

CIVIL PARTNERSHIPS (CORRESPONDING LAWS) AMENDMENT REGULATION 2017

Explanatory notes for SL 2017 No. 191

made under the

Civil Partnerships Act 2011

General Outline

Short title

Civil Partnerships (Corresponding Laws) Amendment Regulation 2017

Authorising law

Section 33 of the *Civil Partnerships Act 2011*

Policy objectives and the reasons for them

The *Civil Partnerships Act 2011* (the Act) provides for two adults who are in a relationship as a couple, regardless of their sex, who meet the eligibility criteria, to enter into a civil partnership. Those eligibility requirements are: that a person is not married or in a civil partnership; does not have a 'prohibited relationship' with the person's proposed civil partner (for example a sibling relationship); and the person or the person's proposed civil partner lives in Queensland.

Section 33 of the Act provides for a relationship under a corresponding law to be taken as registered as a civil partnership under the Act. A corresponding law means a law of another state or country that is prescribed by regulation to be a corresponding law for the Act. The regulation made under this power is the *Civil Partnerships Regulation 2012* (the Regulation).

The primary objective of the regulation is to amend section 4 and insert a new schedule 1 into the Regulation. The *Civil Partnerships (Corresponding Laws) Amendment Regulation 2017* (the amending Regulation) prescribes additional interstate and overseas jurisdictions as corresponding laws under the Act.

Achievement of policy objectives

The policy objective is achieved by inserting a new schedule 1 into the Regulation which contains the list of corresponding laws (part 1) and

corresponding relationships (part 2). Section 4 of the Regulation is also amended to provide that the definition of corresponding law means the laws prescribed in schedule 1.

As a result persons in a relationship listed in new schedule 1, part 2 of the Regulation, under the corresponding laws listed in schedule 1, part 1 of the Regulation, will have their relationships automatically recognised as a civil partnership in Queensland.

Consistency with policy objectives of authorising law

The policy objective of section 33 of the Act is to provide a mechanism for the recognition of relationships under laws of other jurisdictions as civil partnerships under the Act. The amending Regulation is consistent with the policy objectives of this authorising law.

Inconsistency with policy objectives of other legislation

The amending Regulation is consistent with the policy objectives of other legislation.

Alternative ways of achieving policy objectives

It is possible to also achieve the policy objective of the amending Regulation via an amendment to the Act itself.

Similar to section 33B of the *Relationships Act 2008* (Vic), the Act could be amended to automatically recognise any registered or formally recognised relationship which met certain requirements, as a civil partnership in Queensland.

It is considered that an amendment to the Regulation is the best approach to deliver the policy objective in Queensland at this time, as it will remove any ambiguity around which laws of other jurisdictions are prescribed as corresponding laws, providing clarity and certainty to the community.

Benefits and costs of implementation

There are nil costs associated with the implementation of the amending Regulation.

Consistency with fundamental legislative principles

The amending Regulation is consistent with fundamental legislative principles.

Consultation

A self-assessment by the Department of Justice and Attorney-General has determined that a Regulatory Impact Statement is not required as the regulatory proposal is excluded under category (g) of the Queensland Government Guide to Better Regulation.

The LGBTI Legal Service were consulted and were supportive of the proposal.