

Relationships Register Act 2010 No 19

[2010-19]



New South Wales

Status Information

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Provisions in force

The provisions displayed in this version of the legislation have all commenced.

Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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Relationships Register Act 2010 No 19



New South Wales

An Act with respect to the registration of de facto relationships; and for other purposes.

Part 1 Preliminary

1 Name of Act

This Act is the *Relationships Register Act 2010*.

2 Commencement

- (1) This Act commences on a day or days to be appointed by proclamation, except as provided by subsection (2).
- (2) Schedule 2.2 and Schedule 3 commence on the date of assent to this Act.

3 Object of Act

The object of this Act is to provide for the legal recognition of persons in a relationship as a couple, regardless of their sex, by registration of the relationship.

4 Definitions

- (1) In this Act:

adult means a person of or above the age of 18 years.

corresponding law means a law of another State or a Territory providing for the registration of or recognition of relationships that is prescribed by the regulations.

interstate registered relationship—see section 16.

Register means the Register established under the *Births, Deaths and Marriages Registration Act 1995*.

registered relationship means a relationship that is registered under this Act.

Registrar means the Registrar of Births, Deaths and Marriages within the meaning of the *Births, Deaths and Marriages Registration Act 1995*.

Note—

The *Interpretation Act 1987* contains definitions and other provisions that affect the interpretation and application of this Act.

(2) Notes included in this Act do not form part of this Act.

Part 2 Registration of relationships

5 Eligibility for registration

- (1) Two adults who are in a relationship as a couple, regardless of their sex, may apply to the Registrar for registration of their relationship.
- (2) A relationship cannot be registered unless at least one of the adults resides in New South Wales.
- (3) A relationship cannot be registered if:
 - (a) either adult is married, or
 - (b) either adult is registered under this Act or a corresponding law as being in a registered relationship or an interstate registered relationship, or
 - (c) either adult is in a relationship as a couple with another person, or
 - (d) the adults are related by family.
- (4) Two adults are **related by family** if:
 - (a) one is the child (including an adopted child) of the other, or
 - (b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent), or
 - (c) they have a parent in common (including an adoptive parent of either or both of them).
- (5) Subsection (4) applies:
 - (a) even if an adoption has been declared void or is of no effect, and
 - (b) to adoptions under the law of any place (whether in or out of Australia) relating to the adoption of children.
- (6) Subsection (4) applies in relation to a child whose parentage is transferred as a result of a parentage order, or an Interstate parentage order, within the meaning of the *Surrogacy Act 2010* in the same way as it applies in relation to an adopted child, even if the parentage order is discharged or otherwise ceases to have effect. For that purpose, a reference in that subsection to an adoptive parent is to be read as a

reference to a person to whom the parentage of a child is transferred under such a parentage order.

6 Applications for registration

An application for registration of a relationship is to be made in the form approved by the Registrar and must be accompanied by the following:

- (a) a statutory declaration by each person in the relationship stating the following:
 - (i) that the person wishes to register the relationship,
 - (ii) that the person is in a relationship as a couple with the other person,
 - (iii) that the person is not married,
 - (iv) that the person is not registered under this Act or a corresponding law as being in a registered relationship or an interstate registered relationship,
 - (v) that the person is not in a relationship as a couple with a person other than the other applicant,
 - (vi) that the person does or does not reside in New South Wales,
 - (vii) that the person is not related to the other applicant by family,
- (b) evidence of the identity and age of each person in the relationship,
- (c) the fee prescribed by the regulations,
- (d) any other documents and information prescribed by the regulations.

7 Registrar may require further information

The Registrar may require applicants for registration of a relationship to provide any further information that the Registrar requires to determine the application.

8 Cooling off period for registration

- (1) The Registrar must not register a relationship before the end of the cooling off period for the registration application.
- (2) An applicant for registration of a relationship may withdraw the application before the relationship is registered by giving the Registrar a withdrawal notice in the form approved by the Registrar.
- (3) The cooling off period for a registration application is the period ending 28 days after the application is made.

9 Determination of registration applications

The Registrar must register a relationship in the Register as soon as practicable after the end of the cooling off period, if the Registrar is satisfied that the relationship may be registered under this Act and the application has not been withdrawn.

Note—

Part 8 of the *Births, Deaths and Marriages Registration Act 1995* provides for the registration of relationships in the Register, including correction of the Register, access to information in the Register and the issue of certificates and other services provided by the Registrar relating to registrable events.

Part 3 End of registration of relationships

10 Revocation of registration by events

The registration of a registered relationship is revoked in the following circumstances:

- (a) on the death of a person in the relationship,
- (b) on the marriage of a person in the relationship.

10A Certain registrations revoked on recognition of same sex marriages

- (1) This section applies to a registered relationship existing immediately before the recognition day if a person in the registered relationship was party to a recognised same sex marriage on the recognition day.
- (2) To avoid doubt, the registration of a registered relationship to which this section applies was revoked on the recognition day.
- (3) In this section:

recognised same sex marriage means a marriage that:

- (a) was solemnised before the recognition day, and
- (b) was recognised in Australia as valid on the recognition day because of Part 5 of Schedule 1 to the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* of the Commonwealth, and
- (c) would not have been recognised apart from that Part.

recognition day means the day on which Part 5 of Schedule 1 to the *Marriage Amendment (Definition and Religious Freedoms) Act 2017* of the Commonwealth commenced.

11 Applications for revocation of registration by parties

- (1) One or both persons in a registered relationship may apply to the Registrar to revoke the registration of the relationship.

- (2) The application is to be in the form approved by the Registrar and to be accompanied by the following:
 - (a) a statutory declaration by at least one of the persons stating that the person wishes to revoke the registration,
 - (b) if only one person makes the application, proof of service of notice of the application on the other person and particulars of that notice,
 - (c) the fee prescribed by the regulations,
 - (d) any other documents and information prescribed by the regulations.
- (3) The Registrar may dispense with the obligation to give notice of the application to the other person, or approve alternative means of giving notice, if the Registrar is satisfied that it is not reasonably practicable to give notice of the application in the manner required by or under this Act.

12 Cooling off period for revocation applications

- (1) The Registrar must not revoke the registration of a relationship before the end of the cooling off period for a revocation application.
- (2) An applicant for revocation of registration of a relationship may withdraw the application before the registration is revoked by giving the Registrar a withdrawal notice in the form approved by the Registrar.
- (3) The cooling off period for a revocation application is the period ending 90 days after the application is made.

13 Revocation on application by one or both persons

The Registrar must revoke the registration of a registered relationship as soon as practicable after the end of the cooling off period, if an application is made in accordance with this Part and the Registrar is satisfied that the application has not been withdrawn.

14 Void registrations

- (1) Registration of a registered relationship is void if:
 - (a) when the relationship was registered, registration under this Act was prohibited, or
 - (b) the agreement of one or both of the persons in the relationship to the registration was obtained by fraud, duress or other improper means, or
 - (c) when the relationship was registered, either party was mentally incapable of understanding the nature and effect of the registration.
- (2) Any court may, of its own motion, make an order declaring the registration of a

registered relationship void by operation of this section if a question arises in proceedings as to the registration.

15 Notation of revocation or void registration in Register

If the registration of a registered relationship is revoked or is void, the Registrar must note that fact on the Register.

Part 4 Miscellaneous

16 Recognition of interstate registered relationships

The regulations may declare that a class of relationships registered or recognised under a corresponding law are interstate registered relationships for the purposes of this Act.

16A Registrar may provide celebratory services

- (1) The Registrar may, at the request of an applicant for registration, provide or arrange for the provision of celebratory services in connection with registration of the person's relationship under this Act.
- (2) The Registrar may charge a fee for providing or arranging for the provision of those services.
- (3) If the regulations do not prescribe a fee for providing or arranging for the provision of those services, the fee (if any) for those services is the fee fixed by negotiation between the Registrar and the person who requests the services.

17 Regulations

- (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, regulations may be made for or with respect to the following:
 - (a) prescribing fees for the purposes of this Act,
 - (b) the refund or waiver of fees under this Act,
 - (c) the notification of registrations under this Act, or related events, to relevant registration authorities in other States or Territories,
 - (d) notes on the Register about interstate registered relationships,
 - (e) the service of notices under this Act.
- (3) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

18 Applications to Civil and Administrative Tribunal for administrative review

A person may apply to the Civil and Administrative Tribunal for an administrative review under the [Administrative Decisions Review Act 1997](#) of a decision of the Registrar made in the exercise or purported exercise of functions under this Act.

19 Disclosure of information

A person must not disclose any information obtained in connection with the administration or execution of this Act unless that disclosure is made:

- (a) with the consent of the person from whom the information was obtained, or
- (b) in connection with the administration or execution of this Act, or
- (c) for the purposes of any legal proceedings arising out of this Act or of any report of any such proceedings, or
- (d) in accordance with a requirement imposed under the [Ombudsman Act 1974](#), or
- (e) with other lawful excuse.

Maximum penalty: 50 penalty units or 12 months imprisonment, or both.

20 Nature of proceedings for offences

Proceedings for an offence under this Act or the regulations may be dealt with summarily before the Local Court.

21 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Savings, transitional and other provisions

Part 1 General

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

this Act

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.
- (3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication on the NSW legislation website, the provision does not operate so as:
 - (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Schedules 2, 3 (Repealed)