

2013

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

MARRIAGE EQUALITY BILL 2013

SUPPLEMENTARY EXPLANATORY STATEMENT

**Presented by
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MARRIAGE EQUALITY BILL 2013

Overview of Government Amendments

These amendments amend the Marriage Equality Bill 2013 to clarify that the Act will provide for marriage equality by allowing for marriage between 2 adults of the same sex, and for other purposes.

The amendments also specify that, in addition to the requirements listed under paragraph (c) and (d) of clause 7, a person may be married under this Act only if each person is not:

- legally married; or
- in a civil union or civil partnership with someone other than their intended spouse under the *Civil Unions Act 2012* (repealed) or the *Civil Partnerships Act 2008* (repealed) or a law of another jurisdiction that substantially corresponds to those territory laws.

Other minor amendments have been made for technical consistency with these amendments.

AMENDMENT NOTES

Amendment 1 Long title

This amendment omits the long title of the Act and substitutes:

An Act to provide for marriage equality by allowing for marriage between 2 adults of the same sex, and for other purposes.

This amendment is intended to clearly define the scope of the Act.

Amendment 2 Amendment to clause 1, Page 2, line 2 — Name of Act

This amendment amends the name of the Act, to the Marriage Equality (Same Sex) Act 2013.

This amendment reflects the amendment to the long title of the Act.

Amendment 3 Amendment to clause 6 (a), Page 4, line 5

This amendment omits clause 6 (a), and substitutes:

In relation to all marriages between 2 adults of the same sex that are not marriages within the meaning of the Marriage Act 1961 (Cwlth), solemnised, or intended to be solemnised, in the ACT; and

New clause 6 (a) makes clear that the amendments concern same sex marriages under this Act and have no application to marriages that can occur under the Commonwealth *Marriage Act 1961*.

Amendment 4 Amendment to clause 7 (1), Page 4, line 12

This amendment omits '*a person*' and substitutes '*Two people of the same sex*'.

This amendment reflects the amendments to the eligibility requirements in clause 6.

Amendment 5 Amendment to clause 7 (1) (a), Page 4, line 13

This amendment omits '*the person*' and substitutes '*each person*'.

This amendment is consequential on the amendment to clause 6.

Amendment 6 Amendment to clause 7 (1) (b), Page 4, line 14

This amendment omits the previous clause 7 (1) (b) to clarify who will be eligible to marry under this Act.

A person will be eligible to marry under this Act if they are not legally married and not in an ACT civil union or civil partnership with someone other than their intended spouse or a law of another jurisdiction that substantially corresponds to those territory laws.

This amendment ensures that a person cannot enter into a marriage under the Act if they are already in a legally recognised relationship with someone other than their intended spouse.

Amendment 7 Amendment to clause 7 (1) (c), Page 4, line 19

This clause omits '*the person*' and substitutes '*each person*'.

This amendment is consequential on the amendment to clause 6.

Amendment 8 Amendment to clause 7 (1) (d), Page 4, line 22

This clause omits '*the person*' and substitutes '*each person*'.

This amendment is consequential on the amendment to clause 6.

Amendment 9 Amendment to clause 9 (3) (a) (ii) (B), Page 6, line 20

This amendment amends clause 9 (3) (a) (ii) (B) so that it is consistent with the amendment to clause 7 (1) (b) to provide that the notice of intention to marry must be accompanied by a statutory declaration made by each person stating that they are not in an ACT civil union or civil partnership, or a law of another jurisdiction that substantially corresponds to those territory laws, with someone other than their intended spouse.

Amendment 10 Amendment to clause 14, Page 9, line 24

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex Act) 2013*.

It is consequential on the amendment to the name of the Act.

Amendment 11 Amendment to clause 40 (1), page 26, line 4

This amendment omits ‘*relationship*’ and substitutes ‘*same-sex relationship*’.

It is consequential on the amendment to clause 6.

Amendment 12 Amendment to clause 40 (2) (a), page 26, line 10

This amendment omits ‘*adults*’ and substitutes ‘*adults of the same sex*’.

It is consequential on the amendment to clause 6.

Amendment 13 Amendment to Schedule 2, part 2.2, amendment 2.3, Page 36, line 16

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Births, Deaths and Marriages Registration Act 1997*.

It is consequential on the amendment to the name of the Act.

Amendment 14 Amendment to Schedule 2, part 2.10, amendment 2.18, Page 41, line 9

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Domestic Relationships Act 1994*.

It is consequential on the amendment to the name of the Act.

Amendment 15 Amendment to Schedule 2, part 2.10, amendment 2.19, Page 41, line 11

This amendment omits amendment 2.19 which omits section 37H (1) (c) of the *Domestic Relationships Act 1994* and instead amends it to provide that if the parties to a civil partnership enter into a marriage under the *Marriage Equality (Same Sex) Act 2013* with each other, their civil partnership ends on the end of their marriage.

This is consequential on the amendment to clause 6.

Amendment 16 **Amendment to Schedule 2, part 2.10, amendment 2.20, Page 41, line 19**

This clause omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Domestic Relationships Act 1994*.

It is consequential on the amendment to the name of the Act.

Amendment 17 **Amendment to Schedule 2, part 2.10, amendment 2.20, Proposed new section 37PC (1) (c), Page 42, line 9**

This amendment provides, consistently with amendment 15, that if the parties to a civil union enter into a marriage under the *Marriage Equality (Same Sex) Act 2013* with each other, their civil unions ends on the end of their marriage.

Amendment 18 **Amendment to Schedule 2, part 2.10, amendment 2.21, Page 46, line 12**

This amendment omits amendment 2.21 to the *Domestic Relationships Act 1994*, which inserts a note pointing to the Legislation Act definition of *marriage*.

The amendment is consequential on amendment 19, which inserts a local definition of marriage into the Act, making the use of the Legislation Act definition unnecessary.

Amendment 19 **Amendment to Schedule 2, part 2.10, Proposed new amendment 2.21A, Page 46, line 14**

This amendment inserts a definition of marriage as the Commonwealth definition of marriage in the *Domestic Relationships Act 1994*.

Amendment 20 **Amendment to Schedule 2, part 2.10, amendment 2.22, Page 46, line 15**

This amendment omits amendment 2.22 to the *Domestic Relationships Act 1994* and substitutes dictionary definitions of *termination notice* and *withdrawal notice*.

Amendment 21 **Amendment to Schedule 2, part 2.12, amendment 2.28, Page 48, line 10**

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Duties Act 1999*.

It is consequential on the amendment to the name of the Act.

Amendment 22 **Amendment to Schedule 2, part 2.17, amendment 2.38, Page 50, line 10**

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Legislation Act 2001*.

It is consequential on the amendment to the name of the Act.

Amendment 23 **Amendment to Schedule 2, part 2.18, amendment 2.39, Page 50, line 20**

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Married Person's Property Act 1986*.

It is consequential on the amendment to the name of the Act.

Amendment 24 **Amendment to Schedule 2, part 2.24, amendment 2.69, Page 56, line 21**

This amendment omits *Marriage Equality Act 2013* and substitutes *Marriage Equality (Same Sex) Act 2013* in the amendments made to the *Wills Act 1968*.

It is consequential on the amendment to the name of the Act.

Amendment 25 **Dictionary, definition of marriage, paragraph (a) Page 58, line 22**

This amendment omits '*people*' and substitutes '*people of the same sex*' from the definition of marriage in the *Marriage Equality (Same Sex) Act 2013*.

This is consequential on the amendment to clause 6.