

Relationships (Civil Partnerships) and Other Acts Amendment Bill 2015

Explanatory Notes

Short title

The short title of the Bill is the Relationships (Civil Partnerships) and Other Acts Amendment Bill 2015.

Policy objectives and the reasons for them

The objective of the Bill is to implement the Government's commitment to restore provisions in the *Relationships Act 2011* (Relationships Act) for adult couples of any gender to hold a civil partnership ceremony prior to registering their relationship. The Bill will ensure that adult couples, regardless of their gender, can have an official ceremony to acknowledge and celebrate their relationships.

The Relationships Act currently provides for the legal recognition of the relationships of adult couples of any gender following registration of the relationship by the Registrar-General (RBDM) appointed under the *Births Deaths and Marriages Registration Act 2003* (BDMR Act). A relationship that has been registered by the RBDM is a 'registered relationship'.

However, previously the Act, known then as the *Civil Partnerships Act 2011* (Civil Partnerships Act), allowed a couple to hold an official ceremony prior to registering their relationship, instead of just registering the relationship. This ceremony was conducted by a registered civil partnership notary and involved the couple making a prescribed declaration to each other in front of a witness. Once a relationship was registered by the RBDM, it was a 'civil partnership'.

In 2012, the provisions allowing for the ceremony were removed by the *Civil Partnerships and Other Legislation Amendment Act 2012* (amendment Act). The Act was renamed from the Civil Partnerships Act to the Relationships Act, and a relationship that is registered is currently known as a 'registered relationship' rather than a 'civil partnership'.

The Bill also provides recognition of electronic records and supports the transition to a digitised Births Deaths and Marriages registration service.

Achievement of policy objectives

The Bill will achieve its objective of restoring provisions for civil partnership ceremonies by:

- renaming the Relationships Act the Civil Partnerships Act, and making other terminology changes including replacing references to 'registered relationship' with 'civil partnership';

- providing for couples to enter into a civil partnership by making a declaration to each other (i.e. the civil partnership ceremony) prior to registering their relationship, noting that this does not prevent couples from making their own arrangements for a ceremony not involving a civil partnership notary to acknowledge their relationship commitment;
- providing for registration (including registration cancellation) of civil partnership notaries, including eligibility criteria and for the RBDM, or a delegate of the RBDM, to also be a notary;
- providing that decisions: to refuse to register a relationship involving a civil partnership ceremony; to refuse to register a person as a civil partnership notary; or to cancel a person's registration as a civil partnership notary are decisions that are reviewable by the Queensland Civil and Administrative Tribunal (QCAT);
- providing that non-compliance with certain provisions relating to the civil partnership ceremony will not invalidate a civil partnership;
- reintroducing offences to uphold the integrity of civil partnership ceremonies; and
- making consequential amendments to a range of other Acts.

The Bill also sets out transitional provisions, for example, to provide that registered relationships prior to commencement are taken to be civil partnerships, and that a relationship under a corresponding law prior to commencement is taken to be registered as a civil partnership.

The Bill will achieve its objective of providing recognition of electronic records and supporting the transition to a digitised Births Death and Marriages registration service by amending the BDMR Act to:

- establish electronic lodgement as the required means of lodgement for birth notices by hospitals and death registration applications by funeral directors, with limited exceptions thereby establishing electronic lodgement as the preferred lodgement method;
- clarify the ability of individuals and entities to apply for and receive information electronically under the Act, promoting greater accessibility to information through the use of online channels; and
- give digitised copies of source documents relating to the registration of a life event the same legal status as the original paper versions.

Alternative ways of achieving policy objectives

There is no alternative way of achieving the policy objective.

Estimated cost for government implementation

The costs of the amendments will be met within existing resources. The cost of the civil partnership notary registration scheme will be offset by the fee charged for registering as a civil partnership notary and an annual registration fee for civil partnership notaries. These new fees will be prescribed by regulation and commence at the same time the amendments to the Relationships Act commence.

Consistency with fundamental legislative principles

The Bill is generally consistent with fundamental legislative principles. Potential breaches of fundamental legislative principles are addressed below.

Section 4(2)(a) *Legislative Standards Act 1992* – Whether legislation has sufficient regard to the rights and liberties of individuals

Clause 25 (Insertion of new section 34 into the Relationships Act (to be renamed the Civil Partnerships Act))

Clause 25 of the Bill makes it an offence (with a maximum penalty of 50 penalty units or 6 months imprisonment) if a civil partnership notary allows a declaration, or a purported declaration, to be made before the notary and the notice required (including the statutory declaration and anything else required under that section) for the civil partnership has not been given to the notary or was not given within the specified time period.

Clause 25 of the Bill makes it an offence (with a maximum penalty of 50 penalty units or 6 months imprisonment) if a civil partnership notary allows a declaration, or a purported declaration, to be made before the notary and the notary has reasonable grounds to believe that the civil partnership would be void under section 30 of the Relationships Act (to be renamed the Civil Partnerships Act).

These offences are justified as they will provide incentives for civil partnership notaries to meet the formal requirements of the legislation. Ensuring the legislative requirements associated with a declaration are complied with by the civil partnership notary is necessary for upholding the integrity and community regard of these ceremonies. It is also likely to be important to the couple involved in the ceremony and their family and friends that they have participated in a ceremony that meets all the formal legal requirements.

Clause 25 of the Bill also provides that a person commits an offence (with a maximum penalty of 50 penalty units or 6 months imprisonment) if –

- (a) the person makes a declaration with someone else (the person's partner); and
- (b) the declaration is made before a person (the third person) who is not a civil partnership notary; and
- (c) the person knows the third person is not a civil partnership notary; and
- (d) the person has reasonable grounds to believe that the person's partner believes that the third person is a civil partnership notary.

This offence is justified on the basis that there should be disincentives for people to misrepresent a ceremony as being one under the legislation.

Clause 33 (Amendment of section 25B of the BDMR Act (How registered relationships are registered))

Clause 33(4) of the Bill also makes it an offence (with a maximum penalty of five penalty units) under the BDMR Act if a civil partnership notary does not provide: (i)

the written notice of the making of a declaration; and (ii) the notice provided by the couple to the civil partnership notary to the RBDM in the stipulated time period.

This offence is justified on the basis that registration of a relationship following the civil partnership ceremony creates the legal recognition of the relationship, and couples participating in the ceremony should have confidence that their relationship will be registered in a timely way following the ceremony. This offence creates an incentive for this to occur.

Clause 44 (Replacement of section 26A of the *Corrective Services Act 2006* (Registered Relationships))

Clause 44 of the Bill reinstates an offence in section 26A of the *Corrective Services Act 2006* (CS Act) where a person in the custody of the chief executive fails to provide written notice to the chief executive before giving a notice of intention for a civil partnership declaration (i.e. civil partnership ceremony). This is consistent with the current requirement in section 26A of the CS Act for a person in the chief executive's custody to give the chief executive written notice before applying for the registration of a relationship as a registered relationship under the Relationships Act. This is also consistent with section 26 of the CS Act, which requires a person in custody to give notice when he or she intends to be married. The proposed maximum penalty is 20 penalty units, which is the same penalty imposed in section 26 and current section 26A.

Consultation

Key Queensland marriage celebrant associations, Parents and Friends of Lesbians and Gays, the Lesbian, Gay, Bisexual, Trans, Intersex (LGBTI) Legal Service Inc, the Australian Christian Lobby, Family Voice Australia, the Anti-Discrimination Commission Queensland, the Queensland Council for Civil Liberties, the Queensland Law Society (QLS) and the Bar Association of Queensland (BAQ) were consulted about the proposed amendments to ensure the Government is aware of the views of the community in relation to the proposed amendments generally and able to consider any feedback in relation to how best to give effect to the amendments.

Support for the amendments has been on the basis that the amendments support the equal rights of LGBTI people. Opposition to the amendments has been based on the view that a state's only legitimate interest in registering personal relationships is in relation to marriage because it is for the benefit of children and that civil partnership ceremonies mimic marriage. Some marriage celebrants object to the annual registration fee for civil partnership notaries, on the basis that as a civil partnership ceremony is optional and couples can also choose to hold a ceremony not involving a civil partnership notary, there may not be significant demand for the service of notaries, and marriage celebrants are already subject to an annual fee for being a marriage celebrant. However, as it is the choice of each individual marriage celebrant whether to become a civil partnership notary, and the proposed annual registration fee will cover the costs to the RBDM for the on-going administration of the notary registration scheme, the Bill provides for the charging of an annual registration fee.

Consultation occurred in 2014 on the amendments to the BDMR Act to provide recognition of electronic records and support the transition to a digitised Births, Deaths

and Marriages registration service. Stakeholders consulted included the Hospital and Health Services, the Australian Funeral Directors Association, the Australian Medical Association Queensland, the BAQ, QLS, Legal Aid Queensland, and private hospitals. Generally stakeholders were supportive of the proposed amendments or did not provide comment.

Consistency with legislation of other jurisdictions

New South Wales, Victoria, the ACT and Tasmania have relationship registration schemes similar to the current scheme under the Relationships Act. There is no relationship registration scheme in Western Australia, South Australia or the Northern Territory.

In Tasmania, while there is no legislative provision for relationship ceremonies to be held as part of its relationship registration system, the Registry of Births Deaths and Marriages issues specific decorative ceremonial certificates if couples wish to hold their own ceremony on the day their relationship is registered.

The ACT is the only jurisdiction with legislation that provides for official ceremonies. In the ACT same-sex couples may enter civil unions by making a declaration before the civil union celebrant under the *Civil Union Act 2012*.

Additionally, in the ACT two adults who are in a couple relationship, regardless of their sex, may enter into a civil partnership by having their relationship registered under the *Domestic Relationships Act 1994*.

Notes on provisions

Part 1 Preliminary

Clause 1 provides that the Act may be cited as the *Relationships (Civil Partnerships) and Other Acts Amendment Act 2015*.

Clause 2 provides that the Act commences on a day fixed by proclamation.

Part 2 Amendment of Relationships Act 2011

Clause 3 provides that Part 2 amends the Relationships Act.

Clause 4 amends the long title of the Relationships Act to reflect that the Act provides for civil partnerships.

Clause 5 amends the short title of the Relationships Act to the Civil Partnerships Act.

Clause 6 amends the heading of part 2 of the Relationships Act to change the name of the heading from 'Registered relationships' to 'Civil partnerships'.

Clause 7 replaces the term 'registered relationships' and 'registered relationship' in section 4 with the terms 'civil partnerships' and 'civil partnership' respectively.

Clause 8 replaces the terms 'registered relationship' and 'registered partner' in section 5 with the terms 'civil partnership' and 'civil partner' respectively.

Clause 9 replaces the term 'registered relationships' in the heading of part 2, division 3 with the term 'civil partnerships'.

Clause 10 replaces section 6 with a section which provides that two adults who are in a relationship as a couple, regardless of their sex, who meet the eligibility criteria in section 5, may enter into a civil partnership by:

- (a) having their relationship registered under section 9; or
- (b) making a declaration of civil partnership under section 11 and having their relationship registered under section 12.

The purpose of this clause is to provide couples the option of holding a civil partnership ceremony prior to registering their relationship. These amendments reflect the wording of section 6 prior to the commencement of the amendment Act.

Clause 11 amends section 7 to replace the term 'registered relationship' with the term 'civil partnership'. It also replaces the reference to section 6 with a reference to section 6(a) to reflect the changes made to section 6 by the Bill.

Clause 12 amends section 8 to replace the term 'registration' with 'cooling-off' to reflect the wording prior to the commencement of the amendment Act. The amendment

means that the Act provides for a ‘cooling-off period’ instead of a ‘registration period’. This period applies to an application to register a relationship (to be called a civil partnership) under section 7 and is a period ending 10 days after the application and accompanying documents under section 7(2) are given to the RBDM.

Clause 13 amends section 9 to replace the terms ‘registration’ and ‘registered partnership’ with the terms ‘cooling-off’ and ‘civil partnership’ respectively to reflect wording prior to the commencement of the amendment Act.

Clause 14 restores sections 10 to 12 which were removed by the amendment Act. These sections set out the processes for holding a civil partnership ceremony and registering a relationship after a civil partnership ceremony.

Section 10 provides that before two persons enter into a civil partnership as mentioned in section 6(b) (i.e. by making a declaration of civil partnership under section 11 and having their relationship registered under section 12), they must give notice in the approved form of their intention to enter into a civil partnership to:

- (a) a civil partnership notary, and
- (b) if the civil partnership notary is not the RBDM, the RBDM.

Section 10 sets out requirements for the notice including that it must be accompanied by a statutory declaration made by each person stating that the person wishes to enter into a civil partnership with the other person, that the person is not married or in a civil partnership, that the person believes the person and the other person do not have a prohibited relationship, and where the person lives. The notice must be accompanied by the documents to prove each person’s identity and age prescribed by regulation, and anything else prescribed by regulation. Section 10(3) provides that the notice must state the day on which the two persons intend to make a declaration of civil partnership under section 11. Section 10 also requires that as soon as practicable after receiving the notice and statutory declaration, the civil partnership notary is to give each person a written notice in the approved form setting out the legal effect of a civil partnership.

Section 11 provides that two persons who have given notice to a civil partnership notary and the RBDM if required by section 10(1)(b) may make a declaration of civil partnership before the civil partnership notary and at least one other adult witness. The declaration must be made no earlier than 10 days, and not later than 12 months, after the day the notice was given to the civil partnership notary. The declaration must be made by each person to the other and must contain a clear statement that:

- (a) names both persons; and
- (b) acknowledges that they are freely entering into a civil partnership with each other.

Section 12 provides for the registration of a relationship as a civil partnership after a declaration under section 11. Section 12 provides that as soon as practicable after the RBDM becomes aware, under section 25B(3) of the BDMR Act or otherwise, of the day that two persons have made a declaration of civil partnership under section 11, the RBDM must:

- (a) register the relationship as a civil partnership and make an endorsement to that effect on the notice they gave the RBDM under section 10; or
- (b) refuse to register the relationship as a civil partnership.

The RBDM must register the relationship as a civil partnership unless satisfied that the two persons have not made a declaration of civil partnership under section 11.

Section 12(3) requires the endorsement to state the day on which the registration has effect, which must be the day stated in the notice under section 10(3) or, if the RBDM is satisfied that the declaration of civil partnership was made on another day, the day that the RBDM considers appropriate in the circumstances.

Clause 15 omits section 13 and inserts a new section 13 to provide that:

- (a) a civil partnership entered into as mentioned in section 6(a) has effect when the RBDM registers the relationship under section 9(1)(a); and
- (b) a civil partnership mentioned in section 6(b) has effect on the day stated by the RBDM in section 12(3).

This restores section 13 as it was prior to the commencement of the amendment Act, and reflects the changes to section 6 and 12 made by the Bill.

Clause 16 replaces the term ‘registered relationship’ in section 14 with the term ‘civil partnership’.

Clause 17 replaces the term ‘registered relationship’ and ‘the relationship’ in section 15 with the terms ‘civil partnership’ and ‘the partnership’ respectively.

Clause 18 replaces the term ‘registered relationship’ and ‘the relationship’ in section 16 with the terms ‘civil partnership’ and ‘the partnership’ respectively.

Clause 19 replaces the term ‘registered relationship’ in sections 17 to 19 with the term ‘civil partnership’.

Clause 20 inserts a new part 3, which provides for the registration of a person as a civil partnership notary and the cancellation of the registration of a civil partnership notary. The new part 3, division 1 includes new sections 20, 20A and 21 and provides for the registration of a person as a civil partnership notary and generally reflects the part 3, division 1 that was removed by the amendment Act.

Section 20 sets out the application process and eligibility requirements for a civil partnership notary. A person may apply to the RBDM to be registered as a civil partnership notary. The application must be made in the approved form and accompanied by the prescribed application fee.

The approved form may require specified information or documents about the applicant’s relevant criminal history to be included in, attached to or given with the form. Relevant criminal history means a recorded conviction, other than a spent conviction (i.e. a conviction for which the rehabilitation period under the *Criminal Law (Rehabilitation of Offenders) Act 1986* has expired under that Act and that is not revived

as prescribed by section 11 of that Act) for: (a) any offence against a law of the State, another State or the Commonwealth that is punishable by imprisonment of 1 year or more; or (b) any offence against the Civil Partnerships Act (as renamed by the Bill). The approved form may require the form, or information or documents in or provided with the form to be verified by a statutory declaration.

The eligibility requirements for registration as a civil partnership notary are set out in section 20(5). Under section 20(5), if a person applies to be registered as a civil partnership notary under section 20, the RBDM may register the applicant if satisfied that the applicant is:

- (a) an adult who is appropriately qualified to exercise the functions of a civil partnership notary and a suitable person to be registered as a civil partnership notary; or
- (b) registered as a marriage celebrant under the Commonwealth *Marriage Act 1961* Marriage Act.

‘Appropriately qualified’ is defined in the *Acts Interpretation Act 1954*, and means having the qualifications, experience or standing appropriate to perform the function or exercise the power. Registered marriage celebrants under the Marriage Act have been assessed as having the qualifications, skills and suitability to solemnise marriages. Given that the skill set of a marriage celebrant is similar to that of a civil partnership notary, registered marriage celebrants will not have to undergo an assessment of whether they are appropriately qualified or suitable to be a civil partnership notary, as applies to other applicants.

In deciding whether an applicant (who is not a marriage celebrant under the Marriage Act) is a suitable person to be registered as a civil partnership notary, the RBDM must have regard to the person’s relevant criminal history. The RBDM may have regard to anything else the RBDM considers relevant.

If the RBDM is not satisfied that an applicant meets the eligibility requirements in section 20(5), the RBDM must refuse to register the applicant as a civil partnership notary.

Section 20A provides that a person registered as a civil partnership notary must give the registrar the annual registration fee prescribed by regulation by the day prescribed by regulation, and by that day give the RBDM an annual return, in the approved form, about the information given for the application for the registration. The purpose of the annual return is to assist the RBDM in determining whether the person continues to be suitable to be a notary. The approved form for the annual return may require the form, or information or documents included in, attached to or given with the form, to be verified by statutory declaration.

Under section 21, the RBDM must keep a register of persons registered as civil partnership notaries. The register may be kept in any form, including electronically, that the RBDM decides, and must include the following information for each person registered as a civil partnership notary:

- (a) the person’s full name;

- (b) the person's address and contact details;
- (c) the date the person was registered;
- (d) if the person's registration is cancelled or otherwise ends – the date the registration ends.

The register must be published on the department's website.

Part 3, division 2 provides for the cancellation of registration as a civil partnership notary and includes new sections 22, 22A, 23, 24, 25 and 26.

Section 22 provides that division 2 applies if the RBDM considers that a person registered as a civil partnership notary:

- (a) is not, or is no longer, a suitable person to be registered as a civil partnership notary;
or
- (b) has not complied with section 20A (i.e. has not met the requirements relating to the payment of the annual registration fee and annual return).

Section 22A provides that to decide whether a person is not, or is no longer, suitable to be registered as a civil partnership notary, the RBDM may ask the person to provide further information. For example, if the person indicates in their annual return that there has been a change in their criminal history, the RBDM may request that the person provide the RBDM with a more recent criminal history.

Section 23 provides that the RBDM must give the person a notice under section 23 (a show cause notice). The show cause notice must state:

- (a) that the RBDM proposes to cancel the person's registration as a civil partnership notary (the proposed action);
- (b) the ground for the proposed action;
- (c) an outline of the facts and circumstances forming the basis of the ground; and
- (d) an invitation to the person to show within a stated period (the show cause period) why the proposed action should be undertaken.

The show cause period must end at least 30 days after the show cause notice is given to the person. The purpose of the show cause notice is to alert the person to the RBDM's intention to cancel the person's registration as a civil partnership notary and provide the person the opportunity to respond to the issues raised in the show cause notice via the process in section 24.

Under section 24, a person who receives a show cause notice under section 23 may make written representations about the show cause notice to the RBDM in the show cause period. The RBDM must consider all written representations (the accepted representations) made by the person in the show cause period.

Section 25 provides that if, after considering the accepted representations for the show cause notice, the RBDM no longer considers the ground exists to cancel the registration, the RBDM must not take further action about the show cause notice and as soon as practicable, give notice to the person that no further action will be taken about the show cause notice.

The RBDM may decide to cancel a person's registration as a civil partnership notary under section 26. Section 26 applies if, after considering the accepted representations for the show cause notice, the RBDM still considers the ground exists to cancel the registration and considers cancellation of the registration is warranted. The section also applies if there are no accepted representations for the show cause notice, and the RBDM still considers the ground exists to cancel the registration and considers cancellation of the registration is warranted.

The decision to cancel a person's registration as a civil partnership notary does not take effect until the last day to apply to QCAT for a review of the decision (which is set out in section 33 of the *Queensland Civil and Administrative Tribunal Act 2009*), or if an application for review by QCAT is made, the day the review is decided or the application for review otherwise ends.

Section 26(5) enables the RBDM to refund the whole, or part, of an annual registration fee paid by the person. For example, under section 26(5) the RBDM could refund:

- (a) the whole registration fee where a person's registration is cancelled upon payment of the annual registration fee (and based on the information in the annual return the RBDM decides the person is no longer suitable to be registered as a civil partnership notary), and
- (b) part of the annual registration fee where a person has paid the annual registration fee for a given year and the person's registration is cancelled part-way through that year.

Clause 21 amends section 30 to replace the term 'registered relationships' and 'registered relationship' with the term 'civil partnerships' and 'civil partnership' respectively. Clause 21 also provides that a civil partnership is void if either party did not freely enter into the registered relationship because the party was mistaken about the nature of the declaration under section 11 as inserted by the Bill. This reflects the position prior to the commencement of the amendment Act.

Clause 22 inserts a new section 31, which was previously removed by the amendment Act. Section 31 provides that a civil partnership is not invalid only because a requirement about the form of notice given under section 10 was not complied with. For example, a civil partnership is not invalid only because the notice provided under section 10 does not state the day on which the two persons intend to make a declaration of civil partnership under section 11. New section 31 will further provide that a civil partnership is not invalid only because the person to whom the parties gave notice under section 10, or before whom the parties made the declaration under section 11, was not a civil partnership notary if either party believed, when giving the notice or making the declaration, that the person was a civil partnership notary.

Clause 23 amends section 32 to replace the term 'registered relationship' with the term 'civil partnership'.

Clause 24 amends section 33 to replace the terms 'registered relationships' and 'registered relationship' with 'civil partnerships' and 'civil partnership' respectively.

Clause 25 inserts new section 34 (which was previously removed by the amendment Act) to create offences relating to the role of civil partnership notaries and making declarations. Under section 34(1), a civil partnership notary commits an offence if:

- (a) the notary allows a declaration of civil partnership, or a purported declaration, to be made before the notary; and
- (b) the notice required under section 10 (including the statutory declaration and anything else required under that section) for the civil partnership has not been given to the notary or was not given to the notary within the period allowed under section 11(2) (under section 11(2) the notice must be given to the notary more than 10 days and less than 12 months before a declaration is made).

The maximum penalty for committing this offence is 50 penalty units or 6 months imprisonment.

Section 34(2) makes it an offence (with a maximum penalty of 50 penalty units or 6 months imprisonment) if a civil partnership notary allows a declaration, or a purported declaration, to be made before the notary and the notary has reasonable grounds to believe that the registered relationship would be void under section 30.

Under section 34(3), a person commits an offence if:

- (a) the person makes a declaration under section 11 with the intention of entering into a civil partnership with someone else (the person's partner); and
- (b) the declaration is made before the person (the third person) who is not a civil partnership notary; and
- (c) the person knows the third person is not a civil partnership notary; and
- (d) the person has reasonable grounds to believe that the person's partner believes the third person is a civil partnership notary.

The maximum penalty for this offence is 50 penalty units or 6 months imprisonment.

Clause 26 inserts part 7 with new sections 47 to 52 that are savings and transitional provisions for the Bill.

Section 47 provides the definitions for part 7. 'Amending Act' means with *Relationships (Civil Partnerships) and Other Acts Amendment Act 2015*. 'Former', in relation to a provision, means the provision as in force immediately before the amendment or repeal of the provision by the amending Act.

Under section 48, a registered relationship in effect immediately before the commencement is taken, on commencement, to be a civil partnership under the Act.

Section 49 applies to a relationship under a corresponding law that was, immediately before the commencement, taken to be registered as a registered relationship under section 33. A corresponding law means a law of another State or country prescribed under a regulation to be a corresponding law for the Act. The registered relationship is, on and from the commencement, taken to be registered as a civil partnership under the Act.

Section 50 applies if:

- (a) before the commencement, two persons applied under former section 7 for registration of their relationship as a registered relationship; and
- (b) immediately before the commencement, the RBDM had not decided the application under the former section 9.

From the commencement, the application is taken to be an application under section 7 for registration of the relationship as a civil partnership. The purpose of this provision is to ensure that pending applications to register a relationship prior to commencement can be processed as applications for the registration of a civil partnership under section 7.

Section 51 applies if:

- (a) before the commencement a person has applied for the review of a reviewable decision mentioned in former schedule 1 and the review has not been completed; or
- (b) on commencement, the period within which a person may apply for the review of a reviewable decision mentioned in former schedule 1 has started but not finished.

The Act, as it was in force immediately before the commencement, continues to apply for the purpose of completion of the review of the reviewable decision. The purpose of this provision is to ensure that the decision is reviewed in light of the law as it stood when the original decision was made.

If QCAT makes an order setting aside the reviewable decision mentioned in former schedule 1, item 1 (i.e. a refusal by the RBDM to register the relationship as a registered relationship), the registered relationship is taken to be registered as a civil partnership under the Act. The purpose of this provision is to ensure that relationships registered under the Act are civil partnerships from commencement.

If QCAT makes an order setting aside the reviewable decision mentioned in former schedule 1, item 2 (i.e. a refusal by the RBDM to register a termination application), the termination of the registered relationship is taken to be registered as the termination of a civil partnership.

Section 52 provides that a reference in an Act or document to a ‘registered relationship’, a ‘registered partner’, or Relationships Act is, from the commencement and if the context permits, taken to be a reference to a ‘civil partnership’, ‘civil partner’ or Civil Partnerships Act respectively.

Clause 27 amends schedule 1 which sets out reviewable decisions under the Act (i.e. decisions of the RBDM that are reviewable by QCAT) to include the following reviewable decisions:

- a refusal to register a relationship as a civil partnership under section 12(1)(b) as inserted by the Bill;
- a refusal to register a person as a civil partnership notary under section 20(7) as inserted by the Bill; and
- the cancellation of a person’s registration as a civil partnership notary under section 26(3) as inserted by the Bill.

It also makes terminology change to schedule 1 to change a reference to ‘registered relationship’ to ‘civil partnership’.

Clause 28 amends the dictionary in schedule 2 to omit the definition of registration period and replace it with the definition ‘cooling-off period’. Definitions of ‘accepted representations’ ‘civil partnership notary’ (which means (a) a person registered as a civil partnership notary under the Act or (b) the RBDM), ‘show cause notice’ and ‘show cause period’ are also inserted.

Part 3 Amendment of Births, Deaths and Marriages Registration Act 2003

Clause 29 provides that part 3 amends the *Births, Deaths and Marriages Registration Act 2003*.

Clause 30 amends section 5 by inserting a new subsection (5) that requires a person in charge of a hospital to give the birth notice electronically, subject to identified exceptions.

Clause 31 amends the heading of part 5A by replacing the term ‘Registered relationships’ with the term ‘Civil partnerships’.

Clause 32 amends section 25A to replace the term ‘registered relationship’ with the term ‘civil partnership’. It also replaces the reference in section 25A(1) to ‘*Relationships Act 2011*, section 9(1)(a)’ with a reference to ‘*Civil Partnerships Act 2011*, section 9 or 12’ to reflect that a person may enter a civil partnership by registering their relationship under section 9 or making a declaration and registering their relationship under section 12.

Clause 33 amends section 25B to replace the terms ‘registered relationships’ and ‘registered relationship’ with the terms ‘civil partnerships’ and ‘civil partnership’. It also replaces the reference in section 25B(1) to ‘*Relationships Act 2011*, section 9(1)(a)’ with a reference to ‘*Civil Partnerships Act 2011*, section 9 or 12’ to reflect that a person may enter a civil partnership by registering their relationship under section 9 or making a declaration and registering their relationship under section 12. Clause 33 also inserts new subsections 25B(3) and (4) which were removed by the amendment Act.

Section 25B(3) provides that if two persons make a declaration of civil partnership before a civil partnership notary other than the RBDM under section 11 of the Civil Partnerships Act, the notary must give the RBDM not later than 14 days after the day the declaration is made, written notice of the making of the declaration and the notice given to the notary under section 10 of the Civil Partnerships Act. The maximum penalty for contravention of this requirement is 5 penalty units. Section 25B(4) inserts a definition of ‘civil partnership notary’.

Clause 34 amends section 25C to replace the reference to ‘registered relationship is terminated under the *Relationships Act 2011*’ to ‘civil partnership is terminated under the *Civil Partnerships Act 2011*’. The term ‘Registered relationship’ in the heading of section 25C is replaced with ‘Civil partnership’.

Clause 35 amends section 28(5) to omit the definition of ‘disposal’, as the Bill inserts a new definition of ‘disposal’ into the Dictionary in schedule 2.

Clause 36 amends section 29 by replacing subsection (5) to require that a funeral director located in Queensland give a death registration application electronically, subject to identified exceptions. This replaces a general requirement for a person giving an application to give it electronically, if it is reasonably practical to do so.

Clause 37 replaces current references in section 32(6) to the giving of notice about disposal of a deceased person’s body ‘by way of electronic communication’ to the giving of the notice electronically. The means by which a notice or application can be given electronically is set out in clause 41 of the Bill, which inserts a new section 54A.

Clause 38 amends section 44, which governs how a person or entity can apply for information, what information can be requested, the basis upon which the RBDM can refuse to provide the requested information and related matters.

Subclause (1) replaces section 44(1)(b) to remove the current definition of a ‘source document’ (clause 42 of the Bill inserts a new definition in the Dictionary in schedule 2).

Subclause (2) amends section 44 to insert new section 44(1A), which provides for an application made by a person or entity for requested information under section 44 to be made electronically but without limiting this to historical information (as was previously the case under section 44(10)).

Subclause (3) replaces existing subsections (9) and (10). The new section 44(9) replaces an existing provision regarding the admissibility of a copy of a source document in proceedings, and clarifies that the RBDM can give the requested information to an applicant electronically. The new subsection (10) provides that the ability to give information electronically does not limit a requirement of the Act about giving the requested information or the *Electronic Transactions (Queensland) Act 2001*. The means by which an application can be given electronically is set out in clause 41 of the Bill which inserts a new section 54A.

Clauses 39 and 40 omit the current definition of ‘source document’ from sections 48B(6) and 48C(6), with a new definition of ‘source document’ inserted in the Dictionary in schedule 2 by clause 42 of the Bill.

Clause 41 inserts a new section 54A that provides for how a notice or application is given electronically.

Clause 42 inserts new definitions of an ‘approved form’, ‘disposal’ and ‘funeral director’, and a revised definition of ‘source document’ into schedule 2.

The definition of ‘source document’ was previously contained in sections 44(1)(b), 48B(6) and 48C(6). Paragraph (b) of the definition of ‘source document’ provides for a digitised copy of an original source document to have the same status at law as the original paper version by providing that a source document includes a digitised copy of a source document kept by the RBDM as an official record of the document.

Part 4 Amendment of Corrective Services Act 2006

Clause 43 provides that part 4 amends the *Corrective Services Act 2006*.

Clause 44 replaces section 26A to require a person in the chief executive's custody to give the chief executive written notice before applying under section 7 of the Civil Partnerships Act to register a relationship as a civil partnership or providing a notice of intention to enter a civil partnership under section 10 of the Civil Partnerships Act. Failure to provide the written notice to the chief executive is an offence with a maximum penalty of 20 penalty units. A prisoner may make a declaration of civil partnership under the Civil Partnerships Act in a corrective services facility only with the chief executive's approval. The declaration must be conducted in a way decided by the chief executive.

Part 5 Amendment of Duties Act 2001

Clause 45 provides that part 5 amends the *Duties Act 2001*.

Clause 46 amends section 151 to replace the term 'registered relationship' with the term 'civil partnership'.

Clause 47 replaces the definition of spouse in schedule 6 so that spouse includes de facto partner and civil partner.

Part 6 Amendment of Succession Act 1981

Clause 48 provides that part 6 amends the *Succession Act 1981*.

Clause 49 amends sections 5AA(1) and (2) to replace the term 'registered partner' with the term 'civil partner'. It also replaces the definition of 'dependent former husband or wife or registered partner' in section 5AA(4) with a definition of 'dependent former husband or wife or civil partner'.

Clause 50 amends section 14A to replace the term 'registered relationship' with the term 'civil partnership'. It also corrects a minor error in section 14A(3) by inserting the word 'a'.

Clause 51 amends section 15A to replace the terms 'registered relationship', 'registered partner', and 'registered partner's' with the terms 'civil partnership', 'civil partner', and 'civil partner's' respectively. It also replaces the definition of 'former registered partner', 'registered partner', 'termination' and 'void' with new definitions of 'former civil partner', 'civil partner', 'termination' and 'void' respectively.

Part 7 Other amendments

Clause 52 describes the purpose of the consequential amendments included in each part of the schedule to the Bill. Subclause (1) provides that each provision of an Act listed in part 1 of the schedule is amended by omitting '*Relationships Act 2011*' and inserting

‘*Civil Partnerships Act 2011*’. Subclause (2) provides that each provision of an Act listed in part 2 of the schedule is amended by omitting ‘registered relationship’ or ‘Registered relationship’ and inserting ‘civil partnership’ or ‘Civil partnership’. Subclause (3) provides that each provision of an Act listed in part 3 of the schedule is amended by omitting ‘registered partner’ and inserting ‘civil partner’.

Schedule – Amendments of other Acts

Part 1 References to Relationships Act 2011

Part 1 makes consequential amendments to the following legislation to replace references to the ‘*Relationships Act 2011*’ with references to ‘*Civil Partnerships Act 2011*’:

- *Acts Interpretation Act 1954*;
- *Guardianship and Administration Act 2000*; and
- *Powers of Attorney Act 1998*.

Part 2 References to registered relationship

Part 2 makes consequential amendments to the following legislation to replace references to ‘registered relationship’ or ‘Registered relationship’ with references to ‘civil partnership’ or ‘Civil partnership’:

- *Acts Interpretation Act 1954*;
- *Body Corporate and Community Management Act 1997*;
- *Civil Proceedings Act 2011*;
- *First Home Owner Grant Act 2000*;
- *Governors (Salary and Pensions Act) 2003*;
- *Guardianship and Administration Act 2000*;
- *Integrated Resort Development Act 1987*;
- *Judges (Pensions and Long Leave) Act 1957*;
- *Powers of Attorney Act 1998*;
- *Sanctuary Cove Resort Act 1985*; and
- *Status of Children Act 1978*.

Part 3 References to registered partner

Part 3 makes consequential amendments to the following legislation to replace references to ‘registered partner’ with references to ‘civil partner’:

- *Acts Interpretation Act 1954*;
- *Anti-Discrimination Act 1991*;
- *Electrical Safety Act 2002*;
- *First Home Owner Grant Act 2000*;
- *Judges (Pensions and Long Leave) Act 1957*;
- *Land Tax Act 2010*;
- *Payroll Tax Act 1971*;

- *Powers of Attorney Act 1998*;
- *Public Trustee Act 1978*;
- *Status of Children Act 1978*; and
- *Surrogacy Act 2010*.