for civil partnerships that have been entered into before a civil partnership notary

Amendment 1.5 adds the details of the relevant civil partnership notary to the information prescribed for all civil partnerships that have been entered into before a notary.