



Domicile Act 1981

Reprinted as in force on 1 June 2010

Reprint No. 1A

**This reprint is prepared by
the Office of the Queensland Parliamentary Counsel
Warning—This reprint is not an authorised copy**

Information about this reprint

This Act is reprinted as at 1 June 2010. The reprint shows the law as amended by all amendments that commenced on or before that day (Reprints Act 1992 s 5(c)).

The reprint includes a reference to the law by which each amendment was made—see list of legislation and list of annotations in endnotes. Also see list of legislation for any uncommenced amendments.

This page is specific to this reprint. See previous reprint for information about earlier changes made under the Reprints Act 1992. A table of reprints is included in the endnotes.

Also see endnotes for information about—

- **when provisions commenced**
- **editorial changes made in earlier reprint.**

Spelling

The spelling of certain words or phrases may be inconsistent in this reprint or with other reprints because of changes made in various editions of the Macquarie Dictionary (for example, in the dictionary, ‘lodgement’ has replaced ‘lodgment’). Variations of spelling will be updated in the next authorised reprint.

Dates shown on reprints

Reprints dated at last amendment All reprints produced on or after 1 July 2002, authorised (that is, hard copy) and unauthorised (that is, electronic), are dated as at the last date of amendment. Previously reprints were dated as at the date of publication. If an authorised reprint is dated earlier than an unauthorised version published before 1 July 2002, it means the legislation was not further amended and the reprint date is the commencement of the last amendment.

If the date of an authorised reprint is the same as the date shown for an unauthorised version previously published, it merely means that the unauthorised version was published before the authorised version. Also, any revised edition of the previously published unauthorised version will have the same date as that version.

Replacement reprint date If the date of an authorised reprint is the same as the date shown on another authorised reprint it means that one is the replacement of the other.



Queensland

Domicile Act 1981

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Domicile Act 1981

[as amended by all amendments that commenced on or before 1 June 2010]

An Act to abolish the dependent domicile of married women and otherwise to reform the law relating to domicile

1 Short title

This Act may be cited as the *Domicile Act 1981*.

2 Commencement

- (1) Section 1 and this section shall commence on the day on which it is assented to for and on behalf of Her Majesty.
- (2) Except as provided in subsection (1), this Act shall commence on a day to be appointed by proclamation.

3 Interpretation

In this Act—

Commonwealth of Australia means the territory comprising the States and the Australian Capital Territory, the Jervis Bay Territory and the Northern Territory of Australia.

country includes any state, province or other territory—

- (a) that is 1 of 2 or more territories that together form a country; and
- (b) domicile in which can be material for any purpose of the laws of Queensland.

union means any country that is a union or federation or other aggregation of 2 or more countries and includes the Commonwealth of Australia.

4 Operation of Act

- (1) The domicile of a person at a time before the commencement of this section shall be determined as if this Act had not been enacted.
- (2) The domicile of a person at a time after the commencement of this section shall be determined as if this Act had always been in force.
- (3) Nothing in this Act affects the jurisdiction of any court in any proceedings commenced before the commencement of this section.
- (4) This Act has effect to the exclusion of the application of the laws of any other country relating to any matter dealt with by this Act.

5 Abolition of rule of dependent domicile of married woman

The rule of law whereby a married woman has at all times the domicile of her husband is abolished.

6 Abolition of rule of revival of domicile of origin

The rule of law whereby the domicile of origin revives upon the abandonment of a domicile of choice without the acquisition of a new domicile of choice is abolished and the domicile a person has at any time continues until the person acquires a different domicile.

7 Capacity to have independent domicile

- (1) A person is capable of having an independent domicile if—
 - (a) the person has attained the age of 18 years; or
 - (b) the person is, or has at any time been, married;and not otherwise.
- (2) Subsection (1) does not apply to a person who, under the rules of law relating to domicile, is incapable of acquiring a domicile by reason of mental incapacity.

8 Domicile of certain children

- (1) In this section—
 - (a) **child** means a person under the age of 18 years who is not, and has not at any time been, married; and
 - (b) references to the parents of a child include references to parents who are not married to each other.
- (2) Where, at any time, a child has a principal home with 1 of the child's parents but the parents are living separately and apart or the child does not have another living parent, the domicile of the child at that time is the domicile that that parent has at that time and thereafter the child has the domicile that that parent has from time to time or, if that parent has died, the domicile that that parent had at the time of death.
- (3) Where a child is adopted, the child's domicile—
 - (a) if, upon adoption, the child has 2 parents—is, at the time of the adoption and thereafter, the domicile the child would have if the child were a child born in wedlock to those parents; and
 - (b) if, upon adoption, the child has 1 parent only—is, at the time of the adoption, the domicile of that parent and thereafter is the domicile that that parent has from time to time or, if that parent has died, the domicile that that parent had at the time of death.
- (4) Subsection (5) applies if a child's parentage has been transferred by—
 - (a) a parentage order under the *Surrogacy Act 2010*; or
 - (b) an order of another Australian jurisdiction (also a **parentage order**) that corresponds to a parentage order made under the *Surrogacy Act 2010*.
- (5) From the time the parentage order is made, the child's domicile is—
 - (a) if, on the making of the parentage order, the child has 2 parents—the domicile the child would have if the child were a child born in wedlock to those parents; and

- (b) if, on the making of the parentage order, the child has 1 parent only—the domicile of that parent or, if that parent has died, the domicile that parent had at the time of death.
- (6) A child ceases to have, by virtue of subsection (2), the domicile or last domicile of 1 of the child’s parents if—
 - (a) the child commences to have a principal home with the other parent; or
 - (b) the child’s parents resume or commence living together.
- (7) Where a child has a domicile by virtue of subsection (2), (3) or (5) immediately before ceasing to be a child, he or she retains that domicile until acquiring a domicile of choice.
- (8) Where the adoption of a child is rescinded, the domicile of the child shall thereafter be determined in accordance with any provisions with respect to that domicile that are included in the order rescinding the adoption and, so far as no such provision is applicable, as if the adoption had not taken place.
- (9) Subsection (10) applies if a parentage order for a child is discharged by—
 - (a) a discharge order under the *Surrogacy Act 2010*; or
 - (b) an order of another Australian jurisdiction (also a ***discharge order***) that corresponds to a discharge order made under the *Surrogacy Act 2010*.
- (10) The child’s domicile is—
 - (a) the domicile stated in, or dealt with under, the discharge order; or
 - (b) if there is no provision in the discharge order dealing with the child’s domicile—the domicile the child would have if the transfer of parentage under the parentage order had not taken place.

9 Intention for domicile of choice

The intention that a person must have in order to acquire a domicile of choice in a country is the intention to make the person's home indefinitely in that country.

10 Domicile in union

A person who is, in accordance with the rules of the common law as modified by this Act, domiciled in a union but is not, apart from this section, domiciled in any particular one of the countries that together form the union is domiciled in that one of those countries with which the person has for the time being the closest connection.

11 Evidence of acquisition of domicile of choice

The acquisition of a domicile of choice in place of a domicile of origin may be established by evidence that would be sufficient to establish the domicile of choice if the previous domicile had also been a domicile of choice.

Endnotes

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2 Date to which amendments incorporated

This is the reprint date mentioned in the Reprints Act 1992, section 5(c). Accordingly, this reprint includes all amendments that commenced operation on or before 1 June 2010. Future amendments of the Domicile Act 1981 may be made in accordance with this reprint under the Reprints Act 1992, section 49.

3 Key

Key to abbreviations in list of legislation and annotations

Key	Explanation	Key	Explanation
AIA	= Acts Interpretation Act 1954	(prev)	= previously
amd	= amended	proc	= proclamation
amdt	= amendment	prov	= provision
ch	= chapter	pt	= part
def	= definition	pubd	= published
div	= division	R[X]	= Reprint No. [X]
exp	= expires/expired	RA	= Reprints Act 1992
gaz	= gazette	reloc	= relocated
hdg	= heading	renum	= renumbered
ins	= inserted	rep	= repealed
lap	= lapsed	(retro)	= retrospectively
notfd	= notified	rv	= revised edition
num	= numbered	s	= section
o in c	= order in council	sch	= schedule
om	= omitted	sdiv	= subdivision
orig	= original	SIA	= Statutory Instruments Act 1992
p	= page	SIR	= Statutory Instruments Regulation 2002
para	= paragraph	SL	= subordinate legislation
prec	= preceding	sub	= substituted
pres	= present	unnum	= unnumbered
prev	= previous		

4 Table of reprints

Reprints are issued for both future and past effective dates. For the most up-to-date table of reprints, see the reprint with the latest effective date.

If a reprint number includes a letter of the alphabet, the reprint was released in unauthorised, electronic form only.

Reprint No.	Amendments to	Effective	Reprint date
1	none	1 July 1982	10 August 1994

Reprint No.	Amendments included	Effective	Notes
1A	2010 Act No. 2	1 June 2010	

5 Tables in earlier reprints

Name of table	Reprint No.
Obsolete and redundant provisions	1

6 List of legislation

Domicile Act 1981 No. 51

date of assent 12 June 1981

ss 1–2 commenced on date of assent

remaining provisions commenced 1 July 1982 (proc pubd Gaz 19 June 1982 p 1600)

amending legislation—

Surrogacy Act 2010 No. 2 ss 1–2, ch 6 pt 6

date of assent 16 February 2010

ss 1–2 commenced on date of assent

remaining provisions commenced 1 June 2010 (2010 SL No. 86)

7 List of annotations

Domicile of certain children

s 8 amd 2010 No. 2 s 93

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