



Australian Capital Territory

# **Domestic Relationships Act 1994**

**A1994-28**

**Republication No 14**

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Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Domestic Relationships Act 1994* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 25 November 2013. It also includes any commencement, amendment, repeal or expiry affecting this republished law to 25 November 2013.

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

### Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

If a provision of the republished law has not commenced, the symbol **U** appears immediately before the provision heading. Any uncommenced amendments that affect this republished law are accessible on the ACT legislation register ([www.legislation.act.gov.au](http://www.legislation.act.gov.au)). For more information, see the home page for this law on the register.

### Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see the *Legislation Act 2001*, section 95.

### Penalties

At the republication date, the value of a penalty unit for an offence against this law is \$140 for an individual and \$700 for a corporation (see *Legislation Act 2001*, s 133).



Australian Capital Territory

# Domestic Relationships Act 1994

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Australian Capital Territory

# Domestic Relationships Act 1994

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An Act to make provision with respect to certain domestic relationships

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Domestic Relationships Act 1994*.

### 2 Dictionary

The dictionary at the end of this Act is part of this Act.

*Note 1* The dictionary at the end of this Act defines certain terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition '*agreement*, for part 4 (Domestic relationship agreements and termination agreements)—see section 31.' means that the term 'agreement' is defined in that section for part 4.

*Note 2* A definition in the dictionary (including a signpost definition) applies to the entire Act unless the definition, or another provision of the Act, provides otherwise or the contrary intention otherwise appears (see [Legislation Act](#), s 155 and s 156 (1)).

### 2A Notes

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

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

### 3 Meaning of *domestic relationship*

(1) In this Act:

*domestic relationship* means a personal relationship between 2 adults in which one provides personal or financial commitment and support of a domestic nature for the material benefit of the other and—

(a) includes a domestic partnership and marriage under the [Marriage Equality \(Same Sex\) Act 2013](#); but



(b) does not include any other legal marriage.

*Note* For the meaning of *domestic partnership*, see the [Legislation Act](#), s 169. It includes a civil union and a civil partnership.

(2) For subsection (1)—

(a) a personal relationship may exist between people although they are not members of the same household; and

(b) a personal relationship is not taken to exist between people only because one of them provides a service for the other—

(i) for fee or reward; or

(ii) on behalf of another person (including a government or body corporate); or

(iii) on behalf of an organisation the principal objects or purposes of which are charitable or benevolent.

### **3A Termination agreements**

(1) In this Act:

*termination agreement* means—

(a) an agreement between 2 people that—

(i) is made in contemplation of terminating a domestic relationship that exists between them or after the termination of a domestic relationship between them; and

(ii) makes provision with respect to financial matters; or

(b) such an agreement that varies a domestic relationship agreement or termination agreement;

regardless of when it is made, whether there are other parties or whether it makes provision about non-financial matters.

- (2) However, a termination agreement is taken to be a domestic relationship agreement if—
- (a) the termination agreement is made in contemplation of the termination of a domestic relationship; and
  - (b) the relationship is not terminated within 3 months after the day on which the agreement is made.

**4 Application of Act**

This Act does not apply in relation to—

- (a) a domestic relationship that ceased before the commencement day; or
- (b) a person to the extent that he or she was a party to such a relationship.

**5 Other relief or remedies not affected**

Nothing in this Act affects any right of a party to a domestic relationship to any remedy or relief under any other Act or law.

## Part 2                      Mediation and arbitration

### 6                      Advice about facilities

- (1) On request by—
  - (a) a party to a domestic relationship; or
  - (b) a party to proceedings under this Act;

the registrar of a court must, as far as practicable, advise the person about any mediation or arbitration facilities available in the court or elsewhere in relation to matters with respect to which proceedings could be instituted under this Act, and how those facilities are made available.

- (2) In subsection (1):  
*registrar* includes a deputy registrar.

### 7                      Conciliation

If proceedings under this Act have been instituted, it is the duty of the court and each lawyer representing a party to the proceedings, as far as practicable—

- (a) to allow the parties to settle the matters in dispute; and
- (b) to encourage the parties to seek the assistance of the mediation and arbitration facilities referred to in section 6.

### 8                      Referral of matters for mediation or arbitration

- (1) A court may refer any of the matters in dispute in proceedings before it to a mediator.
- (2) A court may refer proceedings before it, or any part of them or any matter arising in them, to an arbitrator.

**9 Admissions made to mediators**

Evidence of anything said, or of any admission made, at a conference conducted by a mediator under a referral under section 8 (1) is not admissible in proceedings in a court or before a tribunal or person having authority under a law in force in the ACT, or by consent of parties, to hear evidence.

## **Part 3**                      **Adjustment of property interests and maintenance**

### **Division 3.1**              **Preliminary**

#### **10**              **Institution of proceedings**

- (1) Subject to subsection (2), proceedings under this Act may be instituted in—
  - (a) the Supreme Court; or
  - (b) the Magistrates Court.
- (2) Unless the parties agree and the Magistrates Court thinks it is desirable to do so, that court does not have jurisdiction to hear and decide proceedings under this Act if—
  - (a) the amount claimed (whether initially or as reduced by payment, admitted set-off or otherwise) exceeds the jurisdictional limit of the court; or
  - (b) the proceedings relate to a declaration in relation to title or right to property and the value of the property, or of the right to it, exceeds the jurisdictional limit of the court.
- (3) In subsection (2):

*jurisdictional limit* means the maximum amount that may be claimed in a personal action at law that the Magistrates Court has jurisdiction to hear and decide under the *Magistrates Court Act 1930*.

## **11 Prerequisite for relief—residence etc**

- (1) A court must not make an order under this part unless it is satisfied—
  - (a) that either or both of the parties to the domestic relationship were resident in the ACT on the day on which the application for the order was made; and
  - (b) that—
    - (i) both parties to the relationship have resided in the ACT for at least  $\frac{1}{3}$  of the period of their relationship; or
    - (ii) substantial contributions of the kind referred to in section 15 (1) (b) or (c) have been made in the ACT by the applicant.
- (2) If the court is so satisfied, it may make or refuse to make an order under this part because of facts and circumstances even though they, or some of them, took place before the commencement day or outside the ACT.

## **12 Prerequisite for relief—length of relationship etc**

- (1) A court must not make an order under this part in relation to a domestic relationship (other than a civil union or civil partnership) unless satisfied that the domestic relationship has existed between the applicant and respondent for not less than 2 years.
- (2) However, if the court is not so satisfied, it may make an order under this part if it is satisfied that—
  - (a) there is a child of the parties to the relationship; or
  - (b) the applicant—
    - (i) has made substantial contributions of the kind referred to in section 15 (1) (b) or (c) for which the applicant would otherwise not be adequately compensated if the order were not made; or

- (ii) has the care and control of a child of the respondent;  
and that the failure to make the order would result in serious injustice to the applicant.

**13 Time limit for making applications**

- (1) An application for an order under this part by a party to a domestic relationship that has ended must not be made more than 2 years after the day on which the relationship ended.
- (2) A court may grant leave to a person to apply for an order under this part after the end of the period referred to in subsection (1) if it is satisfied that greater hardship would be caused to the applicant if leave were refused than would be caused to the respondent if leave were granted.

**14 Court to end financial relations**

As far as practicable, a court must make orders under this part that will end the financial relationship between the parties to the domestic relationship and avoid further proceedings between them.

**Division 3.2 Adjustment of property interests**

**15 Property orders**

- (1) On application by a party to a domestic relationship, a court may make an order adjusting the interests in the property of either or both of the parties that seems just and equitable to it having regard to—
- (a) the nature and duration of the relationship; and
- (b) the financial or non-financial contributions made directly or indirectly by or on behalf of either or both of the parties to the acquisition, conservation or improvement of any of the property or financial resources of either or both of them; and

- (c) the contributions (including any in the capacity of homemaker or parent) made by either of the parties to the welfare of the other or any child of the parties; and
  - (d) the matters referred to in section 19 (2), as far as they are relevant; and
  - (e) such other matters (if any) as the court considers relevant.
- (2) A court may make an order under subsection (1) whether or not it has declared the title or rights of a party in respect of the property.

**16 Deferment of order**

If a court is satisfied that a party to a domestic relationship is likely to become entitled soon to property that may be applied in satisfaction of an order under this part, it may defer the operation of the order until a date, or the occurrence of an event, specified in the order.

**17 Death of party—effect on proceedings**

If a party to proceedings under this division dies before the proceedings are completed and the proceedings are continued by or against the legal personal representative of the deceased party, a court may make an order under this division if it is of the opinion that—

- (a) it would have adjusted interests in respect of the property but for the death; and
- (b) despite the death, it is still appropriate to adjust those interests.

**Division 3.3 Maintenance**

**18 No general right to maintenance**

Except as otherwise provided by this division, a party to a domestic relationship is not liable to maintain the other party to the relationship.



## **19 Maintenance orders**

- (1) On an application by a party to a domestic relationship, a court may order the other party to the relationship to pay an amount, or periodic amounts, by way of maintenance to the applicant if it is satisfied that—
  - (a) the applicant is unable to support himself or herself adequately because of having the care and control of a child of the parties, or a child of the other party, who, on the day on which the application is made, has not attained the age of—
    - (i) 12 years; or
    - (ii) if the child has a physical or mental disability—16 years; or
  - (b) the applicant is unable to support himself or herself adequately because the applicant's earning capacity has been adversely affected by the circumstances of the relationship and the court is satisfied that—
    - (i) an order for maintenance would increase the applicant's earning capacity by enabling the applicant to undertake a course or program of training or education; and
    - (ii) it is reasonable to make the order, having regard to all the circumstances of the case.
- (2) In exercising a power under subsection (1), a court must have regard to—
  - (a) the income, property and financial resources of each party; and
  - (b) the physical and mental capacity of each party for appropriate gainful employment; and
  - (c) the financial needs and obligations of each party; and
  - (d) the responsibilities of either party to support any other person; and

- (e) the terms of any order made or proposed to be made under section 15 with respect to the property of either or both of the parties; and
  - (f) any payments made to the applicant, under an order of a court or otherwise, in respect of the maintenance of a child or children.
- (3) In making an order for maintenance, a court must ensure that the terms of the order will, as far as practicable, preserve any entitlement of the applicant to a pension, allowance or benefit.

**20 Interim maintenance**

If a court is satisfied that an applicant for an order under this part is in immediate need of financial assistance, but it is not practicable in the circumstances to determine immediately what order (if any) should be made, the court may order the other party to the domestic relationship to pay to the applicant such periodic or other amounts as the court considers reasonable, until the application is determined.

**21 Death of party—effect on application**

Proceedings on an application for an order under this division may not be continued after the death of either party to the domestic relationship.

**22 Periodic maintenance orders—duration**

- (1) Subject to subsections (2), (3) and (4) and sections 23 and 24, an order for periodic maintenance has effect for the period ascertained in accordance with the order.
- (2) An order for periodic maintenance in respect of a child, based solely on the ground specified in section 19 (1) (a), must not be made in respect of a period after the child attains the age of—
  - (a) 12 years; or

- (b) if the child has a physical or mental disability—16 years.
- (3) An order for periodic maintenance based solely on the ground specified in section 19 (1) (b) must not be made in respect of a period after—
  - (a) the expiration of the period of 3 years commencing on the date of the order; or
  - (b) the expiration of the period of 4 years commencing on the date on which the parties to the domestic relationship ended, or last ended, their relationship;whichever occurs sooner.
- (4) An order for periodic maintenance based on the grounds specified in section 19 (1) (a) and (b) must have effect for a period determined by the court, not exceeding the period permissible under subsection (2) or (3), whichever is longer.

## **23 Periodic maintenance orders—variation etc**

- (1) On application by a person in respect of whom an order for periodic maintenance has been made, a court may—
  - (a) subject to subsection (2), discharge the order; or
  - (b) suspend the operation of the order, wholly or in part, for a specified period or until a specified time or event; or
  - (c) revoke a suspension under paragraph (b), wholly or in part; or
  - (d) subject to subsection (2) and sections 19, 22 and 24, vary the order.
- (2) A court must not discharge the order, or vary the amount of maintenance ordered to be paid, unless it is satisfied that, since the order was made, or last varied—
  - (a) the circumstances of either party have so changed; or

- (b) the cost of living has changed to such an extent;  
as to justify it doing so.
- (3) For subsection (2) (b), a court must have regard to any changes that have occurred since the order was made or last varied in—
- (a) the consumer price index (all groups index) issued by the Australian statistician; or
- (b) if the regulations prescribe a group of numbers or amounts issued by the Australian statistician that relate to the price of goods and services (other than the group set out in that index)—the prescribed group.
- (4) In considering the variation of an order, a court must not have regard to a change in the cost of living unless at least 12 months have elapsed since the order was made or last varied having regard to a change in the cost of living.
- (5) An order decreasing the amount of a periodic sum payable under an order may be expressed to be retrospective to such date as the court thinks fit.

## **24 Periodic maintenance orders—cessation**

- (1) An order for periodic maintenance ceases to have effect, to the extent that it relates to the maintenance of a child by virtue of section 19 (1) (a), on the expiration of the day on which the person in whose favour the order was made ceases to have the care and control of the child.
- (2) An order for periodic maintenance ceases to have effect on the death of either party to the domestic relationship.
- (3) The cessation of an order does not affect the recovery of arrears of maintenance due when the order ceased to have effect.

## **Division 3.4            General**

### **25            Court orders etc**

For this Act but without limiting the other provisions of this part, a court may—

- (a) order the transfer of property; or
- (b) order the sale of property and the distribution of the proceeds of sale in such proportions as it thinks fit; or
- (c) order that any necessary deed or instrument be executed and that documents of title be produced or other things be done to enable an order to be carried out effectively or to provide security for the due performance of an order; or
- (d) order payment of a lump sum, whether in 1 amount or by instalments; or
- (e) order payment of a periodic sum; or
- (f) order that payment of any sum ordered to be paid be wholly or partly secured in such manner as the court directs; or
- (g) appoint or remove trustees; or
- (h) make an order or grant an injunction—
  - (i) to protect, or otherwise relating to, the property or financial resources of either or both of the parties to the relationship; or
  - (ii) to aid enforcement of any other order made in respect of an application; or
- (i) impose terms and conditions; or
- (j) make an order by consent; or
- (k) make an order in the absence of a party; or

- (l) make any other order or grant any other injunction (whether or not of the same nature as those mentioned in paragraphs (a) to (k)) that it considers is necessary to do justice.

## **26 Execution of instruments by order of court**

- (1) If—
  - (a) a person fails to comply with an order directing the person to execute a deed or an instrument; or
  - (b) for any other reason, a court thinks it necessary to do so;the court may appoint an officer of the court or other person to execute the deed or instrument in the name of the firstmentioned person and to do all acts and things necessary to give effect to the deed or instrument.
- (2) The execution of the deed or instrument by the person so appointed has the same effect as if it had been executed by the person directed by the order to execute it.
- (3) A court may make such order as it thinks just as to the payment of the costs and expenses of, and incidental to, the preparation and execution of the deed or instrument.

## **27 Urgent orders etc in the absence of a party**

- (1) In a case of urgency, a court may—
  - (a) make an order under section 20; or
  - (b) make an order or grant an injunction referred to in section 25 (h);in the absence of a party.
- (2) An application for relief under this section may be made orally or in writing or in any form the court considers appropriate.

- (3) A court must not make an order or grant an injunction on an application that is not in writing unless it considers that it is necessary to do so because of the extreme urgency of the case.
- (4) A court may give directions with respect to the filing, serving and further hearing of a written application.
- (5) An order made or injunction granted on an application under this section must be expressed to operate or apply until a specified time or the further order of the court.
- (6) A court may give directions with respect to—
  - (a) the service of the order or injunction and any other documents it thinks fit; and
  - (b) the hearing of an application for a further order.

## **28 Variation and setting aside of orders**

If, on the application of a person in respect of whom an order under section 15 or 19 is in force, a court is satisfied that—

- (a) there has been a miscarriage of justice because of fraud, duress, suppression of evidence, the giving of false evidence or any other circumstance; or
- (b) in the circumstances that have arisen since the order was made, it is impracticable for the order, or a part of the order, to be carried out; or
- (c) a person has defaulted in carrying out an obligation imposed by the order and, in the circumstances that have arisen as a result of that default, it is just and equitable to vary the order or set it aside and make a substitute;

the court may vary the order or set it aside and, if it thinks fit, make another order under this part in substitution for the order.

## **29 Transactions to defeat claims**

- (1) On an application for an order under this part, a court may set aside or restrain the making of an instrument or a disposition of property by, or on behalf of or in the interest of, a party that is made or proposed to be made to defeat an existing or anticipated order relating to the application, or which, irrespective of intention, is likely to defeat any such order.
- (2) The court may, without limiting the operation of section 25, order that any property dealt with by the instrument or disposition may be taken in execution of, or used or applied in, or charged with, the payment of any sum payable under an order under this part or for costs as the court directs, or that the proceeds of a sale must be paid into court to await its order.
- (3) The court may order a person who acts in collusion with a party in relation to the making of the instrument or disposition to pay the costs of any other party or of a purchaser in good faith or other interested person in relation to the instrument or disposition or the setting aside or restraining of the instrument or disposition.

## **30 Interests of other parties**

In the exercise of a power under this part, a court must have regard to the interests, and must make any order proper for the protection, of a purchaser in good faith or other interested person.



## Part 4                      Domestic relationship agreements and termination agreements

### 31            Meaning of *agreement* for pt 4

In this part:

*agreement* means a domestic relationship agreement or a termination agreement.

### 32            Validity of agreements

- (1) Except as otherwise provided by this part, an agreement is subject to, and enforceable in accordance with, the law of contract.
- (2) Nothing in an agreement affects the power of a court to make an order with respect to—
  - (a) the right to custody or maintenance of, or access to; or
  - (b) any other matter relating to;  
a child of the parties to the agreement.
- (3) A provision in an agreement purporting to exclude the jurisdiction of a court is invalid but its invalidity does not affect the validity of the rest of the agreement.

### 33            Effect of agreements in proceedings under pt 3

- (1) In proceedings under part 3, if a court is satisfied that—
  - (a) there is an agreement between the parties to a domestic relationship; and
  - (b) the agreement is in writing; and
  - (c) the agreement is signed by the party against whom it is sought to be enforced; and

- (d) before the agreement was signed each party was given a certificate by a solicitor to the effect that the solicitor had advised the party, independently of the other party, about—
  - (i) the effect of the agreement on the rights of the parties under this Act; and
  - (ii) the advantages and disadvantages for the party, at the time the advice was given, of making the agreement; and
- (e) the certificates referred to in paragraph (d) are endorsed on or accompany the agreement;

the court must not (except as provided by sections 34 and 35) make an order under part 3 that would be inconsistent with the terms of the agreement.

- (2) In proceedings under part 3, if a court is satisfied that there is an agreement between the parties to a domestic relationship, but is not satisfied as to any 1 or more of the matters referred to in subsection (1) (b), (c), (d) or (e), the court may nevertheless have regard to the terms of the agreement in making any order under that part.

### **34 Variation etc of agreements**

In proceedings under part 3, a court may vary or set aside any of the provisions of an agreement, even though the matters mentioned in sections 33 (1) (b), (c), (d) and (e) are satisfied, only if it is satisfied that the enforcement of the agreement would result in serious injustice.

### **35 Revocation etc of agreements**

In proceedings under part 3, a court is not required to give effect to the terms of an agreement if it is satisfied that—

- (a) the parties have, by words or conduct, revoked the agreement or consented to its revocation; or

(b) the agreement has otherwise ceased to have effect.

**36 Death of party—effect on periodic maintenance under agreement**

- (1) The provisions of an agreement requiring a person to pay periodic maintenance cease to have effect on the death of the person, unless the agreement provides otherwise.
- (2) The provisions of an agreement providing for a person to receive periodic maintenance cease to have effect on the death of the person.
- (3) Subsections (1) and (2) do not affect the right to recover arrears of periodic maintenance due under the agreement at the time of the party's death.

**37 Death of party—transfer of property and lump sum payments under agreement**

The provisions of an agreement relating to property or lump sum payments may, on the death of a party, be enforced on behalf of, or against the estate of the deceased party, as the case may be, except to the extent that the agreement provides otherwise.

## Part 4A Civil partnerships

### Division 4A.1 General

#### 37A Definitions—pt 4A

In this part:

*prohibited relationship*—see section 37C.

*termination notice*—see section 37I (1).

*withdrawal notice*—see section 37I (3).

#### 37B Civil partnerships—general

- (1) A civil partnership is a legally recognised relationship entered into under this Act.
- (2) A civil partnership ends only as provided by division 4A.4.
- (3) The 2 parties to a civil partnership are taken, for all purposes under territory law, to be in a domestic partnership.

*Note* Div 4A.4 provides for ending civil partnerships by death, marriage, notice by parties or court order.

*Note* For the meaning of *domestic partnership*, see the [Legislation Act](#), s 169. It includes a civil union and a civil partnership.

### Division 4A.2 Eligibility for entering into civil partnership

#### 37C Eligibility criteria

A person may enter into a civil partnership only if—

- (a) the person is not married, in a civil union or in a civil partnership; and

- (b) the person does not have any of the following relationships (a *prohibited relationship*) with the person's proposed civil partner:
- (i) lineal ancestor;
  - (ii) lineal descendent;
  - (iii) sister;
  - (iv) half-sister;
  - (v) brother;
  - (vi) half-brother; and
- (c) the person or the person's proposed civil partner, or both of them, live in the ACT.

## **Division 4A.3      Entering into civil partnership**

### **37D      How civil partnership is entered into**

Two adults who are in a relationship as a couple, regardless of their sex, and who meet the eligibility criteria in section 37C, may enter into a civil partnership by having their relationship registered under section 37F.

*Note*      The registrar-general must enter particulars of a civil partnership entered into under this Act in the register under the *Births, Deaths and Marriages Registration Act 1997*, pt 5B.

### **37E      Application for registration**

- (1) Two people who wish to enter into a civil partnership may apply to the registrar-general for registration of their relationship as a civil partnership.

*Note*      If a form is approved under s 40B for an application, the form must be used.

- (2) The application must be accompanied by—
- (a) a statutory declaration made by each person stating—
    - (i) that the person wishes to enter into a civil partnership with the other person; and
    - (ii) that the person is not married, in a civil union or in a civil partnership; and
    - (iii) that the person believes the person and the other person do not have a prohibited relationship; and
    - (iv) where the person lives; and

*Note 1* The [Statutory Declarations Act 1959](#) (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 2* The [Criminal Code](#) includes an offence for making false statements in statutory declarations (see s 336A).

- (b) the evidence required under section 37M of each person's identity and age; and
- (c) anything else prescribed by regulation.

*Note 1* The [Statutory Declarations Act 1959](#) (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 2* The [Criminal Code](#) includes an offence for making false statements in statutory declarations (see s 336A).

- (3) The registrar-general may require the applicants to give the registrar additional information or documents the registrar reasonably needs to decide the application.
- (4) If a requirement under subsection (3) is not complied with, the registrar-general may refuse to consider the application further.

### **37F Decision on application**

- (1) On application under section 37E, the registrar-general must—
  - (a) register the relationship as a civil partnership by making an endorsement to that effect on the application; or
  - (b) refuse to register the relationship as a civil partnership.
- (2) The registrar-general must register the relationship as a civil partnership unless satisfied that 1 or both of the parties do not meet the eligibility criteria in section 37C.

*Note* The registrar-general must include particulars of a civil partnership in the register under the *Births, Deaths and Marriages Registration Act 1997*, pt 5B.

### **37G When civil partnership has effect**

A civil partnership entered into under this part has effect when the registrar-general registers the relationship under section 37F (1) (a).

## **Division 4A.4 Ending civil partnership**

### **37H How civil partnership ends**

- (1) A civil partnership ends on—
  - (a) the death of either party; or
  - (b) the marriage of either party; or
  - (c) if the parties to the civil partnership enter into a marriage under the *Marriage Equality (Same Sex) Act 2013* with each other—the end of that marriage.
- (2) A civil partnership also ends if it is ended by—
  - (a) a party (or both parties) under section 37I; or
  - (b) a court order under section 37K.

### 37I Ending civil partnership by parties

- (1) If a party to a civil partnership wishes, or both parties to a civil partnership wish, to end the civil partnership, the party (or parties) may give the registrar-general a written notice of intention to end the civil partnership (a **termination notice**).

*Note 1* If a form is approved under s 40B for a notice, the form must be used.

*Note 2* A fee may be determined under s 40A for this provision.

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

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

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

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

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

*Note 1* For provision about service of notices, see s 37N and s 37O.

*Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 3* The *Criminal Code* includes an offence for making false statements in statutory declarations (see s 336A).

- (3) A termination notice may, within 12 months after the day it was given to the registrar-general, be withdrawn by written notice (a **withdrawal notice**) given to the registrar by the party (or parties) who gave the termination notice.

*Note 1* If a form is approved under s 40B for a notice, the form must be used.

*Note 2* A fee may be determined under s 40A for this provision.



- (4) However, if a withdrawal notice is given by only 1 party, the notice is effective only if—
- (a) a copy of the notice has been served personally on the other party; and
  - (b) a statutory declaration is given to the registrar-general with the notice that—
    - (i) is made by the person who served the notice; and
    - (ii) states that the notice was served personally by the person on the other party on the date stated in the statutory declaration.

*Note 1* For provision about service of notices, see s 37N and s 37O.

*Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 3* The *Criminal Code* includes an offence for making false statements in statutory declarations (see s 336A).

- (5) A civil partnership ends 12 months after the day a termination notice is given to the registrar-general in accordance with this section, unless—
- (a) the notice has been withdrawn under this section; or
  - (b) the Supreme Court makes an order under section 37J (2); or
  - (c) the operation of the notice is stayed under section 37J (3); or
  - (d) the civil partnership has already ended under section 37H (1).

### **37J Order that termination notice not effective**

- (1) This section applies if a party (or parties) to a civil partnership give the registrar-general a termination notice.

- (2) On application by a party to the civil partnership, the Supreme Court may make an order that the termination notice is not effective if the court considers that it is not the intention, or is no longer the intention, of the party (or parties) who gave the notice to end the civil partnership.
- (3) If an application mentioned in subsection (2) has been made but not decided within 12 months after the day the termination notice is given, the application stays the operation of the notice until the application is decided.
- (4) If the Supreme Court makes an order under this section, the court must give a copy of the order to the registrar-general.

### **37K Ending civil partnership by court order**

- (1) On application by a party to a civil partnership, the Supreme Court may make an order ending the civil partnership if the court considers that—
  - (a) the civil partnership cannot be ended under section 37I; but
  - (b) it is not the intention, or is no longer the intention, of both parties to be in the civil partnership.
- (2) If the Supreme Court makes an order under subsection (1), the court must give a copy of the order to the registrar-general not later than 28 days after the day the order is made.

## **Division 4A.5 Other matters**

### **37L Void civil partnerships**

A civil partnership is void if—

- (a) either party did not meet the eligibility criteria under section 37C when the relationship was registered as a civil partnership; or

- (b) either party did not freely enter into the civil partnership because—
  - (i) the party's agreement to enter into the civil partnership was obtained by duress or fraud; or
  - (ii) the party was mistaken about the identity of the other party or the nature of the application under section 37E; or
  - (iii) the party was mentally incapable of understanding the nature and effect of the civil partnership.

### **37M Evidence of identity and age**

- (1) For section 37E (2) (b), the evidence of identity and age required for each person is—
  - (a) the person's birth certificate; or
  - (b) the person's citizenship certificate; or
  - (c) the person's current passport; or
  - (d) a statutory declaration made by the person stating—
    - (i) that it is impracticable to obtain a document mentioned in paragraph (a), (b) or (c); and
    - (ii) to the best of the person's knowledge and belief, and as accurately as the person has been able to find out, when and where the person was born.

*Note 1* The [Statutory Declarations Act 1959](#) (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 2* The [Criminal Code](#) includes an offence for making false statements in statutory declarations (see s 336A).

- (2) In this section:

*birth certificate*, for a person, means the person's birth certificate, or a certified extract about the person's birth from the register, under the *Births, Deaths and Marriages Registration Act 1997* or a corresponding law of a State, external territory or foreign country.

*citizenship certificate*, for a person, means a certificate, declaration, notice or other instrument of a person's nationality under the *Australian Citizenship Act 2007* (Cwlth) or the *Australian Citizenship Act 1948* (Cwlth) (repealed).

### **37N Personal service of termination and withdrawal notices**

- (1) This section applies if a termination notice or withdrawal notice must be served personally on a party to a civil partnership under section 37I (Ending civil partnership by parties).
- (2) To serve the notice personally on the party, the person serving the notice must—
- (a) give the party a copy of the notice; or
  - (b) if the party does not accept the copy—put the copy down in the party's presence and tell the party in general terms what it is; or
  - (c) if the person serving the notice is prevented from approaching the party by violence or threat of violence—put the copy down as near as practicable to, but in the sight of, the party.

### **37O If personal service impracticable or impossible**

- (1) This section applies if—
- (a) a termination notice or withdrawal notice must be served personally on a party to a civil partnership under section 37I; and
  - (b) personal service of the notice is not practicable.

- (2) The person serving the notice may apply to the Supreme Court for an order allowing the notice to be served in another way (the *alternative way*).
- (3) The Supreme Court may make an order if satisfied that—
  - (a) it is not practicable, for any reason, for the notice to be served personally under section 37N; and
  - (b) the alternative way is reasonably likely to bring the notice to the attention of the party.
- (4) If the Supreme Court makes an order, the court may, in the order, provide that the notice is taken to have been served on the happening of a stated event, at a stated time or at the end of a stated period.
- (5) The Supreme Court may make an order under subsection (3) even though the party is not in the ACT or Australia.
- (6) For section 37I, if a notice is served on a party in accordance with an order under subsection (3), the notice is taken to have been served personally on the party.

**37P Civil partnerships under corresponding laws**

- (1) A regulation may provide that a relationship under a law of a State, external territory or foreign country (a *corresponding law*) is a civil partnership for territory law.
- (2) However, a regulation must not provide that a relationship under a corresponding law is a civil partnership for territory law unless, under the corresponding law, the relationship—
  - (a) must be between 2 people; and
  - (b) must be entered into consensually; and
  - (c) must not be entered into by people who are in a prohibited relationship with each other.

## Part 4AB Civil unions

### Division 4AB.1 Preliminary

#### 37PA Application—pt 4AB

This part applies to a civil union that—

- (a) was entered into before the day the *Marriage Equality (Same Sex) Act 2013* commences; and
- (b) immediately before that day, had not ended under the *Civil Unions Act 2012* (repealed).

#### 37PB Definitions—pt 4AB

In this part:

*termination notice*—see section 37PD (1).

*withdrawal notice*—see section 37PD (3).

### Division 4AB.2 Ending civil union

#### 37PC How civil union ends

- (1) A civil union ends on—
  - (a) the death of either party; or
  - (b) the marriage of either party; or
  - (c) if the parties to the civil union enter into a marriage under the *Marriage Equality (Same Sex) Act 2013* with each other—the end of that marriage.
- (2) A civil union also ends if it is ended by—
  - (a) a party (or both parties) under section 37PD; or
  - (b) a court order under section 37PF.

### **37PD Ending civil union by parties**

- (1) If a party to a civil union wishes, or both parties to a civil union wish, to end the civil union, the party (or parties) may give the registrar-general written notice of intention to end the civil union (a **termination notice**).

*Note 1* If a form is approved under s 40B for a notice, the form must be used.

*Note 2* A fee may be determined under s 40A for this provision.

- (2) However, if a termination notice is given by only 1 party, the notice is effective only if—
- (a) a copy of the notice has been served personally on the other party; and
  - (b) a statutory declaration is given to the registrar-general with the notice that—
    - (i) is made by the person who served the notice; and
    - (ii) states that the notice was served personally by the person on the other party on the date stated in the statutory declaration.

*Note 1* For provision about service of notices, see s 37PG and s 37PH.

*Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of statutory declarations under ACT laws.

*Note 3* The *Criminal Code* includes an offence for making false statements in statutory declarations (see s 336A).

- (3) A termination notice may, within 12 months after the day it was given to the registrar-general, be withdrawn by written notice (a **withdrawal notice**) given to the registrar-general by the party (or parties) who gave the termination notice.

*Note 1* If a form is approved under s 40B for a notice, the form must be used.

*Note 2* A fee may be determined under s 40A for this provision.

- (4) However, if a withdrawal notice is given by only 1 party, the notice is effective only if—
  - (a) a copy of the notice has been served personally on the other party; and
  - (b) a statutory declaration is given to the registrar-general with the notice that—
    - (i) is made by the person who served the notice; and
    - (ii) states that the notice was served personally by the person on the other party on the date stated in the statutory declaration.
- (5) A civil union ends 12 months after the day the termination notice is given to the registrar-general in accordance with this section, unless—
  - (a) the notice has been withdrawn under this section; or
  - (b) the Supreme Court makes an order under section 37PE (2); or
  - (c) the operation of the notice is stayed under section 37PE (3); or
  - (d) the civil union has already ended under section 37PC (1).

**37PE Order that termination notice not effective**

- (1) This section applies if a party (or parties) to a civil union give the registrar-general a termination notice.
- (2) On application by a party to the civil union, the Supreme Court may make an order that the termination notice is not effective if the court considers that it is not the intention, or is no longer the intention, of the party (or parties) who gave the notice to end the civil union.
- (3) If an application mentioned in subsection (2) has been made but not decided within 12 months after the day the termination notice is given, the application stays the operation of the notice until the application is decided.



- (4) If the Supreme Court makes an order under this section, the court must give a copy of the order to the registrar-general.

**37PF Ending civil union by court order**

- (1) On application by a party to a civil union, the Supreme Court may make an order ending the civil union if the court considers that—
- (a) the civil union cannot be ended under section 37PD; but
  - (b) it is not the intention, or is no longer the intention, of both parties to be in the civil union.
- (2) If the Supreme Court makes an order under subsection (1), the court must give a copy of the order to the registrar-general not later than 28 days after the day the order is made.

**37PG Personal service of termination and withdrawal notices**

- (1) This section applies if a termination notice or withdrawal notice must be served personally on a party to a civil union under section 37PD (Ending civil union by parties).
- (2) To serve the notice personally on the party, the person serving the notice must—
- (a) give the party a copy of the notice; or
  - (b) if the party does not accept the copy—put the copy down in the party's presence and tell the party in general terms what it is; or
  - (c) if the person serving the notice is prevented from approaching the party by violence or threat of violence—put the copy down as near as practicable to, but in the sight of, the party.

**37PH If personal service impracticable or impossible**

- (1) This section applies if—
  - (a) a termination notice or withdrawal notice must be served personally on a party to a civil union under section 37PD; and
  - (b) personal service of the notice is not practicable.
- (2) The person serving the notice may apply to the Supreme Court for an order allowing the notice to be served in another way (the *alternative way*).
- (3) The Supreme Court may make an order if satisfied that—
  - (a) it is not practicable, for any reason, for the notice to be served personally under section 37PG; and
  - (b) the alternative way is reasonably likely to bring the notice to the attention of the party.
- (4) If the Supreme Court makes an order, the court may, in the order, provide that the notice is taken to have been served on the happening of a stated event, at a stated time or at the end of a stated period.
- (5) The Supreme Court may make an order under subsection (3) even though the party is not in the ACT or Australia.
- (6) For section 37PD, if a notice is served on a party in accordance with an order under subsection (3), the notice is taken to have been served personally on the party.

## Part 4B Notification and review of decisions

### 37Q Meaning of *reviewable decision*—pt 4B

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 37R Reviewable decision notices

If the registrar-general makes a reviewable decision, the registrar must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The registrar-general must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see [ACT Civil and Administrative Tribunal Act 2008](#), s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the [ACT Civil and Administrative Tribunal Act 2008](#).

### 37S Applications for review

The following may apply to the ACAT for review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the [ACT Civil and Administrative Tribunal Act 2008](#) for the application, the form must be used.

## Part 5                      Miscellaneous

### 38                      **Declarations—existence of domestic relationship**

- (1) A court may, on application or its own initiative, declare whether a domestic relationship exists, or existed, between specified persons on a specified date or during a specified period, or both.
- (2) A declaration has effect as a judgment of the court.
- (3) A declaration may be made whether or not the person or either of the persons named by the applicant as a party or parties to a domestic relationship is alive.
- (4) While a declaration is in force, the persons to whom it relates is taken for all purposes to have been, or not to have been, parties to a domestic relationship, as specified in the declaration.

### 39                      **Annulment of declaration**

- (1) A court may, by order, annul a declaration under section 38—
  - (a) on application by a person who applied for, or is affected by, the declaration; and
  - (b) if it is satisfied that new facts or circumstances have arisen that have not previously been disclosed to the court and could not have been so disclosed by the exercise of reasonable diligence.
- (2) A declaration ceases to have effect on the making of an order of annulment but an annulment does not affect anything done in reliance on the declaration while it remained in force.
- (3) If a court annuls a declaration, it may, if it is satisfied that it would be just and equitable to do so, make ancillary orders (including orders varying rights with respect to property or financial resources) to place any person affected by the annulment, as far as practicable, in the position that person would have been in if the declaration had not been made.

**40 Declarations—interests in property**

- (1) In proceedings between parties to a domestic relationship with respect to existing title or rights in respect of property, a court may declare the title or rights (if any) that a party has in respect of the property.
- (2) A court may make orders to give effect to a declaration, including orders as to possession.
- (3) An order under this section is binding on the parties to a domestic relationship but not on any other person.

**40A Determination of fees**

- (1) The Minister may determine fees for this Act.

*Note* The [Legislation Act](#) contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**40B Approved forms**

- (1) The registrar-general may approve forms for this Act.
- (2) If the registrar-general approves a form for a particular purpose, the approved form must be used for that purpose.

*Note* For other provisions about forms, see the [Legislation Act](#), s 255.

- (3) An approved form is a notifiable instrument.

*Note* A notifiable instrument must be notified under the [Legislation Act](#).

**41 Regulation-making power**

- (1) The Executive may make regulations for this Act.

*Note* Regulations must be notified, and presented to the Legislative Assembly, under the [Legislation Act 2001](#).

- (2) The regulations may make provision in relation to the enforcement by the Magistrates Court of orders of the Supreme Court under this Act that could have been made by the Magistrates Court.

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## Schedule 1      Reviewable decisions

(see pt 4B)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	37E	refuse to register relationship as civil partnership	parties to relationship

## Dictionary

(see s 2)

*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:

- ACT
- Australian statistician
- civil partnership
- civil union
- Executive
- lawyer
- Magistrates Court
- person (see s 160)
- Supreme Court.

***agreement***, for part 4 (Domestic relationship agreements and termination agreements)—see section 31.

***child***, of the parties to a domestic relationship, means each of the following children:

- (a) a child of whom the parties are the parents;
- (b) a child for whose long-term welfare both parties accept responsibility.

***commencement day*** means 11 July 1997.

***court*** means the Supreme Court or the Magistrates Court.

***domestic relationship***—see section 3.

***domestic relationship agreement*** means—

- (a) an agreement between 2 persons that—
  - (i) is made in contemplation of their entering into a domestic relationship or during the existence of a domestic relationship between them; and



- (ii) makes provision with respect to financial matters; or
- (b) such an agreement that varies a domestic relationship agreement;

regardless of when it is made, whether there are other parties or whether it makes provision with respect to non-financial matters.

*Note* In certain circumstances a termination agreement may be taken to be a domestic relationship agreement (see s 3A (2)).

***financial matters***, in relation to either or both of the parties to a domestic relationship, means matters with respect to the maintenance, property or financial resources of either or both of the parties.

***financial resources***, in relation to either or both of the parties to a domestic relationship, includes—

- (a) a prospective claim or entitlement in favour of either or both of the parties in respect of a scheme, fund or arrangement under which superannuation, retirement or similar benefits are provided; and
- (b) property that, under a discretionary trust, may become vested in or used for the purposes of either or both of the parties; and
- (c) property that either or both of the parties may dispose of wholly or partially and that is capable of being used lawfully by or on behalf of either or both of the parties; and
- (d) any other benefit of value to either or both of the parties.

***marriage*** means a marriage under the *Marriage Act 1961* (Cwlth).

***party***, to a domestic relationship, includes a person who has been a party to a domestic relationship that has ended.

***prohibited relationship***, for part 4A (Civil partnerships)—see section 37C.

**property**, in relation to either or both of the parties to a domestic relationship, means real or personal property in any form to which either is, or both are, entitled.

**reviewable decision**, for part 4B (Notification and review of decisions)—see section 37Q.

**termination agreement**—see section 3A.

**termination notice**—

(a) for part 4A (Civil partnerships)—see section 37I; and

(b) for part 4AB (Civil unions)—see section 37PB.

**withdrawal notice**—

(a) for part 4A (Civil partnerships)—see section 37I; and

(b) for part 4AB (Civil unions)—see section 37PB.

## Endnotes

### 1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are not included in the republished law. The details of these laws are underlined in the legislation history. Uncommenced expiries are underlined in the legislation history and amendment history.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

A = Act	NI = Notifiable instrument
AF = Approved form	o = order
am = amended	om = omitted/repealed
amdt = amendment	ord = ordinance
AR = Assembly resolution	orig = original
ch = chapter	par = paragraph/subparagraph
CN = Commencement notice	pres = present
def = definition	prev = previous
DI = Disallowable instrument	(prev...) = previously
dict = dictionary	pt = part
disallowed = disallowed by the Legislative Assembly	r = rule/subrule
div = division	reloc = relocated
exp = expires/expired	renum = renumbered
Gaz = gazette	R[X] = Republication No
hdg = heading	RI = reissue
IA = Interpretation Act 1967	s = section/subsection
ins = inserted/added	sch = schedule
LA = Legislation Act 2001	sdiv = subdivision
LR = legislation register	SL = Subordinate law
LRA = Legislation (Republication) Act 1996	sub = substituted
mod = modified/modification	<u>underlining</u> = whole or part not commenced or to be expired

## Endnotes

3 Legislation history

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### 3 Legislation history

#### **Domestic Relationships Act 1994 A1994-28**

notified 31 May 1994 ([Gaz 1994 No S93](#))  
s 1, s 2 commenced 31 May 1994 (s 2 (1))  
remainder commenced 11 July 1994 (s 2 (2) and [Gaz 1994 No S149](#))

as amended by

#### **[Legal Practitioners \(Consequential Amendments\) Act 1997 A1997-96](#) sch 1**

notified 1 December 1997 ([Gaz 1997 No S380](#))  
s 1, s 2 commenced 1 December 1997 (s 2(1))  
sch 1 commenced 1 June 1998 (s 2 (2))

#### **[Legislation \(Consequential Amendments\) Act 2001 A2001-44 pt 108](#)**

notified 26 July 2001 ([Gaz 2001 No 30](#))  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 108 commenced 12 September 2001 (s 2 and see [Gaz 2001 No S65](#))

#### **[Legislation \(Gay, Lesbian and Transgender\) Amendment Act 2003 A2003-14 sch 1 pt 1.13](#)**

notified LR 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch 1 pt 1.13 commenced 28 March 2003 (s 2)

#### **[Parentage Act 2004 A2004-1 sch 1 pt 1.6](#)**

notified LR 18 February 2004  
s 1, s 2 commenced 18 February 2004 (LA s 75 (1))  
sch 1 pt 1.6 commenced 22 March 2004 (s 2 and [CN2004-3](#))

#### **[Justice and Community Safety Legislation Amendment Act 2004 \(No 2\) A2004-32 pt 10](#)**

notified LR 29 June 2004  
s 1, s 2 commenced 29 June 2004 (LA s 75 (1))  
pt 10 commenced 13 July 2004 (s 2 (3))

**Court Procedures (Consequential Amendments) Act 2004 A2004-60 sch 1 pt 1.23**

notified LR 2 September 2004  
s 1, s 2 commenced 2 September 2004 (LA s 75 (1))  
sch 1 pt 1.23 commenced 10 January 2005 (s 2 and see [Court Procedures Act 2004 A2004-59](#), s 2 and [CN2004-29](#))

**Justice and Community Safety Legislation Amendment Act 2005 (No 3) A2005-43 sch 1 pt 1.6**

notified LR 30 August 2005  
s 1, s 2 commenced 30 August 2005 (LA s 75 (1))  
sch 1 pt 1.6 commenced 1 October 2005 (s 2 (3) and [CN2005-18](#))

**Civil Unions Act 2006 A2006-22 sch 1 pt 1.10**

notified LR 19 May 2006  
s 1, s 2 commenced 19 May 2006 (LA s 75 (1))  
sch 1 pt 1.10 never commenced

*Note* Act repealed by disallowance 14 June 2006 (see *Cwlth Gaz* 2006 No S93)

**Statute Law Amendment Act 2007 A2007-3 sch 3 pt 3.30**

notified LR 22 March 2007  
s 1, s 2 taken to have commenced 1 July 2006 (LA s 75 (2))  
sch 3 pt 3.30 commenced 12 April 2007 (s 2 (1))

**Civil Partnerships Act 2008 A2008-14 sch 1 pt 1.9**

notified LR 15 May 2008  
s 1, s 2 commenced 15 May 2008 (LA s 75 (1))  
sch 1 pt 1.9 commenced 19 May 2008 (s 2 and [CN2008-8](#))

**Statute Law Amendment Act 2009 (No 2) A2009-49 sch 3 pt 3.21**

notified LR 26 November 2009  
s 1, s 2 commenced 26 November 2009 (LA s 75 (1))  
sch 3 pt 3.21 commenced 17 December 2009 (s 2)

**Civil Unions Act 2012 A2012-40 sch 3 pt 3.10**

notified LR 4 September 2012  
s 1, s 2 commenced 4 September 2012 (LA s 75 (1))  
sch 3 pt 3.10 commenced 11 September 2012 (s 2)

## Endnotes

3 Legislation history

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**Marriage Equality (Same Sex) Act 2013 A2013-39 sch 2 pt 2.10**

notified LR 4 November 2013

s 1, s 2 commenced 4 November 2013 (LA s 75 (1))

sch 2 pt 2.10 commenced 7 November 2013 (s 2 and [CN2013-11](#))

**Statute Law Amendment Act 2013 (No 2) A2013-44 sch 3 pt 3.5**

notified LR 11 November 2013

s 1, s 2 commenced 11 November 2013 (LA s 75 (1))

sch 3 pt 3.5 commenced 25 November 2013 (s 2)

## 4 Amendment history

### Title

title am [A2006-22](#) amdt 1.35 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

### Name of Act

s 1 sub [A2006-22](#) amdt 1.36 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2007-3](#) amdt 3.154

### Dictionary

s 2 om [A2001-44](#) amdt 1.1161  
ins [A2007-3](#) amdt 3.159

### Notes

s 2A ins [A2007-3](#) amdt 3.159

### Meaning of *domestic relationship*

s 3 am [A2004-1](#) amdt 1.20; pars renum R4 LA (see [A2004-1](#) amdt 1.21); [A2006-22](#) amdt 1.39, amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))  
defs reloc to dict [A2007-3](#) amdt 3.158  
om [A2007-3](#) amdt 3.159  
ins [A2007-3](#) amdt 3.160  
am [A2008-14](#) amdt 1.25; [A2012-40](#) amdt 3.33; [A2013-39](#) amdt 2.18

### Termination agreements

s 3A ins [A2007-3](#) amdt 3.160

### Application of Act

s 4 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

### Other relief or remedies not affected

s 5 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.51

### Advice about facilities

s 6 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

### Conciliation

s 7 am [A2007-3](#) amdt 3.161

### Referral of matters for mediation or arbitration

s 8 am [A2013-44](#) amdt 3.52

## Endnotes

### 4 Amendment history

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#### **Preliminary**

div 3.1 hdg (prev pt 3 div 1 hdg) renum R2 LA

#### **Institution of proceedings**

s 10 am [A2004-60](#) amds 1.142-1.144

#### **Prerequisite for relief—residence etc**

s 11 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

#### **Prerequisite for relief—length of relationship etc**

s 12 am [A2006-22](#) amdt 1.40, amdt 1.41 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2008-14](#) amdt 1.26, amdt 1.27; [A2012-40](#) amdt 3.34

#### **Time limit for making applications**

s 13 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2009-49](#) amdt 3.46; [A2013-44](#) amdt 3.60

#### **Court to end financial relations**

s 14 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

#### **Adjustment of property interests**

div 3.2 hdg (prev pt 3 div 2 hdg) renum R2 LA

#### **Property orders**

s 15 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

#### **Deferment of order**

s 16 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

#### **Maintenance**

div 3.3 hdg (prev pt 3 div 3 hdg) renum R2 LA

#### **No general right to maintenance**

s 18 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

#### **Maintenance orders**

s 19 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

#### **Interim maintenance**

s 20 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))



**Death of party—effect on application**

s 21 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

**Periodic maintenance orders—duration**

s 22 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

**Periodic maintenance orders—variation etc**

s 23 am [A2013-44](#) amdt 3.53, amdt 3.60

**Periodic maintenance orders—cessation**

s 24 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

**General**

div 3.4 hdg (prev pt 3 div 4 hdg) renum R2 LA

**Court orders etc**

s 25 pars renum R2 LA

**Urgent orders etc in the absence of a party**

s 27 am [A2013-44](#) amdt 3.60

**Transactions to defeat claims**

s 29 am [A2013-44](#) amdt 3.60

**Interests of other parties**

s 30 am [A2013-44](#) amdt 3.60

**Domestic relationship agreements and termination agreements**

pt 4 hdg am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

**Meaning of *agreement* for pt 4**

s 31 am [A1997-96](#) sch 1  
sub [A2004-32](#) s 77  
am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

**Validity of agreements**

s 32 am [A2013-44](#) amdt 3.54

**Effect of agreements in proceedings under pt 3**

s 33 am [A2004-32](#) s 78  
(3)-(5) exp 13 July 2004 (s 33 (5))  
am [A2005-43](#) amdt 1.13; [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.60

**Variation etc of agreements**

s 34 am [A2013-44](#) amdt 3.55, amdt 3.56

## Endnotes

4 Amendment history

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### **Death of party—effect on periodic maintenance under agreement**

s 36 am [A2013-44](#) amdt 3.57

### **Civil partnerships**

pt 4A hdg ins [A2012-40](#) amdt 3.35

### **General**

div 4A.1 hdg ins [A2012-40](#) amdt 3.35

### **Definitions—pt 4A**

s 37A ins [A2012-40](#) amdt 3.35  
def *prohibited relationship* ins [A2012-40](#) amdt 3.35  
def *termination notice* ins [A2012-40](#) amdt 3.35  
def *withdrawal notice* ins [A2012-40](#) amdt 3.35

### **Civil partnerships—general**

s 37B ins [A2012-40](#) amdt 3.35

### **Eligibility for entering into civil partnership**

div 4A.2 hdg ins [A2012-40](#) amdt 3.35

### **Eligibility criteria**

s 37C ins [A2012-40](#) amdt 3.35

### **Entering into civil partnership**

div 4A.3 hdg ins [A2012-40](#) amdt 3.35

### **How civil partnership is entered into**

s 37D ins [A2012-40](#) amdt 3.35

### **Application for registration**

s 37E ins [A2012-40](#) amdt 3.35

### **Decision on application**

s 37F ins [A2012-40](#) amdt 3.35

### **When civil partnership has effect**

s 37G ins [A2012-40](#) amdt 3.35

### **Ending civil partnership**

div 4A.4 hdg ins [A2012-40](#) amdt 3.35

### **How civil partnership ends**

s 37H ins [A2012-40](#) amdt 3.35  
am [A2013-39](#) amdt 2.19

### **Ending civil partnership by parties**

s 37I ins [A2012-40](#) amdt 3.35

### **Order that termination notice not effective**

s 37J ins [A2012-40](#) amdt 3.35

### **Ending civil partnership by court order**

s 37K ins [A2012-40](#) amdt 3.35

**Other matters**

div 4A.5 hdg ins [A2012-40](#) amdt 3.35

**Void civil partnerships**

s 37L ins [A2012-40](#) amdt 3.35

**Evidence of identity and age**

s 37M ins [A2012-40](#) amdt 3.35

**Personal service of termination and withdrawal notices**

s 37N ins [A2012-40](#) amdt 3.35

**If personal service impracticable or impossible**

s 37O ins [A2012-40](#) amdt 3.35

**Civil partnerships under corresponding laws**

s 37P ins [A2012-40](#) amdt 3.35

**Civil unions**

pt 4AB hdg ins [A2013-39](#) amdt 2.20

**Preliminary**

div 4AB.1 hdg ins [A2013-39](#) amdt 2.20

**Application—pt 4AB**

s 37PA ins [A2013-39](#) amdt 2.20

**Definitions—pt 4AB**

s 37PB ins [A2013-39](#) amdt 2.20  
def **termination notice** ins [A2013-39](#) amdt 2.20  
def **withdrawal notice** ins [A2013-39](#) amdt 2.20

**Ending civil union**

div 4AB.2 hdg ins [A2013-39](#) amdt 2.20

**How civil union ends**

s 37PC ins [A2013-39](#) amdt 2.20

**Ending civil union by parties**

s 37PD ins [A2013-39](#) amdt 2.20

**Order that termination notice not effective**

s 37PE ins [A2013-39](#) amdt 2.20

**Ending civil union by court order**

s 37PF ins [A2013-39](#) amdt 2.20

**Personal service of termination and withdrawal notices**

s 37PG ins [A2013-39](#) amdt 2.20

**If personal service impracticable or impossible**

s 37PH ins [A2013-39](#) amdt 2.20

**Notification and review of decisions**

pt 4B hdg ins [A2012-40](#) amdt 3.35

## Endnotes

### 4 Amendment history

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#### Meaning of *reviewable decision*—pt 4B

s 37Q ins [A2012-40](#) amdt 3.35

#### Reviewable decision notices

s 37R ins [A2012-40](#) amdt 3.35

#### Applications for review

s 37S ins [A2012-40](#) amdt 3.35

#### Declarations—existence of domestic relationship

s 38 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93)); [A2013-44](#) amdt 3.58

#### Declarations—interests in property

s 40 am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))

#### Determination of fees

s 40A ins [A2012-40](#) amdt 3.36

#### Approved forms

s 40B ins [A2012-40](#) amdt 3.36

#### Regulation-making power

s 41 sub [A2001-44](#) amdt 1.1162

#### Regulations

s 42 om [A2001-44](#) amdt 1.1162

#### Reviewable decisions

sch 1 ins [A2012-40](#) amdt 3.37

#### Dictionary

dict ins [A2007-3](#) amdt 3.162  
am [A2008-14](#) amdt 1.28; [A2012-40](#) amdt 3.38; [A2013-44](#) amdt 3.59  
def **agreement** ins [A2007-3](#) amdt 3.162  
def **child** ins [A2007-3](#) amdt 3.162  
def **commencement day** reloc from s 3 [A2007-3](#) amdt 3.158  
def **court** reloc from s 3 [A2007-3](#) amdt 3.158  
def **domestic relationship** sub [A2003-14](#) amdt 1.53  
am [A2003-14](#) amdt 1.54  
om [A2006-22](#) amdt 1.37 ([A2006-22](#) rep before commenced by disallowance (see Cwlth Gaz 2006 No S93))  
sub [A2007-3](#) amdt 3.155  
reloc from s 3 [A2007-3](#) amdt 3.158

- def **domestic relationship agreement** om [A2006-22](#)  
amdt 1.37 ([A2006-22](#) rep before commenced by  
disallowance (see Cwlth Gaz 2006 No S93))  
am [A2007-3](#) amdt 3.156  
reloc from s 3 [A2007-3](#) amdt 3.158
- def **financial matters** am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep  
before commenced by disallowance (see Cwlth Gaz 2006  
No S93))  
reloc from s 3 [A2007-3](#) amdt 3.158
- def **financial resources** am [A2006-22](#) amdt 1.42 ([A2006-22](#)  
rep before commenced by disallowance (see Cwlth Gaz 2006  
No S93))  
reloc from s 3 [A2007-3](#) amdt 3.158
- def **marriage** ins [A2013-39](#) amdt 2.21
- def **party** ins [A2007-3](#) amdt 3.162
- def **personal relationship** ins [A2006-22](#) amdt 1.37 ([A2006-22](#)  
rep before commenced by disallowance (see Cwlth Gaz 2006  
No S93))
- def **personal relationship agreement** ins [A2006-22](#)  
amdt 1.37 ([A2006-22](#) rep before commenced by  
disallowance (see Cwlth Gaz 2006 No S93))
- def **prohibited relationship** ins [A2012-40](#) amdt 3.39
- def **property** am [A2006-22](#) amdt 1.42 ([A2006-22](#) rep before  
commenced by disallowance (see Cwlth Gaz 2006 No S93))  
reloc from s 3 [A2007-3](#) amdt 3.158
- def **reviewable decision** ins [A2012-40](#) amdt 3.39
- def **termination agreement** am [A2006-22](#) amdt 1.42  
([A2006-22](#) rep before commenced by disallowance (see  
Cwlth Gaz 2006 No S93))  
sub [A2007-3](#) amdt 3.157  
reloc from s 3 [A2007-3](#) amdt 3.158
- def **termination notice** ins [A2012-40](#) amdt 3.39  
sub [A2013-39](#) amdt 2.22
- def **withdrawal notice** ins [A2012-40](#) amdt 3.39  
sub [A2013-39](#) amdt 2.22

## Endnotes

5 Earlier republications

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### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	<a href="#">A1997-96</a>	17 April 2000
2	<a href="#">A2001-44</a>	21 February 2002
2 (RI)	<a href="#">A2001-44</a> ‡	16 October 2002
3	<a href="#">A2003-14</a>	28 March 2003
4	<a href="#">A2004-1</a>	22 March 2004
5	<a href="#">A2004-32</a>	13 July 2004
6	<a href="#">A2004-32</a>	14 July 2004
7	<a href="#">A2004-60</a>	10 January 2005
8	<a href="#">A2005-43</a>	1 October 2005
9	<a href="#">A2007-3</a>	12 April 2007
10*	<a href="#">A2008-14</a>	19 May 2008
11	<a href="#">A2009-49</a>	17 December 2009
12	<a href="#">A2012-40</a>	11 September 2012
13	<a href="#">A2013-39</a>	7 November 2013

‡ includes endnote correction

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