



GUIDANCE MATERIAL FOR CIVIL PARTNERSHIP NOTARIES

THIS GUIDANCE MATERIAL

The Office of Regulatory Services (ORS) is responsible for the administration of the *Civil Partnerships Act 2008* (the Act). The Act is available on the Legislation Register at www.legislation.act.gov.au. The following guidance material has been developed to inform people who wish to apply to become a civil partnership notary, and maintain a set of standards for people who are already a registered civil partnership notary. These guidelines can be referred to by people considering entering into a civil partnership.

These guidelines will be included in the Births, Deaths and Marriages Practice Manual, upon review and publishing of that practice manual.

The ORS may be contacted by telephone on (02)6207 6444, you may attend the office at 255 Canberra Avenue, Fyshwick ACT. Our office hours are 9:00am to 4:30pm Monday to Friday (excluding public holidays).

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CHAPTER 1 - BECOMING A CIVIL PARTNERSHIP NOTARY

1.1 APPLICATION PROCESS

A person may apply to the Registrar-General in writing to be registered as a civil partnership notary. Where a form has been approved by the Minister, the approved form must be used. In this case the approved form is a 'Form 224 - CPN - Application to Register as a Civil Partnership Notary'. Instructions for the completion of this form are included on the form.

Upon application the Registrar-General may register the applicant where satisfied that the applicant:

- is an individual aged 18 years or over;
- has the knowledge and the skills or experience necessary to exercise the functions of a civil partnership notary; and,
- is a suitable person to be registered as a civil partnership notary.

In deciding whether a person is a suitable person to be registered as a civil partnership notary, the Registrar-General must have regard to the following:

- whether the person has been convicted, or found guilty, in Australia of an offence punishable by imprisonment for one year or longer;
- whether the person has been convicted, or found guilty, outside Australia of an offence that, if it had been committed in the ACT, would have been punishable by imprisonment for one year or longer;
- whether the person has been convicted, or found guilty, of an offence against, or has otherwise contravened the Act;
- whether the person is or has been an undischarged bankrupt, has executed a personal insolvency agreement or has otherwise applied to the benefit of any law for the relief of bankrupt or insolvent debtors; and,
- whether the person has a physical or mental incapacity that may affect the exercise of the person's functions as a civil partnership notary.

If the Registrar-General is not satisfied of the above, the application will be refused. A refusal to register the application is a reviewable decision. Please refer below for further information if you wish to appeal a decision not to register an application.

The application form may be downloaded from our website at www.ors.act.gov.au. Please also refer to our website for the current application fee.

The Registrar-General will consider all applications based on the information supplied on, and with, the 'Application to Register as a Civil Partnership Notary' form.

1.2 EVIDENCE OF IDENTITY, AGE AND RESIDENCE

As a part of the application to be registered as a civil partnership notary, evidence of the applicant's full name, age and address must be provided at the time of application.

The Registrar-General will accept a birth certificate, drivers licence, current passport, or citizenship certificate for the purposes of ensuring the applicant's age and identity.

Proof of identity documents may have their authenticity verified through the Certificate Validation System (CVS) and/or the National Document Verification System (DVS).

1.3 CONVICTIONS AND OFFENCES

The application form includes a section where the applicant is to indicate whether they have been convicted of an offence or not. A conviction does not necessarily exclude a person from applying for registration as a civil partnership notary.

Where the Registrar-General has any concerns as to whether the applicant has been convicted of an offence, they may request a police check or statement of facts to confirm any details the applicant may have indicated on the application form. If the convictions or offences are relevant to the application, the Registrar-General will refuse to register the application.

1.4 QUALIFICATIONS, SKILLS AND EXPERIENCE

An applicant's qualifications, skills and experience will be used by the Registrar-General in determining the applicant's competency to undertake the role of a civil partnership notary.

The applicant must demonstrate their competency by providing copies and/or details of any qualifications, skills and experience relevant to the application, such as:

- details of any certificates or training that has been undertaken;
- details of the applicant's ability to liaise and communicate with people who may be from a diverse background, with particular sensitivity to people wishing to enter into a civil partnership; and,

- any experience that the applicant considers relevant to assist in performing the functions of a civil partnership notary.

1.5 CONFLICTS OF INTEREST

The applicant must supply to the Registrar-General any relevant information to determine whether there may be a perceived or actual conflict of interest if the applicant were to be registered as a civil partnership notary.

Conflicts of interest may include information relating to the applicant's occupation, business interests, or affiliation with clubs or associations.

1.6 REFERENCES

In support of an application, the applicant must provide two references from persons known to the applicant that are not family members.

The references must address the following:

- The nature and length of time the referee has known the applicant;
- The referee's knowledge of the applicant's personal and professional capacity to undertake the responsibility of performing civil partnership ceremonies; and,
- The referee's knowledge of any personal or professional standards or qualities that may support the application.

The Registrar-General may seek to contact one or both of the referees to obtain additional information or clarification of information supplied.

1.7 REGISTRATION

Upon deciding whether an applicant is suitable for registration as a civil partnership notary, the Registrar-General will notify the applicant in writing as to the decision.

Where the Registrar-General is satisfied that an applicant is suitable to be registered as a civil partnership notary, the Registrar-General will provide the applicant with a registration number and include their details on the register of civil partnership notaries. This register is publicly available and will include the civil partnership notaries full name, address and contact details.

Where the Registrar-General is not satisfied that an applicant is suitable to be registered as a civil partnership notary, the Registrar-General will provide a letter explaining the decision to refuse the application.

1.8 CANCELLATION OF REGISTRATION

The Registrar-General may cancel a person's registration as a civil partnership notary if the Registrar-General considers that the person does not satisfy, or no longer satisfies, the criteria for registration as a civil partnership notary.

1.9 REVIEW OF DECISION TO REFUSE REGISTRATION

If the Registrar-General refuses to register a person as a civil partnership notary, or cancels the registration of a civil partnership notary, the person, or former civil partnership notary may appeal the decision by making an application to the ACT Civil and Administrative Tribunal (ACAT).

CHAPTER 2 - ENTERING INTO A CIVIL PARTNERSHIP

2.1 METHODS OF ENTERING INTO A CIVIL PARTNERSHIP

There are two options available for people considering entering into a civil partnership in the ACT. People may wish to apply for civil partnership registration over the counter at the ORS shopfront or by post if there is no ceremony to be performed. Alternatively proposed partners of the same sex may wish to have their civil partnership performed by a registered civil partnership notary. A Civil partnership declaration made before a registered civil partnership notary must be performed within the ACT.

Each method has certain criteria that must be met. Civil partnerships are not effective until endorsed and registered by the Registrar-General.

2.2 ELIGIBILITY TO ENTER INTO A CIVIL PARTNERSHIP

A person may enter into a civil partnership only if:

- they 18 years or older;
- at least one of the proposed civil partners resides within the ACT;
- the proposed civil partners are not married or already in a civil partnership; and,
- the proposed civil partners are not in a prohibited relationship.

A prohibited relationship is where the proposed civil partners are:

- lineal ancestors;
- lineal descendents;
- sisters;
- half sisters;
- brothers; or,
- half brothers.

Proposed partners may only have their civil partnership declaration made before a civil partnership notary where the partners are not able to marry under the *Marriage Act 1961(C'With)*. For example, a male partner and a female partner are not able to have their civil partnership declaration made before a civil partnership notary, as they may marry under the *Marriage Act 1961(C'With)*.

2.3 APPLICATION FOR REGISTRATION OVER THE COUNTER OR BY POST

Eligible persons may choose to apply directly to the Registrar-General for registration of their civil partnership.

The partners must complete a 'Form 219 - ACP - Application to Register a Civil Partnership without Ceremony'. Instructions for the completion of the form are included within the form.

The form requires certain personal details, proof of identification, and evidence of residency and includes a statutory declaration which both partners must complete. The form and any required documentation must be lodged with the Registrar-General either over the counter or by post.

Where lodged over the counter, ORS staff are able to witness the statutory declaration, however where the application is lodged by post the statutory declaration must be witnessed by a person able to witness under the *Statutory Declarations Act 1959*. All copies of proof of identity documentation and evidence of residency must be certified as true copies of the original documents by a solicitor, police officer or justice of the peace.

Please refer to the ORS website at www.ors.act.gov.au for the current determined fee.

2.4 APPLICATION FOR REGISTRATION BY CIVIL PARTNERSHIP NOTARY

Eligible persons may choose to have a civil partnership ceremony and make their declaration before a registered civil partnership notary. Please be aware that proposed partners may only have their civil partnership declaration made before a civil partnership notary where the partners are not able to marry under the *Marriage Act 1961(C'With)*. For example, a male partner and a female partner are not able to have their civil partnership declaration made before a civil partnership notary, as they may marry under the *Marriage Act 1961(C'With)*.

The proposed partners are able to contact a registered civil partnership notary to organise a ceremony at which their civil partnership declaration may be made. The register of civil partnership notaries is publicly available from the ORS.

Where the civil partnership is to be declared before a registered civil partnership notary a 'Form 223 - NCP - Notice of Intention to enter into a Civil Partnership' must be completed with the registered civil partnership notary, not earlier than five days before the declaration, and the declaration may not be made later than 18 months after the day the notice was given. Instructions for the completion of this form are included in the form. The statutory declaration to be made by the proposed partners contained within this form must be witnessed by a witness able to witness statutory declarations under the *Statutory Declarations Act 1959*.

The proposed civil partners must give the completed Notice of Intention to Enter into a Civil Partnership to the Registrar-General prior to the proposed date of declaration. The Registrar-General will note the date of receipt on the Notice of Intention to Enter into a Civil Partnership and give the original back to the proposed partners to provide to the registered civil partnership notary.

Upon making a declaration before a registered civil partnership notary a 'Form 222 - ACC - Application to Register a Civil Partnership with Ceremony by Notary' must be completed. Instructions on the completion of this form are included in the form.

Both forms require certain personal details, proof of identification, and evidence of residency. The civil partnership notary is required to lodge both forms with the Registrar-General no later than two weeks after the civil partnership was declared.

Please refer to the ORS website at www.ors.act.gov.au for the current determined fee.

CHAPTER 3 - REGISTRATION AND CERTIFICATES

3.1 REGISTRATION OF CIVIL PARTNERSHIP OVER THE COUNTER OR BY POST

Where the proposed partners have opted not to have a civil partnership ceremony and have applied directly to the Registrar-General for registration of their civil partnership, and all requirements have been met and the determined fee paid, the Registrar-General will register the civil partnership. Registration is affected by making an entry containing prescribed particulars in the register of civil partnerships and will usually take between 24 and 48 hours from the date of receipt of all required documentation and payment of the determined fee.

Once registered, a certificate will be available for purchase by either civil partner for the determined fee. Please refer to the ORS website at www.ors.act.gov.au for the current determined fee.

3.2 REGISTRATION OF CIVIL PARTNERSHIP WHERE DECLARED BEFORE A CIVIL PARTNERSHIP NOTARY

Upon lodgement of the required documentation and payment of the determined fee by the civil partnership notary, the Registrar-General will register the civil partnership by endorsing the Notice of Intention to Enter into a Civil Partnership specifying the day on which the registration is taken to have effect. Upon endorsement the Registrar-General will make an entry containing prescribed particulars in the register of civil partnerships. This will usually take between 24 and 48 hours from the date of receipt of all required documentation and payment of the determined fee.

Once registered, a certificate will be available for purchase by either civil partner for the determined fee. Please refer to the ORS website at www.ors.act.gov.au for the current determined fee.

3.3 PRESCRIBED PARTICULARS

The following information will be entered in the register of civil partnerships upon registration:

- date and place of registration;
- the partners' full names;
- the partners' home addresses;

- the partners' dates and places of birth;
- each partner's relationship status immediately prior to registration;
- the partners' occupations; and,
- the full names of each partner's parents.

The following information will also be entered in the register of civil partnerships where the declaration was made before a civil partnership notary:

- the date and place the declaration was made;
- the civil partnership notary's full name;
- the civil partnership notary's registration number; and,
- the full name of at least one witness to the declaration.

Relationship status is defined in the Act as being:

- single;
- divorced;
- widowed; or,
- domestic partnership, other than the proposed civil partner.

CHAPTER 4 - TERMINATION AND WITHDRAWAL OF TERMINATION OF CIVIL PARTNERSHIP

4.1 TERMINATION PROCESS

A civil partnership is automatically terminated upon the death of either partner or the marriage of either partner. A civil partnership may also be terminated by Supreme Court order or by lodging a completed 'Form 220 - TCP - Notice to Terminate Civil Partnership'. This termination notice may be lodged by either one of the civil partners or jointly by both civil partners. Instructions for the completion of this form are included on the form.

Where the termination notice has been given by only one civil partner, the notice is only effective if a copy of the notice has been served personally on the other civil partner, and a statutory declaration is given to the Registrar-General with the termination notice, that is made by the person who served the termination notice, that states the notice was served personally by that person, to the other civil partner on the date stated in the statutory declaration.

Termination becomes effective at the end of twelve months after that date the termination notice is given to the Registrar-General, unless the termination notice is withdrawn or the Supreme Court makes an order that the termination notice is not effective to terminate the civil partnership.

Upon termination the Registrar-General will provide both civil partners with a letter informing them of the termination taking effect. The Registrar-General will include the prescribed particulars of the termination in the civil partnership register. The prescribed particulars include:

- the date the termination notice was given to the Registrar-General; or,
- where terminated by a Supreme Court order, the date the order was made; and
- the date of effect of the termination.

4.2 WITHDRAWAL OF TERMINATION PROCESS

Where a termination notice has been lodged with the Registrar-General, the civil partner or partners that lodged the notice are able to withdraw it at any time before the end of 12 months after the date the termination notice was lodged with the Registrar-General. The termination may be withdrawn by Supreme Court order or by lodging a completed 'Form 221 - WCP - Notice of Withdrawal of a Termination of a Civil Partnership'.

Where the withdrawal notice has been given by only one civil partner, the notice is only effective to withdraw the termination if a copy of the notice has been served personally on the other civil partner, and a statutory declaration is given to the Registrar-General with the withdrawal notice, that is made by the person who served the withdrawal notice, that states the notice was served personally by that person, to the other civil partner on the date stated in the statutory declaration.

CHAPTER 5 - COMPLAINTS POLICY

5.1 HOW TO MAKE A COMPLAINT ABOUT AN ORS OFFICER

The ORS is committed to providing customer service in a professional, efficient and respectful manner. All people have the right to raise concerns and make legitimate complaints and expect that the issues raised will be handled in a fair, confidential and responsive manner and free from repercussion or prejudice.

The ORS Complaints Policy is available at the ORS shopfront and at www.ors.act.gov.au. The policy sets out the responsibility of the ORS to:

- Recognise, promote and protect the customer's right to complain about their dealings with the ORS;
- Ensure an accessible and well publicised complaints procedure is in place;
- Recognise the need to be fair to both the complainant and the organisation or person complained about;
- Provide a mechanism for responding to complaints in a timely and courteous manner;
- Determine and implement remedies;
- Provide adequate resources to support the complaints management process;
- Record, assess and review complaints on a regular basis to ensure responsive and on-going commitment to service improvement.

5.2 HOW TO MAKE A COMPLAINT ABOUT A CIVIL PARTNERSHIP NOTARY

If you want to make a complaint about a civil partnership notary or a person purporting to be a civil partnership notary that is not registered you should consider the External Complaints Policy available at the ORS shopfront and at www.ors.act.gov.au.

Generally this policy indicates that a complaint can be made over the phone or by other informal means depending on the nature or severity of the complaint. A complaint can be made by phoning (02) 6207 3000.