



Australian Capital Territory

Civil Partnerships Act 2008

A2008-14

Republication No 2

Effective: 2 February 2009 – 18 November 2009

Republication date: 2 February 2009

Last amendment made by A2008-37

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Civil Partnerships Act 2008* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 2 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 2 February 2009.

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

Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at www.legislation.act.gov.au):

- 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 or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

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 *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date is—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.



Australian Capital Territory

Civil Partnerships Act 2008

Contents

| | Page |
|---------------------|--------------------------------|
| Part 1 | Preliminary |
| 1 | Name of Act 2 |
| 3 | Dictionary 2 |
| 4 | Notes 2 |
| Part 2 | Civil partnerships |
| Division 2.1 | General |
| 5 | Civil partnerships—general 3 |
| Division 2.2 | Eligibility |
| 6 | Eligibility criteria 3 |
| Division 2.3 | Registration |
| 7 | Application for registration 4 |
| 8 | Decision on application 5 |

R2
02/02/09

Civil Partnerships Act 2008
Effective: 02/02/09-18/11/09

contents 1

Contents

| | Page |
|---------------------|---|
| Division 2.4 | Termination |
| 9 | How civil partnership is terminated 5 |
| 10 | Termination by parties 5 |
| 11 | Termination by court order 8 |
| Part 3 | Miscellaneous |
| 12 | Void civil partnerships 9 |
| 13 | Evidence of identity and age 9 |
| 14 | Personal service of termination notices and withdrawal notices 10 |
| 15 | Civil partnerships under corresponding laws 11 |
| 16 | Reviewable decision notices 11 |
| 17 | Application for review 12 |
| 18 | Determination of fees 12 |
| 19 | Approved forms 12 |
| 20 | Regulation-making power 12 |
| Dictionary | 13 |
| Endnotes | |
| 1 | About the endnotes 14 |
| 2 | Abbreviation key 14 |
| 3 | Legislation history 15 |
| 4 | Amendment history 15 |
| 5 | Earlier republications 16 |



Australian Capital Territory

Civil Partnerships Act 2008

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

Part 1 Preliminary

1 Name of Act

This Act is the *Civil Partnerships Act 2008*.

3 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 '*prohibited relationship*—see section 6.' means that the term '*prohibited relationship*' is defined in that section.

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)).

4 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.

Part 2 **Civil partnerships**

Division 2.1 **General**

5 **Civil partnerships—general**

- (1) This Act provides a way for 2 adults who are in a relationship as a couple, regardless of their sex, to have their relationship legally recognised by registration as a civil partnership.
- (2) A civil partnership terminates only as provided by division 2.4.
Note Div 2.4 provides for termination by death, marriage, notice by parties or court order.
- (3) The 2 parties to a civil partnership are taken, for all purposes under territory law, to be in a domestic partnership.

Division 2.2 **Eligibility**

6 **Eligibility criteria**

A person may enter into a civil partnership only if—

- (a) the person is not married 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 2.3 Registration

7 Application for registration

- (1) Two adults who are in a relationship as a couple, regardless of their sex, and who meet the eligibility criteria in section 6, may apply to the registrar-general for registration of their relationship as a civil partnership.

Note If a form is approved under s 19 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 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
 - (b) the evidence required by section 13 of each person's identity and age; and
 - (c) anything else prescribed by regulation.
- (3) The registrar-general may require the applicants to give the registrar-general additional information or documents the registrar-general 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.

8 Decision on application

- (1) On application in accordance with section 7, 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 6.

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

Division 2.4 Termination

9 How civil partnership is terminated

- (1) A civil partnership is terminated on—
 - (a) the death of either party; or
 - (b) the marriage of either party.
- (2) A civil partnership may also be terminated by—
 - (a) a party (or both parties) under section 10; or
 - (b) a court order under section 11.

10 Termination by parties

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

Note 1 A fee may be determined under s 18 for this provision.

Note 2 If a form is approved under s 19 for a notice, the form must be used.

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

Note For provision about service of notices, see s 14.

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

Note 1 If a form is approved under s 19 for a notice, the form must be used.

Note 2 A fee may be determined under s 18 for this provision.

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

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

Note For provision about service of notices, see s 14.

- (5) At the end of 12 months after the day the termination notice is given to the registrar-general in accordance with this section, the civil partnership is terminated unless—
 - (a) the termination notice has been withdrawn under this section; or
 - (b) the Supreme Court makes an order that the termination notice is not effective to terminate the civil partnership; or
 - (c) the operation of the termination notice is stayed under subsection (7); or
 - (d) the civil partnership has already terminated under section 9 (1).
- (6) On application by a party to the civil partnership, the Supreme Court may make an order mentioned in subsection (5) (b) if the court considers that it is not the intention, or is no longer the intention, of the party or parties who gave the termination notice to terminate the civil partnership.
- (7) If an application mentioned in subsection (6) has been made but not decided before the end of 12 months after the day the termination notice is given, the application stays the operation of the termination notice until the application is decided.
- (8) If the Supreme Court makes an order mentioned in subsection (5) (b), the court must give a copy of the order to the registrar-general.

11 Termination by court order

- (1) On application by a party to a civil partnership, the Supreme Court may make an order terminating the civil partnership if the court considers that—
 - (a) the civil partnership cannot be terminated under section 10; 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 no later than 28 days after the day the order is made.

Part 3 Miscellaneous

12 Void civil partnerships

A civil partnership is void if—

- (a) either party did not meet the eligibility criteria in section 6 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 declaration under section 7; or
 - (iii) the party was mentally incapable of understanding the nature and effect of the civil partnership.

13 Evidence of identity and age

- (1) For section 7 (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.

- (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 the person's citizenship certificate issued under the *Australian Citizenship Act 1948* (Cwlth), section 46 (Issue and proof of certificates of Australian citizenship) or a certified copy of the entry in the register about the person under that Act, section 44 (Evidence of entries in registers).

14 Personal service of termination notices and withdrawal notices

- (1) This section applies to a termination notice or withdrawal notice required to be served personally on a party to a civil partnership under section 10 (Termination 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 document 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.
- (3) However, a person may apply to the Supreme Court for an order allowing the notice to be served in another way (the **alternative way**).

- (4) The Supreme Court may make the order if satisfied that—
- (a) it is impracticable, for any reason, for the notice to be served personally as mentioned in subsection (2); and
 - (b) the alternative way is reasonably likely to bring the notice to the attention of the party.
- (5) If the Supreme Court makes the 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.
- (6) The Supreme Court may make an order under subsection (4) even though the party is not in the ACT or Australia.
- (7) For section 10, if a notice is served on a party in accordance with an order under subsection (4), the notice is taken to have been served personally on the party.

15 Civil partnerships under corresponding laws

- (1) A regulation may provide that a relationship under a corresponding law is a civil partnership for the purpose of territory law.
- (2) In this section:

corresponding law means a law of a State or another Territory prescribed by regulation for this definition (whether or not the law corresponds, or substantially corresponds, to this Act).

16 Reviewable decision notices

If the registrar-general makes a decision under section 8 (1) (b), the registrar-general must give a reviewable decision notice to each person affected by the decision.

Note The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

17 Application for review

A person whose interests are affected by a reviewable decision may apply to the ACAT for review of 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.

18 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.

19 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.

20 Regulation-making power

The Executive may make regulations for this Act.

Note A regulation must be notified, and presented to the Legislative Assembly, under the Legislation Act.

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:

- ACAT
- Executive
- Minister (see s 162)
- registrar-general
- reviewable decision notice
- statutory declaration
- under.

prohibited relationship—see section 6.

termination notice means a notice given under section 10 (1).

withdrawal notice means a notice given under section 10 (3).

Endnotes

1 About the endnotes

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 and expiries are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnote.

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

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

3 Legislation history

Civil Partnerships Act 2008 A2008-14

notified LR 15 May 2008

s 1, s 2 commenced 15 May 2008 (LA s 75 (1))

remainder commenced 19 May 2008 (s 2 and CN2008-8)

as amended by

ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 (No 2) A2008-37 sch 1 pt 1.19

notified LR 4 September 2008

s 1, s 2 commenced 4 September 2008 (LA s 75 (1))

sch 1 pt 1.19 commenced 2 February 2009 (s 2 (1) and see ACT Civil and Administrative Tribunal Act 2008 A2008-35, s 2 (1) and CN2009-2)

4 Amendment history

Commencement

s 2 om LA s 89 (4)

Reviewable decision notices

s 16 sub A2008-37 amdt 1.69

Application for review

s 17 sub A2008-37 amdt 1.69

Legislation amended—sch 1

s 21 om LA s 89 (3)

Consequential amendments

sch 1 om LA s 89 (3)

Dictionary

dict am A2008-37 amdt 1.70

Endnotes

5 Earlier republications

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 and date | Effective | Last amendment made by | Republication for |
|--------------------------------------|----------------------------|---------------------------------------|------------------------------|
| R1 19 May 2008 | 19 May 2008– 1 Feb 2009 | not amended | new Act |

© Australian Capital Territory 2009