

2009

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

---

(As presented)

(Mr Shane Rattenbury)

## Civil Partnerships Amendment Bill 2009

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## **Civil Partnerships Amendment Bill 2009**

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### **A Bill for**

An Act to amend the *Civil Partnerships Act 2008*, and for other purposes

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

1 **1 Name of Act**

2 This Act is the *Civil Partnerships Amendment Act 2009*.

3 **2 Commencement**

4 This Act commences on the day after its notification day.

5 *Note* The naming and commencement provisions automatically commence on  
6 the notification day (see Legislation Act, s 75 (1)).

7 **3 Legislation amended**

8 This Act amends the *Civil Partnerships Act 2008*.

9 *Note* This Act also amends the following legislation (see sch 1):

- 10 • *Births, Deaths and Marriages Registration Act 1997*
- 11 • *Births, Deaths and Marriages Registration Regulation 1998*.

12 **4 Civil partnerships—general**  
13 **Section 5 (1)**

14 *substitute*

- 15 (1) A civil partnership is a legally recognised relationship that, subject  
16 to this Act, may be entered into by any 2 adults, regardless of their  
17 sex.

18 **5 Division 2.3 heading**

19 *substitute*

20 **Division 2.3 Entering into civil partnership**

**6 New section 6A**

*in division 2.3, insert*

**6A 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 6, may enter into a civil partnership by—

- (a) having their relationship registered under section 8; or
- (b) making a declaration before a civil partnership notary under section 8B (Declaration of civil partnership).

*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 5A.

**7 Application for registration  
Section 7 (1), except note**

*substitute*

- (1) Two people who wish to enter into a civil partnership as mentioned in section 6A (a) may apply to the registrar-general for registration of their relationship as a civil partnership.

**8 New sections 8A and 8B**

*in division 2.3, insert*

**8A Notice of intention to enter into civil partnership**

- (1) Before 2 people enter into a civil partnership as mentioned in section 6A (b), they must give notice to a civil partnership notary of their intention to enter into a civil partnership.

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

*Note 2* The notice must be given not earlier than 18 months and not later than 5 days before the civil partnership is entered into (see s 8B (2)).

- 1           (2) The notice must be accompanied by—
- 2               (a) a statutory declaration made by each person stating—
- 3                     (i) that the person wishes to enter into a civil partnership
- 4                     with the other person; and
- 5                     (ii) that the person is not married or in a civil partnership;
- 6                     and
- 7                     (iii) that the person believes the person and the other person
- 8                     do not have a prohibited relationship; and
- 9                     (iv) where the person lives; and
- 10               (b) the evidence required by section 13 of each person’s identity
- 11               and age; and
- 12               (c) anything else prescribed by regulation.
- 13           (3) As soon as practicable after receiving the notice and statutory
- 14           declarations, the civil partnership notary must give each person a
- 15           written notice setting out the legal effect of a civil partnership.

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

17           **8B           Declaration of civil partnership**

- 18           (1) Two people who have given notice to a civil partnership notary in
- 19           accordance with section 8A may enter into a civil partnership by
- 20           making a declaration before the civil partnership notary and at least
- 21           1 other witness.
- 22           (2) The declaration must be made not earlier than 5 days, and not later
- 23           than 18 months, after the day the notice was given to the civil
- 24           partnership notary.
- 25           (3) The declaration must be made by each person to the other and must
- 26           contain a clear statement that—
- 27               (a) names both parties; and

1 (b) acknowledges that they are freely entering into a civil  
2 partnership with each other.

3 **9 New parts 2A and 2B**

4 *insert*

5 **Part 2A Civil partnership notaries**

6 **11A Registration of civil partnership notaries**

7 (1) A person may apply, in writing, to the registrar-general to be  
8 registered as a civil partnership notary.

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

10 *Note 2* If a form is approved under s 19 for this provision, the form must be  
11 used.

12 (2) On application by a person under subsection (1), the  
13 registrar-general may register the applicant if satisfied that the  
14 applicant—

15 (a) is an individual aged 18 years or older; and

16 (b) has the knowledge and the skills or experience necessary to  
17 exercise the functions of a civil partnership notary under this  
18 Act; and

19 (c) is a suitable person to be registered as a civil partnership  
20 notary.

21 (3) If the registrar-general is not satisfied under subsection (2), the  
22 registrar-general must refuse to register the applicant.

- 1           (4) In deciding whether a person is a suitable person to be registered as  
2           a civil partnership notary, the registrar-general must have regard to  
3           the following:
- 4           (a) whether the person has been convicted, or found guilty, in  
5           Australia of an offence punishable by imprisonment for 1 year  
6           or longer;
- 7           (b) whether the person has been convicted, or found guilty, outside  
8           Australia of an offence that, if it had been committed in the  
9           ACT, would have been punishable by imprisonment for 1 year  
10          or longer;
- 11          (c) whether the person has been convicted, or found guilty, of an  
12          offence against, or has otherwise contravened, this Act;
- 13          (d) whether the person is or has been an undischarged bankrupt,  
14          has executed a personal insolvency agreement or has otherwise  
15          applied to take the benefit of any law for the relief of bankrupt  
16          or insolvent debtors;
- 17          (e) whether the person has a physical or mental incapacity that  
18          may affect the exercise of the person's functions as a civil  
19          partnership notary.
- 20          (5) In deciding whether a person is a suitable person to be a civil  
21          partnership notary, the registrar-general may have regard to  
22          anything else the registrar-general considers relevant.

23       **11B       Register of civil partnership notaries**

- 24          (1) The registrar-general must keep a register of people registered as  
25          civil partnership notaries under this Act.
- 26          (2) The register may be kept in any form, including electronically, that  
27          the registrar-general decides.





1    **11E       Reviewable decision notices**

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

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

9           *Note 2*   The requirements for reviewable decision notices are prescribed under  
10          the *ACT Civil and Administrative Tribunal Act 2008*.

11   **11F       Applications for review**

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

14          (a) an entity mentioned in schedule 1, column 4 in relation to the  
15          decision;

16          (b) any other person whose interests are affected by the decision.

17          *Note*     If a form is approved under the *ACT Civil and Administrative Tribunal*  
18          *Act 2008* for the application, the form must be used.

19   **10       New section 12A**

20          *insert*

21   **12A       Noncompliance with certain requirements**

22          (1) A civil partnership is not invalid only because a requirement about  
23          the form of the notice given under section 8A (Notice of intention to  
24          enter into civil partnership) was not complied with.

- 1 (2) A civil partnership is not invalid only because the person to whom  
2 the parties gave notice under section 8A, or before whom the parties  
3 made the declaration under section 8B (Declaration of civil  
4 partnership), was not a civil partnership notary if either party  
5 believed, when giving the notice or making the declaration, that the  
6 person was a civil partnership notary.

7 **11 Civil partnerships under corresponding laws**  
8 **Section 15 (2), definition of *corresponding law***

9 *omit*

10 or another Territory

11 *substitute*

12 , another Territory or another country

13 **12 New section 15A**

14 *insert*

15 **15A Offences**

- 16 (1) A civil partnership notary commits an offence if—
- 17 (a) the notary allows a civil partnership, or purported civil  
18 partnership, to be entered into before the notary; and
- 19 (b) the notice required under section 8A (Notice of intention to  
20 enter into civil partnership) (including the statutory declaration  
21 and anything else required under that section) for the civil  
22 partnership—
- 23 (i) has not been given to the notary; or
- 24 (ii) was not given to the notary within the period allowed by  
25 section 8B (2).

26 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
27 both.

- 1 (2) A civil partnership notary commits an offence if—  
2 (a) the notary allows a civil partnership, or purported civil  
3 partnership, to be entered into before the notary; and  
4 (b) the notary has reasonable grounds to believe that the civil  
5 partnership would be void under section 12 (Void civil  
6 partnerships).

7 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
8 both.

- 9 (3) A person commits an offence if—  
10 (a) the person makes a declaration mentioned in section 8B  
11 (Declaration of civil partnership) with the intention of entering  
12 into a civil partnership with someone else (the person's  
13 *partner*); and  
14 (b) the declaration is made before a person (the *third person*) who  
15 is not a civil partnership notary; and  
16 (c) the person knows the third person is not a civil partnership  
17 notary; and  
18 (d) the person has reasonable grounds to believe that their partner  
19 believes that the third person is a civil partnership notary.

20 Maximum penalty: 50 penalty units, imprisonment for 6 months or  
21 both.

- 22 *Note* The Criminal Code includes offences for—  
23 • giving false or misleading information etc to a person exercising a  
24 function under a territory law (see pt 3.4 (False or misleading  
25 statements, information and documents)); and  
26 • making false statements in statutory declarations (see s 336A); and  
27 • impersonating territory public officials (see s 360).

28 **13 Sections 16 and 17**

29 *omit*

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1 **14 New schedule 1**

2 *insert*

3 **Schedule 1 Reviewable decisions**

4 (see pt 2B)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	8 (1) (b)	refuse to register a relationship as a civil partnership	parties to the relationship
2	11A (3)	refuse to register a person as a civil partnership notary	applicant for registration
3	11C	cancel a person's registration as a civil partnership notary	person whose registration is cancelled

5 **15 Dictionary, new definitions**

6 *insert*

7 *civil partnership notary* means—

8 (a) the registrar-general; or

9 (b) a person who is registered under this Act as a civil partnership  
10 notary.

11 *reviewable decision*, for part 2B (Notification and review of  
12 decisions)—see section 11D.

1 **Schedule 1 Consequential amendments**

2 (see s 3)

3 **Part 1.1 Births, Deaths and Marriages**  
4 **Registration Act 1997**

5 **[1.1] Section 32A**

6 *substitute*

7 **32A Registration of civil partnership**

8 (1) This section applies if—

9 (a) the registrar-general registers a relationship as a civil  
10 partnership under the *Civil Partnerships Act 2008*, section 8  
11 (Decision on application); or

12 (b) a civil partnership is entered into in the ACT under the *Civil*  
13 *Partnerships Act 2008*, section 8B (Declaration of civil  
14 partnership).

15 (2) The civil partnership must be registered under this Act.

16 **32AA How civil partnerships are registered**

17 (1) Subsection (2) applies if—

18 (a) the registrar-general registers a relationship as a civil  
19 partnership under the *Civil Partnerships Act 2008*, section 8  
20 (Decision on application); or

21 (b) a civil partnership is entered into before the registrar-general  
22 under the *Civil Partnerships Act 2008*, section 8B (Declaration  
23 of civil partnership).

- 1 (2) The registrar-general must register the civil partnership by including  
2 in the register the particulars of the civil partnership prescribed by  
3 regulation.
- 4 (3) If a civil partnership is entered into before another civil partnership  
5 notary under the *Civil Partnerships Act 2008*, section 8B, the notary  
6 must give the following to the registrar-general not later than  
7 2 weeks after the day the civil partnership is entered into:
- 8 (a) written notice of the civil partnership;
- 9 (b) the notice given to the notary under the *Civil Partnerships*  
10 *Act 2008*, section 8A (Notice of intention to enter into civil  
11 partnership) for the civil partnership.
- 12 Maximum penalty: 5 penalty units.
- 13 *Note* If a form is approved under s 69 for this provision, the form must be  
14 used.
- 15 (4) If a notice is given to the registrar-general under subsection (3), the  
16 registrar-general must register the civil partnership by including in  
17 the register the particulars of the civil partnership prescribed by  
18 regulation.
- 19 (5) An offence against this section is a strict liability offence.
- 20 (6) In this section:
- 21 *civil partnership notary*—see the *Civil Partnerships Act 2008*,  
22 dictionary.

1 **Part 1.2 Births, Deaths and Marriages**  
2 **Registration Regulation 1998**

3 **[1.2] Section 8A (1)**

4 *omit*

5 section 32A

6 *insert*

7 section 32AA (2) and (4)

8 **[1.3] Section 8A (1) (a)**

9 *substitute*

10 (a) the date and place of the entry into the civil partnership;

11 **[1.4] New section 8A (1) (c)**

12 *insert*

13 (c) if the partnership was entered into under the *Civil Partnerships*  
14 *Act 2008*, section 8B—the full name of at least 1 witness to the  
15 civil partnership.

16 **[1.5] New section 8A (1A)**

17 *insert*

18 (1A) For the Act, section 32AA (4), the following particulars are also  
19 prescribed:

20 (a) the civil partnership notary's full name;

21 (b) details of the notary's registration as a civil partnership notary  
22 under the *Civil Partnerships Act 2008*, part 2A (Civil  
23 partnership notaries).



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## Endnotes

**1 Presentation speech**

Presentation speech made in the Legislative Assembly on 2009.

**2 Notification**

Notified under the Legislation Act on 2009.

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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