

Civil Partnerships and Other Legislation Amendment Regulation 2018

Explanatory notes for SL 2018 No. 25

Made under the

Births, Deaths and Marriages Registration Act 2003
Civil Partnerships Act 2011

General Outline

Short Title

Civil Partnerships and Other Legislation Amendment Regulation 2018

Authorising law

Sections 26(1)(b)(ii)(B), 31(3)(d), 44(5)(a) and 56(1) of the *Births, Deaths and Marriages Registration Act 2003*

Sections 33 and 36(1) of the *Civil Partnerships Act 2011* (CP Act)

Policy objectives and the reasons for them

The purpose of the *Civil Partnerships and Other Legislation Amendment Regulation 2018* (Amendment Regulation) is to amend the *Births Deaths and Marriages Registration Regulation 2015* (BDM Regulation) and the *Civil Partnerships Regulation 2012* (CP Regulation) to make amendments arising as a consequence of the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* (Cwlth) (Marriage Amendment Act).

The Marriage Amendment Act commenced on 9 December 2017. The Marriage Amendment Act amends the definition of marriage under the *Marriage Act 1961* (Cwlth) (Marriage Act) to enable same-sex couples to marry. The Marriage Amendment Act also removes current restrictions on the recognition of same-sex marriages solemnised in a foreign country as marriages in Australia.

Achievement of policy objectives

Introduction of gender neutral terms

The Amendment Regulation amends the BDM Regulation, section 25(e), schedule 1, part 3, item 2(a) and schedule 2, part 4, item 2(a) to introduce gender neutral terms to describe people in a marriage. These amendments will ensure that information about a same-sex married partner of a deceased person is captured by the Registry of Births, Deaths and Marriages in death certificates, death extracts and court orders for the registration of a death.

Recognition of same sex marriages in other jurisdictions

Section 33 of the CP Act states that a regulation may provide that a relationship under a corresponding law is taken to be registered as a civil partnership under the CP Act.

The Amendment Regulation amends the CP Regulation to remove references to certain same-sex marriages in overseas jurisdictions as prescribed laws and relationships for section 33 of the CP Act. These amendments will ensure that certain same-sex marriages in overseas jurisdictions are no longer taken to be civil partnerships in Queensland. This is because as a result of the Marriage Amendment Act, these overseas marriages are now recognised as marriages in Australia, and a person cannot be in both a marriage and a civil partnership under the CP Act. The Amendment Regulation also contains amendments to correct minor errors in the description of some other prescribed relationships that are taken to be civil partnerships.

Consistency with policy objectives of authorising law

The Amendment Regulation is consistent with the objectives of the *Births Deaths and Marriages Registration Act 2003* and the *Civil Partnerships Act 2011*.

Inconsistency with policy objectives of other legislation

The Amendment Regulation is not inconsistent with the policy objectives of other legislation.

Benefits and costs of implementation

There are not expected to be any significant costs associated with the implementation of the Amendment Regulation. Any costs will be absorbed within the resources of Registry of Births, Deaths and Marriages.

Consistency with fundamental legislative principles

The Amendment Regulation is consistent with fundamental legislative principles.

Consultation

There was no consultation outside Government in the development of the Amendment Regulation as it is consequential to the Marriage Amendment Act.

A self-assessment by the Department of Justice and Attorney-General has determined that a Regulatory Impact Statement is not required because the amendment regulation is a regulatory proposal that makes consequential amendments under exclusion category (a) of the *Queensland Government Guide to Better Regulation*.