

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Civil Unions Bill 2011

Contents

	Page
Part 1	Preliminary
1	Name of Act 2
2	Commencement 2
3	Dictionary 2
4	Notes 2
5	Offences against Act—application of Criminal Code etc 3
Part 2	Civil unions
Division 2.1	General
6	Civil unions—general 4
Division 2.2	Eligibility for entering into civil union
7	Eligibility criteria 4

J2011-924

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

	Page	
Division 2.3	Entering into civil union	
8	Notice of intention to enter into civil union	5
9	How civil union is entered into	6
10	When civil union has effect	7
Division 2.4	Ending civil union	
11	How civil union ends	7
12	Ending civil union by parties	8
13	Order that termination notice not effective	10
14	Ending civil union by court order	10
Part 3	Civil union celebrants	
15	Registration of civil union celebrants	11
16	Register of civil union celebrants	12
17	Cancellation of registration	13
Part 4	Notification and review of decisions	
18	Meaning of <i>reviewable decision</i> —pt 4	14
19	Reviewable decision notices	14
20	Applications for review	14
Part 5	Miscellaneous	
21	Void civil unions	15
22	Noncompliance with certain requirements	15
23	Evidence of identity and age	15
24	Personal service of termination and withdrawal notices	16
25	If personal service impracticable or impossible	17
26	Offences	18
27	Determination of fees	19
28	Approved forms	20
29	Regulation-making power	20
30	Domestic Relationships Regulation 2011—sch 2	20
31	Legislation amended—sch 3	21
32	Legislation repealed	21

		Page
Part 6	Transitional	
100	Definitions—pt 6	22
101	Existing civil partnerships	22
102	Application for registration of civil partnership not decided before commencement day	22
103	Declaration of civil partnership not made before commencement day	23
104	Declared civil partnership not registered before commencement day	23
105	Application for termination of civil partnership not decided before commencement day	24
106	Applications made but not decided before commencement day	24
107	Existing civil partnership notaries	25
108	Transitional regulations	25
109	Expiry—pt 6	25
Schedule 1	Reviewable decisions	26
Schedule 2	New Domestic Relationships Regulation 2011	27
Schedule 3	Consequential amendments	29
Part 3.1	Administration and Probate Act 1929	29
Part 3.2	Adoption Act 1993	31
Part 3.3	Adoption Regulation 1993	31
Part 3.4	Births, Deaths and Marriages Registration Act 1997	32
Part 3.5	Births, Deaths and Marriages Registration Regulation 1998	36
Part 3.6	Civil Law (Wrongs) Act 2002	40
Part 3.7	Corrections Management Act 2007	40
Part 3.8	Crimes Act 1900	41
Part 3.9	Discrimination Act 1991	41

Contents

	Page
Part 3.10	Domestic Relationships Act 1994 42
Part 3.11	Domestic Violence and Protection Orders Act 2008 56
Part 3.12	Duties Act 1999 57
Part 3.13	Evidence (Miscellaneous Provisions) Act 1991 58
Part 3.14	Family Provision Act 1969 59
Part 3.15	First Home Owner Grant Act 2000 60
Part 3.16	Guardianship and Management of Property Act 1991 60
Part 3.17	Instruments Act 1933 61
Part 3.18	Land Titles Act 1925 61
Part 3.19	Legislation Act 2001 62
Part 3.20	Married Persons Property Act 1986 63
Part 3.21	Parentage Act 2004 67
Part 3.22	Powers of Attorney Act 2006 68
Part 3.23	Rates Act 2004 70
Part 3.24	Sale of Motor Vehicles Act 1977 70
Part 3.25	Testamentary Guardianship Act 1984 71
Part 3.26	Wills Act 1968 71
Part 3.27	Witness Protection Act 1996 76
Dictionary	77

2011

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Civil Unions Bill 2011

A Bill for

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

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

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Civil Unions Act 2011*.

4 **2 Commencement**

5 This Act commences on the 7th day after its notification day.

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

8 **3 Dictionary**

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

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

13 For example, the signpost definition '*daily care responsibility*—see the
14 *Children and Young People Act 2008*, section 19 (1).' means that the
15 term 'daily care responsibility' is defined in that section and the
16 definition applies to this Act.

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

21 **4 Notes**

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

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

1 **5 Offences against Act—application of Criminal Code etc**

2 Other legislation applies in relation to offences against this Act.

3 *Note 1 Criminal Code*

4 The Criminal Code, ch 2 applies to all offences against this Act (see
5 Code, pt 2.1).

6 The chapter sets out the general principles of criminal responsibility
7 (including burdens of proof and general defences), and defines terms
8 used for offences to which the Code applies (eg *conduct*, *intention*,
9 *recklessness* and *strict liability*).

10 *Note 2 Penalty units*

11 The Legislation Act, s 133 deals with the meaning of offence penalties
12 that are expressed in penalty units.

1 **Part 2 Civil unions**

2 **Division 2.1 General**

3 **6 Civil unions—general**

4 (1) A civil union is a legally recognised relationship entered into under
5 this Act.

6 (2) A civil union is different to a marriage but is to be treated for all
7 purposes under territory law in the same way as a marriage.

8 *Note 1* **Marriage** is defined in the *Marriage Act 1961* (Cwlth), s 5 to mean the
9 union of a man and a woman to the exclusion of all others, voluntarily
10 entered into for life.

11 *Note 2* **Territory law** includes the common law (see *Legislation Act*, dict pt 1,
12 def *law*).

13 **Division 2.2 Eligibility for entering into civil union**

14 **7 Eligibility criteria**

15 A person may enter into a civil union only if—

16 (a) the person is an adult; and

17 (b) the person is not—

18 (i) married; or

19 (ii) in a civil union; or

20 (iii) in a civil partnership with someone other than the
21 person's proposed civil union partner; and

22 *Note* A civil partnership ends if the parties to the civil
23 partnership enter into a civil union with each other (see
24 *Domestic Relationships Act 1994*, s 37H (1) (c)).

- 1 (c) the person cannot marry the person's proposed civil union
2 partner under the *Marriage Act 1961* (Cwlth); and
- 3 (d) the person does not have any of the following relationships
4 (a *prohibited relationship*) with the person's proposed civil
5 union partner:
- 6 (i) lineal ancestor;
- 7 (ii) lineal descendent;
- 8 (iii) sister;
- 9 (iv) half-sister;
- 10 (v) brother;
- 11 (vi) half-brother; and
- 12 (e) the person, or the person's proposed civil union partner, or
13 both of them, live in the ACT.

14 **Division 2.3 Entering into civil union**

15 **8 Notice of intention to enter into civil union**

- 16 (1) Before 2 people enter into a civil union, they must give notice to a
17 civil union celebrant of their intention to enter into the civil union.

18 *Note 1* If a form is approved under s 28 for a notice, the form must be used.

19 *Note 2* The notice must be given not earlier than 18 months and not later than
20 1 month before the civil union is entered into (see s 9 (3)).

- 21 (2) The notice must be accompanied by—
- 22 (a) a statutory declaration made by each person stating—
- 23 (i) that the person wishes to enter into a civil union with the
24 other person; and

- 1 (ii) that the person is not—
2 (A) married; or
3 (B) in a civil union; or
4 (C) in a civil partnership with someone other than the
5 other person; and
6 (iii) that the person believes the person and the other person
7 do not have a prohibited relationship; and
8 (iv) where the person lives; and
9 *Note 1* The *Statutory Declarations Act 1959* (Cwlth) applies to the
10 making of statutory declarations under ACT laws.
11 *Note 2* The Criminal Code includes an offence for making false
12 statements in statutory declarations (see s 336A).
13 (b) the evidence required under section 23 of each person's
14 identity and age; and
15 (c) anything else prescribed by regulation.
16 (3) As soon as practicable after receiving the notice and statutory
17 declarations, the civil union celebrant must give each person a
18 written notice setting out the nature and effect of a civil union.
19 *Note* If a form is approved under s 28 for a notice, the form must be used.

20 **9 How civil union is entered into**

- 21 (1) This section applies if 2 people have, under section 8, given notice
22 to a civil union celebrant of their intention to enter into a civil union
23 with each other.
24 (2) The people may enter into the civil union by making a declaration
25 before the civil union celebrant and at least 1 other witness.
26 (3) The declaration must be made not earlier than 1 month, and not later
27 than 18 months, after the day the notice was given to the civil union
28 celebrant.

1 (4) The declaration must be made by each person to the other and must
2 contain a clear statement that—

3 (a) names both parties; and

4 (b) acknowledges that they are freely entering into a civil union
5 with each other.

6 *Note 1* For registration requirements see the *Births, Deaths and Marriages*
7 *Registration Act 1997*, pt 5A (Civil unions).

8 *Note 2* The *Discrimination Act 1991*, provides for exceptions from pt 3
9 (Unlawful discrimination) for religious bodies doing (or failing or
10 refusing to do) certain acts (see that Act, s 4A and s 32).

11 **10 When civil union has effect**

12 A civil union entered into under this part has effect when the parties
13 to the civil union make a declaration under section 9.

14 **Division 2.4 Ending civil union**

15 **11 How civil union ends**

16 (1) A civil union ends on—

17 (a) the death of either party; or

18 (b) the marriage of either party.

19 (2) A civil union also ends if it is ended by—

20 (a) a party (or both parties) under section 12; or

21 (b) a court order under section 14.

1 **12 Ending civil union by parties**

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

6 *Note 1* If a form is approved under s 28 for a notice, the form must be used.

7 *Note 2* A fee may be determined under s 27 for this provision.

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

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

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

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

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

18 *Note 1* For provision about service of notices, see s 24 and s 25.

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

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

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

27 *Note 1* If a form is approved under s 28 for a notice, the form must be used.

28 *Note 2* A fee may be determined under s 27 for this provision.

- 1 (4) However, if a withdrawal notice is given by only 1 party, the notice
2 is effective only if—
- 3 (a) a copy of the notice has been served personally on the other
4 party; and
- 5 (b) a statutory declaration is given to the registrar-general with the
6 notice that—
- 7 (i) is made by the person who served the notice; and
- 8 (ii) states that the notice was served personally by the person
9 on the other party on the date stated in the statutory
10 declaration.
- 11 *Note 1* For provision about service of notices, see s 24 and s 25.
- 12 *Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
13 statutory declarations under ACT laws.
- 14 *Note 3* The Criminal Code includes an offence for making false statements in
15 statutory declarations (see s 336A).
- 16 (5) A civil union ends 12 months after the day the termination notice is
17 given to the registrar-general in accordance with this section,
18 unless—
- 19 (a) the notice has been withdrawn under this section; or
- 20 (b) the Supreme Court makes an order under section 13 (2); or
- 21 (c) the operation of the notice is stayed under section 13 (3); or
- 22 (d) the civil union has already ended under section 11 (1).

1 **13 Order that termination notice not effective**

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

14 **14 Ending civil union by court order**

- 15 (1) On application by a party to a civil union, the Supreme Court may
16 make an order ending the civil union if the court considers that—
- 17 (a) the civil union cannot be ended under section 12; but
- 18 (b) it is not the intention, or is not longer the intention, of both
19 parties to be in the civil union.
- 20 (2) If the Supreme Court makes an order under subsection (1), the court
21 must give a copy of the order to the registrar-general not later than
22 28 days after the day the order is made.

1 Part 3 Civil union celebrants

2 15 Registration of civil union celebrants

- 3 (1) A person may apply, in writing, to the registrar-general to be
4 registered as a civil union celebrant.

5 *Note 1* If a form is approved under s 28 for this provision, the form must be
6 used.

7 *Note 2* A fee may be determined under s 27 for this provision.

- 8 (2) On application by a person under subsection (1), the
9 registrar-general may register the applicant as a civil union
10 celebrant.

- 11 (3) However, the registrar-general must only register a person as a civil
12 union celebrant if satisfied that the applicant—

13 (a) is an adult; and

14 (b) has the knowledge and the skills or experience necessary to
15 exercise the functions of a civil union celebrant under this Act;
16 and

17 (c) is a suitable person to be registered as a civil union celebrant.

- 18 (4) In deciding whether a person is a suitable person to be registered as
19 a civil union celebrant, the registrar-general must take into account
20 the following:

21 (a) whether the person has been convicted, or found guilty, in
22 Australia of an offence punishable by imprisonment for 1 year
23 or longer;

24 (b) whether the person has been convicted, or found guilty, outside
25 Australia of an offence that, if it had been committed in the
26 ACT, would have been punishable by imprisonment for 1 year
27 or longer;

- 1 (c) whether the person has been convicted, or found guilty, of an
2 offence against, or otherwise contravened, this Act or the
3 *Births, Deaths and Marriages Registration Act 1997*, part 5A
4 (Civil unions);
- 5 (d) whether the person is or has been bankrupt or personally
6 insolvent;
- 7 (e) whether the person has a physical or mental incapacity that
8 may affect the exercise of the person's functions as a civil
9 union celebrant.
- 10 (5) In deciding whether a person is a suitable person to be registered as
11 a civil union celebrant, the registrar-general may take into account
12 anything else the registrar-general considers relevant.

13 **16 Register of civil union celebrants**

- 14 (1) The registrar-general must keep a register of people registered as
15 civil union celebrants under this Act.
- 16 (2) The register may be kept in any form, including electronically, that
17 the registrar-general decides.
- 18 (3) The register must include the following information for each person
19 registered as a civil union celebrant:
- 20 (a) the person's full name;
- 21 (b) the person's address and contact details;
- 22 (c) the date the person was registered;
- 23 (d) if the person's registration is cancelled or the person otherwise
24 stops being registered—the date the registration stops.
- 25 (4) The register may also include any other information the
26 registrar-general considers appropriate.
- 27 (5) The register must be available for public inspection at reasonable
28 times.

- 1 (6) However, a person's address and contact details and any other
2 information included in the register about the person under
3 subsection (4) must only be available for public inspection if the
4 person consents.

5 **17 Cancellation of registration**

6 The registrar-general may cancel a person's registration as a civil
7 union celebrant if the registrar-general is satisfied that the person
8 does not meet, or no longer meets, the registration criteria under
9 section 15 (3).

1 **Part 4** **Notification and review of**
2 **decisions**

3 **18** **Meaning of *reviewable decision*—pt 4**

4 In this part:

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

8 **19** **Reviewable decision notices**

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

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

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

18 **20** **Applications for review**

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

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

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

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

1 **Part 5** **Miscellaneous**

2 **21** **Void civil unions**

3 A civil union is void if—

- 4 (a) either party did not meet the eligibility criteria under section 7
5 when the declaration for the civil union was made under
6 section 9; or
- 7 (b) either party did not freely enter into the civil union because—
- 8 (i) the party's agreement to enter into the civil union was
9 obtained by duress or fraud; or
- 10 (ii) the party was mistaken about the identity of the other
11 party or the nature of the declaration under section 9; or
- 12 (iii) the party was mentally incapable of understanding the
13 nature and effect of the civil union.

14 **22** **Noncompliance with certain requirements**

- 15 (1) A civil union is not invalid only because a requirement of section 8
16 (Notice of intention to enter into civil union) was not complied with.
- 17 (2) A civil union is not invalid only because the person to whom the
18 parties gave notice under section 8, or before whom the parties
19 made the declaration under section 9, was not a civil union celebrant
20 if either party believed, when giving the notice or making the
21 declaration, that the person was a civil union celebrant.

22 **23** **Evidence of identity and age**

- 23 (1) For section 8 (2) (b) (Notice of intention to enter into civil union),
24 the evidence of identity and age required for each person is—
- 25 (a) the person's birth certificate; or
- 26 (b) the person's citizenship certificate; or

- 1 (c) the person's current passport; or
2 (d) a statutory declaration made by the person stating—
3 (i) that it is impracticable to obtain a document mentioned in
4 paragraph (a), (b) or (c); and
5 (ii) to the best of the person's knowledge and belief, and as
6 accurately as the person has been able to find out, when
7 and where the person was born.

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

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

12 (2) In this section:

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

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

21 **24 Personal service of termination and withdrawal notices**

22 (1) This section applies if a termination notice or withdrawal notice
23 must be served personally on a party to a civil union under
24 section 12 (Ending civil union by parties).

25 (2) To serve the notice personally on the party, the person serving the
26 notice must—

- 27 (a) give the party a copy of the notice; or

- 1 (b) if the party does not accept the copy—put the copy down in the
2 party’s presence and tell the party in general terms what it is;
3 or
4 (c) if the person serving the notice is prevented from approaching
5 the party by violence or threat of violence—put the copy down
6 as near as practicable to, but in the sight of, the party.

7 **25 If personal service impracticable or impossible**

- 8 (1) This section applies if—
9 (a) a termination notice or withdrawal notice must be served
10 personally on a party to a civil union under section 12; and
11 (b) personal service of the notice is not practicable.
12 (2) The person serving the notice may apply to the Supreme Court for
13 an order allowing the notice to be served in another way (the
14 *alternative way*).
15 (3) The Supreme Court may make an order if satisfied that—
16 (a) it is not practicable, for any reason, for the notice to be served
17 personally under section 24; and
18 (b) the alternative way is reasonably likely to bring the notice to
19 the attention of the party.
20 (4) If the Supreme Court makes an order, the court may, in the order,
21 provide that the notice is taken to have been served on the
22 happening of a stated event, at a stated time or at the end of a stated
23 period.
24 (5) The Supreme Court may make an order under subsection (3) even
25 though the party is not in the ACT or Australia.
26 (6) For section 12, if a notice is served on a party in accordance with an
27 order under subsection (3), the notice is taken to have been served
28 personally on the party.

1 **26 Offences**

- 2 (1) A civil union celebrant commits an offence if—
- 3 (a) the celebrant allows a civil union, or purported civil union, to
4 be entered into before the celebrant; and
- 5 (b) the notice required under section 8 (including the statutory
6 declaration and anything else required under that section) for
7 the civil union—
- 8 (i) has not been given to the celebrant; or
- 9 (ii) was not given to the celebrant within the period allowed
10 by section 9 (3).

11 Maximum penalty: 50 penalty units, imprisonment for 6 months or
12 both.

- 13 (2) A civil union celebrant commits an offence if the celebrant—
- 14 (a) allows a civil union, or purported civil union, to be entered into
15 before the celebrant; and
- 16 (b) has reasonable grounds to believe that the civil union would be
17 void under section 21.

18 Maximum penalty: 50 penalty units, imprisonment for 6 months or
19 both.

- 20 (3) A person commits an offence if the person—
- 21 (a) is not registered as a civil union celebrant; and
- 22 (b) knows he or she is not registered as a civil union celebrant; and
- 23 (c) performs a function of a civil union celebrant under this Act.

24 Maximum penalty: 50 penalty units, imprisonment for 6 months or
25 both.

- 1 (4) A person commits an offence if—
- 2 (a) the person makes a declaration mentioned in section 9 with the
- 3 intention of entering into a civil union with someone else (the
- 4 person's *partner*); and
- 5 (b) the declaration is made before a person (the *celebrant*) who is
- 6 not a civil union celebrant; and
- 7 (c) the person knows the celebrant is not a civil union celebrant;
- 8 and
- 9 (d) the person has reasonable grounds to believe that the person's
- 10 partner believes that the celebrant is a civil union celebrant.

11 Maximum penalty: 50 penalty units, imprisonment for 6 months or

12 both.

Note The Criminal Code includes offences for—

- 13 • giving false or misleading information etc to a person exercising a
- 14 function under a territory law (see pt 3.4 (False or misleading
- 15 statements, information and documents); and
- 16 • making false statements in statutory declarations (see s 336A).

17 **27 Determination of fees**

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

19 *Note* The Legislation Act contains provisions about the making of

20 determinations and regulations relating to fees (see pt 6.3).

- 21 (2) A determination is a disallowable instrument.

22 *Note* A disallowable instrument must be notified, and presented to the

23 Legislative Assembly, under the Legislation Act.

1 **28 Approved forms**

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

5 *Note* For other provisions about forms, see the Legislation Act, s 255.

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

7 *Note* A notifiable instrument must be notified under the Legislation Act.

8 **29 Regulation-making power**

9 The Executive may make regulations for this Act.

10 *Note* A regulation must be notified, and presented to the Legislative

11 Assembly, under the Legislation Act.

12 **30 Domestic Relationships Regulation 2011—sch 2**

- 13 (1) The provisions set out in schedule 2 are taken, on the
- 14 commencement of this section, to be a regulation made under the
- 15 *Domestic Relationships Act 1994*, section 41 (Regulation-making
- 16 power).

- 17 (2) To remove any doubt and without limiting subsection (1), the
- 18 provisions set out in schedule 2 may be amended or repealed as if
- 19 they had been made as a regulation by the Executive under the
- 20 *Domestic Relationships Act 1994*, section 41.

- 21 (3) To remove any doubt, the regulation mentioned in subsection (1) is
- 22 taken—

23 (a) to have been notified under the Legislation Act on the day this

24 Act is notified; and

25 (b) to have commenced on the commencement of this Act; and

26 (c) not to be required to be presented to the Legislative Assembly

27 under the Legislation Act, section 64 (1).

1 (4) This section expires on the day it commences.

2 *Note* A transitional provision is repealed on its expiry but continues to have
3 effect after its repeal (see Legislation Act, s 88).

4 **31 Legislation amended—sch 3**

5 This Act amends the legislation mentioned in schedule 3.

6 **32 Legislation repealed**

7 (1) The following legislation is repealed:

- 8 • *Civil Partnerships Act 2008* (A2008-14);
9 • *Civil Partnerships Regulation 2010* (SL2010-23).

10 (2) All other legislative instruments under the *Civil Partnerships*
11 *Act 2008* are repealed.

1 **Part 6 Transitional**

2 **100 Definitions—pt 6**

3 In this part:

4 *commencement day* means the day this Act commences.

5 *repealed Act* means the *Civil Partnerships Act 2008*.

6 **101 Existing civil partnerships**

7 (1) This section applies to a civil partnership that—

8 (a) was entered into before the commencement day; and

9 (b) immediately before the commencement day, had not
10 terminated.

11 (2) The civil partnership is taken to be a civil partnership under the
12 *Domestic Relationships Act 1994*.

13 **102 Application for registration of civil partnership not
14 decided before commencement day**

15 (1) This section applies if—

16 (a) before the commencement day, an application under the
17 repealed Act, section 7 (Application for registration) was
18 made; and

19 (b) immediately before the commencement day, the application
20 had not been decided under the repealed Act, section 8
21 (Decision on application).

22 (2) The application is taken to be an application under the *Domestic
23 Relationships Act 1994*, section 37E.

- 1 **103** **Declaration of civil partnership not made before**
2 **commencement day**
- 3 (1) This section applies if—
- 4 (a) before the commencement day, a notice of intention to enter
5 into a civil partnership was given to a civil partnership notary
6 under the repealed Act, section 8A (Notice of intention to enter
7 into civil partnership); and
- 8 (b) immediately before the commencement day, the parties to the
9 proposed civil partnership had not made a declaration of civil
10 partnership under the repealed Act, section 8B (Declaration of
11 civil partnership).
- 12 (2) The repealed Act, section 8B continues to apply for making the
13 declaration of civil partnership.
- 14 **104** **Declared civil partnership not registered before**
15 **commencement day**
- 16 (1) This section applies if—
- 17 (a) before the commencement day, 2 people made a declaration of
18 a civil partnership under the repealed Act, section 8B; and
- 19 (b) immediately before the commencement day, the
20 registrar-general had not registered the relationship under the
21 repealed Act, section 8BA.
- 22 (2) The repealed Act, section 8BA continues to apply for registering the
23 application.

- 1 **105 Application for termination of civil partnership not**
2 **decided before commencement day**
- 3 (1) This section applies if—
- 4 (a) before the commencement day, a termination notice was given
5 to the registrar-general under the repealed Act, section 10
6 (Termination by parties); and
- 7 (b) none of the events mentioned in the repealed Act,
8 section 10 (5) (a) to (d) have happened; and
- 9 (c) immediately before the commencement day, the civil
10 partnership had not terminated.
- 11 (2) The termination notice is taken to be a termination notice under the
12 *Domestic Relationships Act 1994*, section 37I.
- 13 **106 Applications made but not decided before**
14 **commencement day**
- 15 (1) This section applies if—
- 16 (a) before the commencement day, a party to a civil partnership
17 applied to—
- 18 (i) the Supreme Court to make an order that a termination
19 notice is not effective under the repealed Act,
20 section 10 (6); or
- 21 (ii) the Supreme Court to terminate a civil partnership under
22 the repealed Act, section 11; or
- 23 (iii) the ACAT for review of a reviewable decision under the
24 repealed Act; and
- 25 (b) immediately before the commencement day, the application
26 had not been decided.
- 27 (2) The repealed Act continues to apply for deciding the application.

1 **107 Existing civil partnership notaries**

2 (1) This section applies to a person who was registered as a civil
3 partnership notary under the repealed Act, section 11A immediately
4 before the commencement day.

5 (2) The civil partnership notary is taken to be registered as a civil union
6 celebrant under this Act, section 15.

7 **108 Transitional regulations**

8 (1) A regulation may prescribe transitional matters necessary or
9 convenient to be prescribed because of the enactment of this Act.

10 (2) A regulation may modify this part (including in relation to another
11 territory law) to make provision in relation to anything that, in the
12 Executive's opinion, is not, or is not adequately or appropriately,
13 dealt with in this part.

14 (3) A regulation under subsection (2) has effect despite anything else in
15 this Act or another territory law.

16 **109 Expiry—pt 6**

17 This part expires 1 year after the commencement day.

18 *Note* Transitional provisions are kept in the Act for a limited time.
19 A transitional provision is repealed on its expiry but continues to have
20 effect after its repeal (see Legislation Act, s 88).

1 **Schedule 1 Reviewable decisions**

2 (see pt 4)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	15	refuse to register person as civil union celebrant	applicant for registration
2	17	cancel a person's registration as civil union celebrant	person whose registration is cancelled

1 **1 Name of regulation**

2 This regulation is the *Domestic Relationships Regulation 2011*.

3 **2 Corresponding laws—Act, s 37P, def *corresponding law***

4 Each of the following is a corresponding law:

5 (a) the *Relationships Register Act 2010* (NSW);

6 (b) the *Relationships Act 2003* (Tas);

7 (c) the *Relationships Act 2008* (Vic).

8 **3 Civil partnerships under corresponding laws—Act, s 37P**

9 A relationship is a civil partnership for territory law if it is:

10 (a) a registered relationship under the *Relationships Register*
11 *Act 2010* (NSW); or

12 (b) a significant relationship registered by a deed of relationship
13 under the *Relationships Act 2003* (Tas), section 13 (3) (a); or

14 (c) a registered domestic relationship under the *Relationships*
15 *Act 2008* (Vic).

1 **Schedule 3** **Consequential amendments**

2 (see s 31)

3 **Part 3.1** **Administration and Probate Act**
4 **1929**

5 **[3.1]** **Section 44, definition of *eligible partner***

6 *after*

7 spouse

8 *insert*

9 , civil union partner

10 **[3.2]** **Section 44, definition of *partner*, paragraph (a)**

11 *after*

12 spouse

13 *insert*

14 , civil union partner

15 **[3.3]** **Section 45A**

16 *after*

17 spouse

18 *insert*

19 , civil union partner

1 **[3.4] Section 46 (1)**

2 *after*
3 married
4 *insert*
5 or in a civil union

6 **[3.5] Section 46 (1)**

7 *after*
8 marrying
9 *insert*
10 or entering into a civil union

11 **[3.6] Section 46 (2) and (3)**

12 *after*
13 married
14 *insert*
15 or entered into a civil union

16 **[3.7] Section 49BA (4) (c) (i)**

17 *after*
18 spouse
19 *insert*
20 , civil union partner

21 **[3.8] Dictionary, note 2**

22 *insert*
23 • civil union
24 • civil union partner

1 **Part 3.2** **Adoption Act 1993**

2 **[3.9] Section 14 (b)**

3 *omit*

4 whether married or not

5 *substitute*

6 whether or not married or in a civil union

7 **[3.10] Dictionary, note 2**

8 *insert*

- 9
 - civil union

10 **Part 3.3** **Adoption Regulation 1993**

11 **[3.11] Section 11 (b) (viii) and (ix)**

12 *substitute*

13 (viii) if married or in a civil union—date and place of marriage
14 or civil union;

15 (ix) if not married or in a civil union—whether in another
16 domestic partnership or single;

17 **[3.12] Dictionary, note 2**

18 *insert*

- 19
 - civil union

1 **Part 3.4** **Births, Deaths and Marriages**
2 **Registration Act 1997**

3 **[3.13] Long title**

4 *after*
5 marriages
6 *insert*
7 , civil unions

8 **[3.14] Section 4, definition of *adult*, paragraph (b)**

9 *after*
10 married
11 *insert*
12 or in a civil union

13 **[3.15] Section 16 (3) (b)**

14 *after*
15 marriage
16 *insert*
17 , civil union

1 **[3.16] Part 5A**

2 *substitute*

3 **Part 5A Civil unions**

4 **32A Registration of civil union**

5 If a civil union is entered into under the *Civil Unions Act 2011*,
6 section 9 (How civil union is entered into), the civil union must be
7 registered under this Act.

8 **32B How civil union is registered**

9 (1) If a civil union is entered into before the registrar-general, the
10 registrar must register the civil union by including in the register the
11 particulars of the civil union prescribed by regulation.

12 (2) If a civil union is entered into before another civil union celebrant
13 under the *Civil Unions Act 2011*, the celebrant must give the
14 following to the registrar-general not later than 2 weeks after the day
15 the civil union is entered into:

16 (a) written notice of the civil union;

17 (b) the notice given to the celebrant under the *Civil Unions*
18 *Act 2011*, section 8 (Notice of intention to enter into civil
19 union) for the civil union.

20 Maximum penalty: 5 penalty units.

21 *Note* If a form is approved under s 69 for this provision, the form must be
22 used.

23 (3) If a notice is given to the registrar-general under subsection (2), the
24 registrar must register the civil union by including in the register the
25 particulars of the civil union prescribed by regulation.

26 (4) An offence against this section is a strict liability offence.

- 1 **32C Particulars of end of civil union**
- 2 (1) This section applies if a civil union ends under the *Civil Unions*
3 *Act 2011*, section 12 (Ending civil union by parties) or section 14
4 (Ending civil union by court order).
- 5 (2) The registrar-general must include in the register the particulars of
6 the termination prescribed by regulation.
- 7 (3) Also, for a civil union that ends under the *Civil Unions Act 2011*,
8 section 12, the registrar-general must give each party to the civil
9 union written notice that the civil union ends on the date stated in
10 the notice.
- 11 *Note* If a form is approved under s 69 for this provision, the form must be
12 used.
- 13 (4) For subsection (3), it is sufficient if the registrar-general sends the
14 notice to the address for each party that is last known to the
15 registrar.

16 **Part 5B Civil partnerships**

- 17 **32D Particulars of civil partnership**
- 18 (1) This section applies if the registrar-general registers a relationship as
19 a civil partnership under the *Domestic Relationships Act 1994*,
20 section 37F (Decision on application).
- 21 (2) The registrar-general must include in the register the particulars of
22 the civil partnership prescribed by regulation.
- 23 **32E Particulars of end of civil partnership**
- 24 (1) This section applies if a civil partnership ends under the *Domestic*
25 *Relationships Act 1994*, section 37I (Ending civil partnership by
26 parties) or section 37K (Ending civil partnership by court order).
- 27 (2) The registrar-general must include in the register the particulars of
28 the end of the civil partnership prescribed by regulation.

1 (3) Also, for a civil partnership that ends under the *Domestic*
2 *Relationships Act 1994*, section 37I, the registrar-general must give
3 each party to the civil partnership written notice that the civil
4 partnership ends on the date stated in the notice.

5 *Note* If a form is approved under s 69 for this provision, the form must be
6 used.

7 (4) For subsection (3), it is sufficient if the registrar-general sends the
8 notice to the address for each party that is last known to the
9 registrar.

10 **32F Transitional—particulars of termination of civil**
11 **partnership not included before commencement day**

12 (1) In this section:

13 *commencement day* means the day the *Civil Unions Act 2011*
14 commences.

15 (2) This section applies if—

16 (a) before the commencement day, a civil partnership entered into
17 under the *Civil Partnerships Act 2008* was terminated under
18 that Act, section 10 (Termination by parties) or section 11
19 (Termination by court); and

20 (b) immediately before the commencement day, particulars of the
21 termination had not been included in the register under that
22 Act.

23 (3) The termination of the civil partnership is taken to be the ending of a
24 civil partnership under this Act, section 32E.

25 (4) This section expires on the day it commences.

26 *Note* A transitional provision is repealed on its expiry but continues to have
27 effect after its repeal (see Legislation Act, s 88).

1 **[3.17] Dictionary, note 2**

2 *insert*

- 3 • civil union
4 • civil union partner

5 **[3.18] Dictionary, definition of *registrable event***

6 *after*

7 marriage,

8 *insert*

9 civil union,

10 **Part 3.5 Births, Deaths and Marriages**
11 **Registration Regulation 1998**

12 **[3.19] Section 5 (k)**

13 *substitute*

- 14 (k) if the parents of the child are married, in a civil union or civil
15 partnership—the date and place of the marriage, civil union or
16 civil partnership;

17 **[3.20] Section 7 (b)**

18 *substitute*

- 19 (b) a spouse, civil union partner or civil partner, or former spouse,
20 civil union partner or civil partner, of the transsexual person;

1 **[3.21] Sections 8A and 8B**

2 *substitute*

3 **8A Registration of civil union—Act, s 32B (1) and (3)**

4 (1) The following particulars are prescribed:

5 (a) the date and place of the declaration under the *Civil*
6 *Unions Act 2011*, section 9 (How civil union is entered into);

7 (b) the full name of at least 1 witness to the declaration;

8 (c) the celebrant's full name;

9 (d) details of the civil union celebrant's registration under that Act,
10 part 3;

11 (e) the following particulars for each person who is a party to the
12 civil union:

13 (i) the person's full name;

14 (ii) the person's home address;

15 (iii) the person's date and place of birth;

16 (iv) the person's relationship status before entering into the
17 civil union;

18 (v) the person's occupation;

19 (vi) the full name of each of the person's parents.

20 (2) In this section:

21 ***relationship status*** means the status or condition of being—

22 (a) single; or

23 (b) divorced; or

24 (c) widowed; or

- 1 (d) the domestic partner (other than the spouse or civil union
2 partner) of someone else.

3 *Note* For the meaning of *domestic partner*, see the Legislation Act, s 169.

4 **8B Particulars of end of civil union—Act, s 32C (2)**

5 The following particulars are prescribed:

- 6 (a) for a civil union ended under the *Civil Unions Act 2011*,
7 section 12 (Ending civil union by parties)—

8 (i) the date the termination notice was given to the
9 registrar-general under that Act, section 12 (1); and

10 (ii) the date the civil union ended;

- 11 (b) for a civil union ended under the *Civil Unions Act 2011*,
12 section 14 (Ending civil partnership by court order)—

13 (i) the date the order was made; and

14 (ii) the date the civil union ended.

15 **8C Particulars of civil partnership—Act, s 32D (2)**

16 (1) The following particulars are prescribed:

17 (a) the date and place of registration of the civil partnership under
18 the *Domestic Relationships Act 1994*, section 37F (1) (a)
19 (Decision on application);

20 (b) the following particulars for each person who is a party to the
21 civil partnership:

22 (i) the person's full name;

23 (ii) the person's home address;

24 (iii) the person's date and place of birth;

25 (iv) the person's relationship status before entering into the
26 civil partnership;

- 1 (v) the person's occupation;
2 (vi) the full name of each of the person's parents.

3 (2) In this section:

4 ***relationship status*** means the status or condition of being—

- 5 (a) single; or
6 (b) divorced; or
7 (c) widowed; or
8 (d) the domestic partner (other than the spouse, civil union partner
9 or civil partner) of someone else.

10 *Note* For the meaning of ***domestic partner***, see the Legislation Act, s 169.

11 **8D Particulars of end of civil partnership—Act, s 32E (2)**

12 The following particulars are prescribed:

- 13 (a) for a civil partnership ended under the *Domestic Relationships*
14 *Act 1994*, section 37I (Ending civil partnership by parties)—
15 (i) the date the termination notice was given to the
16 registrar-general under that Act, section 37I (1); and
17 (ii) the date the civil partnership ended;
18 (b) for a civil partnership ended under the *Domestic Relationships*
19 *Act 1994*, section 37K (Ending civil partnership by court
20 order)—
21 (i) the date the order was made; and
22 (ii) the date the civil partnership ended.

- 1 **[3.22] Section 9 (h) (i)**
2 *substitute*
3 (i) if the deceased had been married, in a civil union or civil
4 partnership—the date and place of each marriage, civil
5 union or civil partnership; and

6 **Part 3.6 Civil Law (Wrongs) Act 2002**

- 7 **[3.23] Section 23, definition of *member*, paragraph (g)**
8 *after*
9 spouse
10 *insert*
11 , civil union partner

- 12 **[3.24] Dictionary, note 2**
13 *insert*
14 • civil union partner

15 **Part 3.7 Corrections Management Act**
16 **2007**

- 17 **[3.25] Section 87 (2) (b)**
18 *after*
19 marriage
20 *insert*
21 , civil union

1 **[3.26] Dictionary, note 2**

2 *insert*

- 3
 - civil union

4 **Part 3.8 Crimes Act 1900**

5 **[3.27] Section 395 (2) (a)**

6 *after*

7 marriage

8 *insert*

9 , civil union

10 **[3.28] Dictionary, note 2**

11 *insert*

- 12
 - civil union

13 **Part 3.9 Discrimination Act 1991**

14 **[3.29] Dictionary, note 2**

15 *insert*

- 16
 - civil union
 - civil union partner

18 **[3.30] Dictionary, definition of *relationship status*, new paragraphs (ca) and (cb)**

19 *insert*

20 (ca) in a civil union; or

21 (cb) in a civil union but living separately and apart from one's civil
22 union partner; or
23

1 **[3.31] Dictionary, definition of *relationship status*, paragraph (h)**

2 *after*

3 spouse

4 *insert*

5 , civil union partner

6 **[3.32] Dictionary, definition of *relative*, paragraph (a)**

7 *substitute*

8 (a) a person who is related to the person by blood, marriage, civil
9 union, civil partnership or any other domestic partnership or
10 adoption; or

11 **Part 3.10 Domestic Relationships Act 1994**

12 **[3.33] Section 3 (1), note**

13 *substitute*

14 *Note* For the meaning of *domestic partnership*, see the Legislation Act,
15 s 169. It includes a civil union and a civil partnership.

16 **[3.34] Section 12 (1)**

17 *before*

18 civil partnership

19 *insert*

20 civil union or

1 **[3.35] New parts 4A and 4B**

2 *insert*

3 **Part 4A Civil partnerships**

4 **Division 4A.1 General**

5 **37A Definitions—pt 4A**

6 In this part:

7 *prohibited relationship*—see section 37C.

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

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

10 **37B Civil partnerships—general**

11 (1) A civil partnership is a legally recognised relationship entered into
12 under this Act.

13 (2) A civil partnership ends only as provided by division 4A.4.

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

16 (3) The 2 parties to a civil partnership are taken, for all purposes under
17 territory law, to be in a domestic partnership.

18 *Note* For the meaning of *domestic partnership*, see the Legislation Act,
19 s 169. It includes a civil union and a civil partnership.

1 **Division 4A.2 Eligibility for entering into civil**
2 **partnership**

3 **37C Eligibility criteria**

4 A person may enter into a civil partnership only if—

- 5 (a) the person is not married, in a civil union or in a civil
6 partnership; and
- 7 (b) the person does not have any of the following relationships (a
8 *prohibited relationship*) with the person's proposed civil
9 partner:
- 10 (i) lineal ancestor;
- 11 (ii) lineal descendent;
- 12 (iii) sister;
- 13 (iv) half-sister;
- 14 (v) brother;
- 15 (vi) half-brother; and
- 16 (c) the person or the person's proposed civil partner, or both of
17 them, live in the ACT.

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

19 **37D How civil partnership is entered into**

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

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

1 **37E Application for registration**

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

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

7 (2) The application must be accompanied by—

8 (a) a statutory declaration made by each person stating—

9 (i) that the person wishes to enter into a civil partnership
10 with the other person; and

11 (ii) that the person is not married, in a civil union or in a civil
12 partnership; and

13 (iii) that the person believes the person and the other person
14 do not have a prohibited relationship; and

15 (iv) where the person lives; and

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

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

20 (b) the evidence required under section 37M of each person's
21 identity and age; and

22 (c) anything else prescribed by regulation.

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

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

27 (3) The registrar-general may require the applicants to give the registrar
28 additional information or documents the registrar reasonably needs
29 to decide the application.

- 1 (4) If a requirement under subsection (3) is not complied with, the
2 registrar-general may refuse to consider the application further.

3 **37F Decision on application**

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

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

14 **37G When civil partnership has effect**

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

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

18 **37H How civil partnership ends**

- 19 (1) A civil partnership ends on—
20 (a) the death of either party; or
21 (b) the marriage of either party; or
22 (c) the parties to a civil partnership entering into a civil union with
23 each other.

1 (2) A civil partnership also ends if it is ended by—

2 (a) a party (or both parties) under section 37I; or

3 (b) a court order under section 37K.

4 **37I Ending civil partnership by parties**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (4) However, if a withdrawal notice is given by only 1 party, the notice
8 is effective only if—

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

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

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

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

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

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

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

22 (5) A civil partnership ends 12 months after the day a termination notice
23 is given to the registrar-general in accordance with this section,
24 unless—

25 (a) the notice has been withdrawn under this section; or

26 (b) the Supreme Court makes an order under section 37J (2); or

27 (c) the operation of the notice is stayed under section 37J (3); or

28 (d) the civil partnership has already ended under section 37H (1).

1 **37J Order that termination notice not effective**

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

4 (2) On application by a party to the civil partnership, the Supreme Court
5 may make an order that the termination notice is not effective if the
6 court considers that it is not the intention, or is no longer the
7 intention, of the party (or parties) who gave the notice to end the
8 civil partnership.

9 (3) If an application mentioned in subsection (2) has been made but not
10 decided within 12 months after the day the termination notice is
11 given, the application stays the operation of the notice until the
12 application is decided.

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

15 **37K Ending civil partnership by court order**

16 (1) On application by a party to a civil partnership, the Supreme Court
17 may make an order ending the civil partnership if the court
18 considers that—

19 (a) the civil partnership cannot be ended under section 37I; but

20 (b) it is not the intention, or is no longer the intention, of both
21 parties to be in the civil partnership.

22 (2) If the Supreme Court makes an order under subsection (1), the court
23 must give a copy of the order to the registrar-general not later than
24 28 days after the day the order is made.

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

2 **37L Void civil partnerships**

3 A civil partnership is void if—

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

7 (b) either party did not freely enter into the civil partnership
8 because—

9 (i) the party's agreement to enter into the civil partnership
10 was obtained by duress or fraud; or

11 (ii) the party was mistaken about the identity of the other
12 party or the nature of the application under section 37E;
13 or

14 (iii) the party was mentally incapable of understanding the
15 nature and effect of the civil partnership.

16 **37M Evidence of identity and age**

17 (1) For section 37E (2) (b), the evidence of identity and age required for
18 each person is—

19 (a) the person's birth certificate; or

20 (b) the person's citizenship certificate; or

21 (c) the person's current passport; or

22 (d) a statutory declaration made by the person stating—

23 (i) that it is impracticable to obtain a document mentioned in
24 paragraph (a), (b) or (c); and

- 1 (ii) to the best of the person's knowledge and belief, and as
2 accurately as the person has been able to find out, when
3 and where the person was born.

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

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

8 (2) In this section:

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

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

17 **37N Personal service of termination and withdrawal notices**

18 (1) This section applies if a termination notice or withdrawal notice
19 must be served personally on a party to a civil partnership under
20 section 37I (Ending civil partnership by parties).

21 (2) To serve the notice personally on the party, the person serving the
22 notice must—

23 (a) give the party a copy of the notice; or

24 (b) if the party does not accept the copy—put the copy down in the
25 party's presence and tell the party in general terms what it is;
26 or

27 (c) if the person serving the notice is prevented from approaching
28 the party by violence or threat of violence—put the copy down
29 as near as practicable to, but in the sight of, the party.

- 1 **37O If personal service impracticable or impossible**
- 2 (1) This section applies if—
- 3 (a) a termination notice or withdrawal notice must be served
- 4 personally on a party to a civil partnership under section 37I;
- 5 and
- 6 (b) personal service of the notice is not practicable.
- 7 (2) The person serving the notice may apply to the Supreme Court for
- 8 an order allowing the notice to be served in another way
- 9 (the *alternative way*).
- 10 (3) The Supreme Court may make an order if satisfied that—
- 11 (a) it is not practicable, for any reason, for the notice to be served
- 12 personally under section 37N; and
- 13 (b) the alternative way is reasonably likely to bring the notice to
- 14 the attention of the party.
- 15 (4) If the Supreme Court makes an order, the court may, in the order,
- 16 provide that the notice is taken to have been served on the
- 17 happening of a stated event, at a stated time or at the end of a stated
- 18 period.
- 19 (5) The Supreme Court may make an order under subsection (3) even
- 20 though the party is not in the ACT or Australia.
- 21 (6) For section 37I, if a notice is served on a party in accordance with
- 22 an order under subsection (3), the notice is taken to have been
- 23 served personally on the party.

1 **37P Civil partnerships under corresponding laws**

2 (1) A regulation may provide that a relationship under a corresponding
3 law is a civil partnership for territory law.

4 (2) In this section:

5 *corresponding law* means a law of a State, external territory or
6 foreign country prescribed by regulation for this definition (whether
7 or not the law corresponds, or substantially corresponds, to this
8 Act).

9 **Part 4B Notification and review of**
10 **decisions**

11 **37Q Meaning of *reviewable decision*—pt 4B**

12 In this part:

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

16 **37R Reviewable decision notices**

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

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

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

1 **37S Applications for review**

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

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

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

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

9 **[3.36] New sections 40A and 40B**

10 *insert*

11 **40A Determination of fees**

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

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

15 (2) A determination is a disallowable instrument.

16 *Note* A disallowable instrument must be notified, and presented to the
17 Legislative Assembly, under the Legislation Act.

18 **40B Approved forms**

19 (1) The registrar-general may approve forms for this Act.

20 (2) If the registrar-general approves a form for a particular purpose, the
21 approved form must be used for that purpose.

22 *Note* For other provisions about forms, see the Legislation Act, s 255.

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

24 *Note* A notifiable instrument must be notified under the Legislation Act.

1 **[3.37] New schedule 1**

2 *insert*

3 **Schedule 1 Reviewable decisions**

4 (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

5 **[3.38] Dictionary, note 2**

6 *insert*

- 7
 - civil union

8 **[3.39] Dictionary, new definitions**

9 *insert*

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

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

14 *termination notice*, for part 4A (Civil partnerships)—see
15 section 37I.

16 *withdrawal notice*, for part 4A (Civil partnerships)—see
17 section 37I.

1 **Part 3.11** **Domestic Violence and**
2 **Protection Orders Act 2008**

3 **[3.40] Section 15 (2), note**

4 *before*

5 civil partnership

6 *insert*

7 civil union or

8 **[3.41] Section 15A (b)**

9 *after*

10 spouse

11 *insert*

12 or civil union partner

13 **[3.42] Section 15A (b)**

14 *omit*

15 legally married to

16 *substitute*

17 married to or in a civil union with

18 **[3.43] Section 15A (b), note**

19 *substitute*

20 *Note* For the meaning of *domestic partner*, see the Legislation Act,
21 s 169.

22 For ACT law, a person acquires relatives through civil union in
23 the same way as they acquire them through marriage (see *Civil*
24 *Unions Act 2011*, s 6 (2)).

1 **[3.44] Dictionary, note 2**

2 *insert*

- 3 • civil union
- 4 • civil union partner

5 **Part 3.12 Duties Act 1999**

6 **[3.45] Section 74B (7) (b)**

7 *substitute*

8 (b) if the relationship is a civil union—the party has given, or
9 intends to give, a termination notice to the registrar-general
10 under the *Civil Unions Act 2011*; or

11 (c) if the relationship is a civil partnership—the party has given, or
12 intends to give, a termination notice to the registrar-general
13 under the *Domestic Relationships Act 1994*.

14 **[3.46] Section 115H (7) (b)**

15 *substitute*

16 (b) if the relationship is a civil union—the party has given, or
17 intends to give, a termination notice to the registrar-general
18 under the *Civil Unions Act 2011*; or

19 (c) if the relationship is a civil partnership—the party has given, or
20 intends to give, a termination notice to the registrar-general
21 under the *Domestic Relationships Act 1994*.

1 **[3.47] Section 213 (7) (b)**

2 *substitute*

3 (b) if the relationship is a civil union—the party has given, or
4 intends to give, a termination notice to the registrar-general
5 under the *Civil Unions Act 2011*; or

6 (c) if the relationship is a civil partnership—the party has given, or
7 intends to give, a termination notice to the registrar-general
8 under the *Domestic Relationships Act 1994*.

9 **[3.48] Dictionary, note 2**

10 *insert*

- 11 • civil union

12 **Part 3.13 Evidence (Miscellaneous**
13 **Provisions) Act 1991**

14 **[3.49] Section 38B (2), note**

15 *before*

16 civil partnership

17 *insert*

18 civil union or

19 **[3.50] Section 38BA (b)**

20 *after*

21 spouse

22 *insert*

23 or civil union partner

1 **[3.51] Section 38BA (b)**

2 *omit*

3 legally married to

4 *substitute*

5 married to or in a civil union with

6 **[3.52] Section 38BA (b), note**

7 *substitute*

8 *Note* For the meaning of *domestic partner*, see the Legislation Act,
9 s 169.

10 For ACT law, a person acquires relatives through civil union in
11 the same way as they acquire them through marriage (see *Civil*
12 *Unions Act 2011*, s 6 (2)).

13 **Part 3.14 Family Provision Act 1969**

14 **[3.53] Section 7 (9), definition of *partner*, paragraph (b) (i)**

15 *after*

16 spouse

17 *insert*

18 , civil union partner

19 **[3.54] Dictionary, note 2**

20 *insert*

- 21 • civil partner
22 • civil union partner

1 **Part 3.15 First Home Owner Grant Act 2000**

2 **[3.55] Section 6 (2)**

3 *omit*

4 married or in a civil partnership, the applicant's spouse

5 *substitute*

6 married, in a civil union or civil partnership, the applicant's spouse,
7 civil union partner or civil partner

8 **[3.56] Dictionary, note 2**

9 *insert*

- 10 • civil union
11 • civil union partner

12 **Part 3.16 Guardianship and Management**
13 **of Property Act 1991**

14 **[3.57] Section 7B (d)**

15 *after*

16 marriage

17 *insert*

18 or civil union

19 **[3.58] Section 32A, definition of *domestic partner*, note**

20 *after*

21 spouse

22 *insert*

23 , civil union partner or civil partner

1 **[3.59] Dictionary, note 2**

2 *insert*

- 3 • civil union

4 **Part 3.17 Instruments Act 1933**

5 **[3.60] Section 8, definition of *bill of sale***

6 *after*

7 marriage

8 *insert*

9 , civil union

10 **Part 3.18 Land Titles Act 1925**

11 **[3.61] Dictionary, definition of *transmission***

12 *after*

13 marriage

14 *insert*

15 , civil union

16 **[3.62] Dictionary, note 2**

17 *insert*

- 18 • civil union

1 **Part 3.19** **Legislation Act 2001**

2 **[3.63] Section 169 (1)**

3 *after*
4 spouse
5 *insert*
6 , civil union partner

7 **[3.64] Section 169 (3)**

8 *after*
9 marriage
10 *insert*
11 , a civil union

12 **[3.65] Dictionary, part 1, definition of *civil partnership***

13 *substitute*
14 *civil partnership* means a civil partnership under the *Domestic*
15 *Relationships Act 1994*.

16 **[3.66] Dictionary, part 1, new definitions of *civil union* and *civil***
17 ***union partner***

18 *insert*
19 *civil union* means a civil union under the *Civil Unions Act 2011*.
20 *civil union partner*—a person who is in a civil union with someone
21 else is the *civil union partner* of the other person.

1 **Part 3.20** **Married Persons Property Act**
2 **1986**

3 **[3.67] Long title**

4 *omit*

5 or in a civil partnership

6 *substitute*

7 , in a civil union or civil partnership

8 **[3.68] Section 9 heading**

9 *substitute*

10 **9** **Transfer of property to spouse, civil union partner, civil**
11 **partner or child**

12 **[3.69] Section 9 (2)**

13 *after*

14 spouse

15 *insert*

16 , civil union partner

17 **[3.70] Section 10 heading**

18 *substitute*

19 **10** **Purchase or transfer of property before marriage, civil**
20 **union or civil partnership**

1 **[3.71] Section 10 (1)**

2 *omit*

3 or civil partnership with

4 *insert*

5 or civil union or civil partnership with

6 **[3.72] Section 10 (1) (a) and (b)**

7 *after*

8 marriage

9 *insert*

10 , civil union

11 **[3.73] Section 10 (2)**

12 *before*

13 or civil partnership

14 *insert*

15 or civil union

16 **[3.74] Section 10 (2) (a) and (b)**

17 *after*

18 marriage

19 *insert*

20 , civil union

1 **[3.75] Section 10 (3) (a)**

2 *before*

3 or civil partnership

4 *insert*

5 or civil union

6 **[3.76] Section 10 (3) (c) and (d)**

7 *after*

8 marriage

9 *insert*

10 , civil union

11 **[3.77] Section 11**

12 *omit*

13 or in a civil partnership

14 *substitute*

15 or in a civil union or civil partnership

16 **[3.78] Section 11**

17 *after*

18 spouse

19 *insert*

20 , civil union partner

1 **[3.79] Section 12 heading**

2 *substitute*

3 **12 Beneficiaries who are married, in civil union or civil**
4 **partnership**

5 **[3.80] Section 12**

6 *after*

7 spouse

8 *insert*

9 , civil union partner

10 **[3.81] Section 13**

11 *after*

12 spouse

13 *insert*

14 , civil union partner

15 **[3.82] Section 15 (5)**

16 *after*

17 spouse

18 *insert*

19 , civil union partner

20 **[3.83] Dictionary, note 2**

21 *insert*

- 22 • civil union
23 • civil union partner

1 **Part 3.21** **Parentage Act 2004**

2 **[3.84] Section 7 heading**

3 *substitute*

4 **7 Presumptions arising from marriage, civil union or civil**
5 **partnership**

6 **[3.85] Section 7 (1)**

7 *omit*

8 or in a civil partnership

9 *substitute*

10 or in a civil union or civil partnership

11 **[3.86] Section 7 (1) and (2)**

12 *after*

13 spouse

14 *insert*

15 , civil union partner

16 **[3.87] Section 7 (4)**

17 *after*

18 marriage

19 *insert*

20 , civil union

- 1 **[3.88] Section 38 (2)**
- 2 *omit*
- 3 or in a civil partnership with
- 4 *substitute*
- 5 or in a civil union or civil partnership with
- 6 **[3.89] Section 38 (5), definition of *affinity***
- 7 *after*
- 8 marriage
- 9 *insert*
- 10 , civil union, civil partnership
- 11 **[3.90] Dictionary, note 2**
- 12 *insert*
- 13 • civil union
- 14 • civil union partner

15 **Part 3.22 Powers of Attorney Act 2006**

- 16 **[3.91] Section 58 heading**
- 17 *substitute*
- 18 **58 Enduring power of attorney sometimes revoked by**
- 19 **marriage, civil union or civil partnership**

1 **[3.92] Section 58 (1) (b)**

2 *after*

3 or enters into a

4 *insert*

5 civil union or

6 **[3.93] Section 59 heading**

7 *substitute*

8 **59 Enduring power of attorney sometimes revoked by end of**
9 **marriage, civil union or civil partnership**

10 **[3.94] Section 59 (1) (b)**

11 *before*

12 civil partnership

13 *insert*

14 civil union or

15 **[3.95] Section 59 (1) (c)**

16 *after*

17 marriage

18 *insert*

19 , civil union

20 **[3.96] Dictionary, note 2**

21 *insert*

- 22
 - civil union

1 **Part 3.23 Rates Act 2004**

2 **[3.97] Section 45, definition of *partner***

3 *after*
4 spouse
5 *insert*
6 , civil union partner

7 **[3.98] Section 45, definition of pensioner, note**

8 *after*
9 spouses
10 *insert*
11 , civil union partners

12 **[3.99] Dictionary, note 2**

13 *insert*
14 • civil union partner

15 **Part 3.24 Sale of Motor Vehicles Act 1977**

16 **[3.100] Section 11A (2) (e)**

17 *after*
18 marriage
19 *insert*
20 , civil union

21 **[3.101] Dictionary, note 2**

22 *insert*
23 • civil union

1 **Part 3.25** **Testamentary Guardianship Act**
2 **1984**

3 **[3.102] Dictionary, definition of *child***

4 *after*

5 married

6 *insert*

7 or in a civil union

8 **[3.103] Dictionary, note 2**

9 *insert*

- 10 • civil union

11 **Part 3.26** **Wills Act 1968**

12 **[3.104] Section 8 (2)**

13 *after*

14 married

15 *insert*

16 or in a civil union

17 **[3.105] Section 8 (3)**

18 *substitute*

- 19 (3) A will made by a child who may marry or enter into a civil union
20 and that is made in contemplation of a marriage or civil union is, on
21 the solemnisation of the marriage or entry into the civil union
22 contemplated, valid.

1 **[3.106] Section 8 (6)**

2 *after*

3 married

4 *insert*

5 or in a civil union

6 **[3.107] Section 8B (1)**

7 *after*

8 married

9 *insert*

10 or in a civil union

11 **[3.108] Section 15**

12 *omit*

13 spouse or

14 **[3.109] Section 20 heading**

15 *substitute*

16 **20 Revocation of will by testator's marriage, civil union or**
17 **civil partnership**

18 **[3.110] Section 20 (1)**

19 *omit*

20 or enters into a civil partnership

21 *substitute*

22 or enters into a civil union or civil partnership

1 **[3.111] Section 20 (1)**

2 *after*
3 marriage
4 *insert*
5 , civil union

6 **[3.112] Section 20 (2)**

7 *omit*
8 or enters into a civil partnership
9 *substitute*
10 or enters into a civil union or civil partnership

11 **[3.113] Section 20 (2)**

12 *after*
13 marriage
14 *insert*
15 , civil union

16 **[3.114] Section 20 (3)**

17 *omit*
18 entering into a civil partnership with
19 *substitute*
20 entering into a civil union or civil partnership with

1 **[3.115] Section 20 (3) (a) and (b)**

2 *after*
3 marriage
4 *insert*
5 , civil union

6 **[3.116] Section 20A heading**

7 *substitute*

8 **20A Effect of termination of marriage, civil union or civil**
9 **partnership**

10 **[3.117] Section 20A (1)**

11 *after*
12 marriage
13 *insert*
14 , civil union

15 **[3.118] Section 20A (1) (a) to (c)**

16 *after*
17 former spouse
18 *insert*
19 , civil union partner

20 **[3.119] Section 20A (2) (a) and (b)**

21 *after*
22 marriage
23 *insert*
24 , civil union

1 **[3.120] Section 20A (3) (a) and (b)**

2 *after*

3 former spouse

4 *insert*

5 , civil union partner

6 **[3.121] Section 20A (4) and (5)**

7 *substitute*

8 (4) For this section—

9 (a) a marriage is taken to be *terminated* if—

10 (i) the marriage ends by divorce under the Family Law Act;
11 or

12 (ii) a decree of nullity is made under the Family Law Act in
13 relation to the marriage; or

14 (iii) the marriage is annulled in accordance with the law of a
15 place outside Australia if the annulment is recognised in
16 Australia under the Family Law Act; and

17 (b) a civil union is taken to be *terminated* if the civil union ends
18 under the *Civil Unions Act 2011*, division 2.4 (otherwise than
19 on the death of a party to the civil union); and

20 (c) a civil partnership is taken to be *terminated* if the civil
21 partnership ends under the *Domestic Relationships Act 1994*,
22 division 4A.4 (otherwise than on the death of a party to the
23 civil partnership).

1 **[3.122] Section 20A (6), definition of *former spouse or civil***
2 ***partner***
3 *substitute*
4 *former spouse, civil union partner or civil partner*, in relation to a
5 testator, means the person who, immediately before the termination
6 of the testator's marriage, civil union or civil partnership, was the
7 testator's spouse, civil union partner or civil partner, or, for a
8 purported marriage, civil union or civil partnership of the testator
9 that is void, was the other party to the purported marriage, civil
10 union or civil partnership.

11 **[3.123] Dictionary, note 2**
12 *insert*
13 • civil union
14 • civil union partner

15 **Part 3.27 Witness Protection Act 1996**

16 **[3.124] Section 10 (c)**
17 *after*
18 marriage
19 *insert*
20 , civil union

21 **[3.125] Dictionary, note 2**
22 *insert*
23 • civil union

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
- adult
- bankrupt or personally insolvent
- Minister (see s 162)
- registrar-general
- statutory declaration.

civil union celebrant means—

(a) the registrar-general; or

(b) a person who is registered under this Act as a civil union celebrant.

prohibited relationship—see section 7.

reviewable decision, for part 4 (Notice and review of decisions)—see section 18.

termination notice means a notice given under section 12 (1).

withdrawal notice means a notice given under section 12 (3).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 8 December 2011.

2 Notification

Notified under the Legislation Act on 2011.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

© Australian Capital Territory 2011