

DRAFT FOR CONSULTATION

1st November 2017

A BILL

entitled

DOMESTIC PARTNERSHIP ACT 2017

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WHEREAS it is expedient to provide for the formalisation and registration of a relationship between adult couples, to be known as a domestic partnership, and to make connected and related provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Preliminary

Citation

- 1 This Act may be cited as the Domestic Partnership Act 2017.

Interpretation

- 2 In this Act—

“commencement date” means the date on which this Act comes into operation;

“Deputy Registrar” means a person appointed under section 28;

“domestic partner” means a party to a domestic partnership;

“domestic partnership” means a domestic partnership formalised and registered in accordance with this Act;

“domestic partnership celebrant” means a person appointed under section 25 or licensed under section 31 or 32;

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“General Register of Domestic Partnerships” means the register kept under section 21;

“licence for domestic partnership” means a licence issued by the Registrar under section 9;

“Minister” means the Minister responsible for the Registrar-General;

“overseas relationship” has the meaning given in section 36;

“prescribed” means prescribed by regulations made under this Act;

“prohibited degrees of domestic partnership” has the meaning given in section 6 and Schedule 1;

“Registrar” means the Registrar of Domestic Partnerships who shall be—

- (a) the Registrar-General; or
- (b) such other public officer as may be appointed by the Minister to carry out the functions of the Registrar in relation to this Act;

“special licence” means a special licence issued by the Minister under section 10.

Overview of domestic partnership

- 3 (1) Two persons may enter into a domestic partnership under this Act if—
- (a) they are both over the age of 18 years;
 - (b) neither is currently married, in a domestic partnership or overseas relationship; and
 - (c) they are not within the prohibited degrees of domestic partnership.
- (2) A domestic partnership may be formalised by the Registrar or, if the Registrar has issued a licence or the Minister has issued a special licence, by a domestic partnership celebrant (see sections 13, 14 and 34).
- (3) After a domestic partnership is formalised, it must be registered under section 21.
- (4) The dissolution of a domestic partnership is governed by the Matrimonial Causes Act 1974, as applied by section 41.
- (5) This section is a summary only and subject to the provisions of this Act.

Capacity

Age of eligibility

- 4 A person who has not reached the age of 18 years is prohibited from entering into a domestic partnership.

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Requirement not to be already married or in domestic partnership

5 (1) A person who is married is prohibited from entering into a domestic partnership.

(2) A person who is in a domestic partnership is prohibited from entering into another domestic partnership.

(3) A person who is in an overseas relationship is prohibited from entering into a domestic partnership.

Prohibited degrees of domestic partnership

6 (1) Two people who are within the prohibited degrees of domestic partnership, as set out in Schedule 1, are prohibited from entering into a domestic partnership with each other.

(2) Subsection (1) is subject to paragraph 4 of Schedule 1.

Notice and issue of licence

Notice of domestic partnership and statutory declaration

7 (1) If two people intend to enter into a domestic partnership, one of them shall appear personally before the Registrar and give notice in the prescribed form of the intended domestic partnership.

(2) The person giving notice must also make a statutory declaration in the prescribed form before the Registrar declaring that the person believes that—

- (a) the parties are both over the age of 18 years;
- (b) neither party is currently married, in a domestic partnership or overseas relationship;
- (c) the parties are not within the prohibited degrees of domestic partnership or, if they are, a court order has been made under paragraph 4 of Schedule 1 dispensing with the prohibition; and
- (d) there is no other lawful impediment to the intended domestic partnership; and
- (e) the particulars in the notice are true.

(3) If both of the parties to an intended domestic partnership are ordinarily resident outside Bermuda, the requirements of this section are satisfied if—

- (a) one of the parties posts the notice in the prescribed form to the Registrar; and
- (b) one of the parties, at any time before the licence is issued or (if the Registrar is to formalise the domestic partnership) the domestic partnership is formalised, makes a statutory declaration as to the matters in subsection (2).

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- (4) The person giving notice under this section must pay the prescribed notice fee.

Registration and publication of notice

8 (1) On receiving notice of the intended domestic partnership, the Registrar shall enter the particulars contained in the notice and the date of the receipt of the notice in a register (the “Domestic Partnership Notice Register”), and shall keep the notice posted in a conspicuous place in the office of the Registrar-General for a period of not less than fourteen days from the date of the receipt thereof.

(2) The Registrar shall also within three days of the receipt of the notice of intended domestic partnership cause a notice in the prescribed form to be published twice in any newspaper published and circulated in Bermuda.

(3) Any expenses incurred by the Registrar in the publication of such a notice of domestic partnership shall be paid to the Registrar by the person who gave the notice.

Issue of licence to enter into domestic partnership

9 (1) After the posting and publication of the notice of intended domestic partnership as required by section 8, and at any time not later than three months nor earlier than fourteen days after the receipt of the notice of domestic partnership, the Registrar on the application of either of the parties to the intended domestic partnership, shall—

- (a) if no lawful impediment has been shown to the Registrar’s satisfaction why a licence for domestic partnership should not issue; and
- (b) if no caveat has been entered against the issue of a licence or if a caveat so entered has been removed (see sections 16 and 17),

issue to the applicant a licence for domestic partnership in the prescribed form.

(2) The Registrar shall not issue a licence for domestic partnership until the expenses of advertisement have been paid as required by section 8(3).

Special licence

10 (1) Notwithstanding anything in this Act, the Minister may in the case of any intended domestic partnership dispense with the giving of notice of domestic partnership and with the issue of a licence for domestic partnership by the Registrar, and may grant a special licence in the prescribed form authorising the formalising of the domestic partnership before the Registrar or a domestic partnership celebrant.

(2) An application for a special licence may be made by a party to the intended domestic partnership to the Minister and it shall be submitted to the Registrar together with the affidavit referred to in subsection (5).

(3) The Registrar shall, if satisfied that there is sufficient information for the consideration of the Minister, forward the application and all other relevant documents to the Minister together with his recommendation thereon.

- (4) The Minister shall not grant a special licence under this section unless—

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- (a) it appears to him that the intended domestic partnership is not prohibited by this Act;
 - (b) there are special or exceptional circumstances justifying the grant of a special licence; and
 - (c) an affidavit is produced to him as mentioned in subsection (5).
- (5) One of the parties to the intended domestic partnership shall make an affidavit deposing to the following matters—
- (a) that the parties are both over the age of 18 years;
 - (b) that neither party is currently married, in a domestic partnership or overseas relationship;
 - (c) that the parties are not within the prohibited degrees of domestic partnership or, if they are, that a court order has been made under paragraph 4 of Schedule 1 dispensing with the prohibition; and
 - (d) that there is no other lawful impediment to the intended domestic partnership.

Licence and special licence lapse within three months

11 Where an intended domestic partnership does not take place within three months after the date of the issue of any licence or special licence relating to the intended domestic partnership, the licence or special licence shall be void, and the domestic partnership shall not be entered into under the authority of that licence or special licence.

Licence authorises but does not oblige

12 A licence or special licence authorises, but does not oblige, a domestic partnership celebrant to formalise the domestic partnership to which the licence relates.

Formalisation of domestic partnership

Formalisation by the Registrar

- 13 (1) The Registrar may formalise a domestic partnership if he is satisfied—
- (a) that the domestic partnership is not prohibited by this Act;
 - (b) that the requirements of this Act have been complied with; and
 - (c) that—
 - (i) no caveat to the domestic partnership has been lodged under section 16; or
 - (ii) if a caveat has been lodged, it has been withdrawn or removed.
- (2) The formalisation shall not take place—
- (a) earlier than fourteen days after the date on which notice of intended domestic partnership was given; or

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- (b) more than three months after the date on which notice of the intended domestic partnership was given (or, where a caveat has been lodged, more than three months after the date on which the caveat was withdrawn or removed).
- (3) A domestic partnership shall only be formalised by the Registrar between the hours of—
 - (a) 10am and 4pm on a Monday to Friday (other than a public holiday); or
 - (b) 10am and 12 noon on a Saturday.
- (4) A domestic partnership may only be formalised by the Registrar—
 - (a) at the office of the Registrar-General; or
 - (b) at an alternative approved location.
- (5) During the formalisation, in the presence of the Registrar and at least two credible witnesses, each party shall make a clear statement that—
 - (a) gives the full names of both parties; and
 - (b) acknowledges that they are freely joining in a domestic partnership with each other and know of no lawful impediment to the domestic partnership.
- (6) The Minister may—
 - (a) make regulations prescribing buildings or other places as alternative approved locations for the purposes of subsection (4)(b); and
 - (b) on application made by the parties in writing at least 14 days before the proposed date of the formalisation, approve an additional such alternative location, subject to the approval of the Registrar and on such terms and conditions as the Minister sees fit.
- (7) The parties to a domestic partnership to be held at an alternative approved location shall—
 - (a) obtain the written permission of the owner or occupier to use that location for their domestic partnership and notify the Registrar accordingly; and
 - (b) comply with any terms and conditions imposed by the owner or occupier.

Formalisation by domestic partnership celebrant

- 14 (1) On the delivery to him of either—
- (a) a valid licence for domestic partnership issued by the Registrar under section 9; or
 - (b) a valid special licence granted by the Minister under section 10,

a domestic partnership celebrant may formalise a domestic partnership between the parties specified in the licence or special licence.

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(2) The domestic partnership shall be formalised in the presence of two or more credible witnesses in addition to the domestic partnership celebrant.

(3) A domestic partnership may be formalised in any place in Bermuda, but shall not be formalised in a place to which access is prevented by locked or barred doors or otherwise (see also section 34 in relation to domestic partnerships formalised on Bermuda ships on the high seas).

(4) During the formalisation, in the presence of the domestic partnership celebrant and at least two credible witnesses, each party shall make a clear statement that—

- (a) gives the full names of both parties; and
- (b) acknowledges that they are freely joining in a domestic partnership with each other and know of no lawful impediment to the domestic partnership.

(5) A domestic partnership celebrant shall not formalise a domestic partnership if he knows or has reason to believe that there is any lawful impediment to the domestic partnership.

Domestic partnership in extremis

15 (1) Notwithstanding anything in this Act, if the conditions specified in subsection (2) are fulfilled, it shall be lawful to formalise a domestic partnership before a domestic partnership celebrant without giving notice of the intended domestic partnership, or (if notice has been given) without the issue of any licence for domestic partnership, or without the grant of a special licence, or after the expiration of three months from the date of the issue of a licence or special licence.

(2) The conditions referred to in subsection (1) are as follows—

- (a) both parties to the intended domestic partnership must be legally competent to enter into the domestic partnership;
- (b) the domestic partnership must be formalised in the presence of two or more credible witnesses in addition to the domestic partnership celebrant, and one of the witnesses must be a medical practitioner;
- (c) each party shall give a clear statement that—
 - (i) gives the full name of each party; and
 - (ii) acknowledges that they are freely joining in a domestic partnership with each other and know of no lawful impediment to the domestic partnership;
- (d) one at least of the parties to the intended domestic partnership must in the opinion of the medical practitioner be in a dying state but able to understand the effect of entering into the domestic partnership.

(3) A domestic partnership formalised under this section shall not operate as a revocation of any will.

Caveat

Caveat to intended domestic partnership

16 (1) A person who knows or claims to know of any lawful grounds why a domestic partnership should not take place may enter a caveat against the issue of a licence by the Registrar.

(2) A person shall enter a caveat by notice in writing signed by him, stating his full name, residential address, and the grounds of objection on which he claims the domestic partnership should not take place.

(3) A caveat shall be given to the Registrar, and may be given at any time before the issue of the licence to which it relates.

(4) On receipt of a caveat, the Registrar shall forthwith—

(a) record in the Domestic Partnership Notice Register the particulars contained in the notice and the date of receipt; and

(b) refer the caveat to a Judge of the Supreme Court.

Powers of Judge regarding caveat

17 Where a caveat has been referred to a Judge, the following provisions shall have effect—

(a) if the Judge is of opinion that no legal ground has been disclosed in the caveat for preventing the domestic partnership, he may order the caveat to be removed without requiring any of the parties to appear;

(b) in other cases, the Judge shall cause a summons to be issued to the parties to the intended domestic partnership and the person by whom the caveat has been entered requiring such person to show cause why the licence for domestic partnership should not be issued;

(c) the Judge may hear and determine every such matter in a summary way and shall either confirm the caveat or order it to be removed;

(d) if the caveat is removed, the Registrar may issue the licence for domestic partnership and the domestic partnership may proceed as if the caveat had not been entered, but the time that has elapsed between the entry and removal of the caveat shall not be computed in the period of three months specified in section 11;

(e) if it appears to the Judge that the caveat has been entered on insufficient grounds, the Judge may order the person who entered the caveat to pay compensation and costs to the parties to the intended domestic partnership;

(f) if the caveat is confirmed, the Registrar shall forthwith inform every domestic partnership celebrant.

Void and voidable domestic partnerships

Grounds on which a domestic partnership is void

18 A domestic partnership shall be void on the following grounds only, that is to say—

- (a) if it is not formalised by the Registrar, a Deputy Registrar or a domestic partnership celebrant;
- (b) if at the time it was entered into either party was under the age of 18 years;
- (c) if at the time it was entered into either party was already lawfully married, in a domestic partnership or overseas relationship;
- (d) if at the time it was entered into the parties were within the prohibited degrees of domestic partnership, and no order under paragraph 4 of Schedule 1 had been obtained;
- (e) if both parties knowingly and wilfully acquiesce in the formalisation of the domestic partnership under a false name or names;
- (f) if both parties to the domestic partnership (not being a domestic partnership in extremis) knowingly and wilfully acquiesce in its formalisation without any notice given of the domestic partnership (where such notice is required by this Act) or without the authority, as the case may be of a licence or special licence; or
- (g) if it is formalised as a domestic partnership in extremis, and both parties knowingly and wilfully acquiesce in its being so formalised without fulfilment of the conditions specified by section 15.

Grounds on which a domestic partnership is voidable

19 A domestic partnership is voidable on the following grounds only, that is to say—

- (a) that either party to the domestic partnership did not validly consent to it, whether in consequence of duress, mistake, unsoundness of mind or otherwise;
- (b) that at the time of the domestic partnership either party, though capable of giving a valid consent, was suffering (whether continuously or intermittently) from mental disorder within the meaning of the Mental Health Act 1968 of such a kind or to such an extent as to be unfitted for domestic partnership.
- (c) that the petitioner was unaware that at the time of the domestic partnership the respondent was suffering from venereal disease in a communicable form; or
- (d) that the petitioner was unaware that at the time of the domestic partnership the respondent was pregnant by some person other than the petitioner.

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Effect of defect in formalities or procedures

20 (1) Save as provided in section 18, a defect in compliance with the formalities or procedures required under this Act does not, in itself, render a domestic partnership void.

(2) However, nothing in this section exempts the Registrar, a Deputy Registrar or a domestic partnership celebrant who does anything contrary to the provisions of this Act from any penalty for an offence under this Act.

Registration

Registration of domestic partnerships

21 (1) The Registrar shall keep at the office of the Registrar-General the General Register of Domestic Partnerships in which all domestic partnerships entered into in Bermuda shall be recorded as provided by this section.

(2) Immediately after a domestic partnership has been formalised by the Registrar, he shall enter a statement of the domestic partnership in the prescribed form in the General Register of Domestic Partnerships, which shall be signed by—

- (a) the Registrar;
- (b) the parties to the domestic partnership; and
- (c) two credible witnesses to the domestic partnership,

and give a copy to the parties.

(3) Immediately after a domestic partnership has been formalised by a domestic partnership celebrant he shall prepare a statement of the domestic partnership in the prescribed form, which statement shall be signed by—

- (a) the domestic partnership celebrant;
- (b) the parties to the domestic partnership; and
- (c) two credible witnesses to the domestic partnership,

and given to the parties.

(4) The domestic partnership celebrant shall as soon as practicable transmit to the Registrar a duplicate of the statement prepared under subsection (3) similarly signed, and the duplicate statement shall be filed by the Registrar and preserved among the records of the office of the Registrar-General, and the Registrar shall enter a true copy thereof in the General Register of Domestic Partnerships.

15— (5) In the case of a domestic partnership formalised in extremis under section

- (a) the requirement as to the signing of the statement by the parties to the domestic partnership shall be waived so far as regards any party unable to sign;

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- (b) there shall be endorsed on the statement a certificate in the prescribed form signed by—
 - (i) the Registrar or the domestic partnership celebrant who formalised the domestic partnership;
 - (ii) any party to the domestic partnership able to sign; and
 - (iii) two credible witnesses to the domestic partnership, one of whom shall be the medical practitioner referred to in section 15;
- (c) the Registrar shall insert the words "in extremis" in the entry to be made in the General Register of Domestic Partnerships.

Any person may search register and obtain copies of particulars

22 Any person may, during business hours and on payment of the prescribed fee, search the entries in the General Register of Domestic Partnerships and may have true copies certified under the hand and seal of the Registrar of all particulars recorded in any such entry.

Registrar may require information

23 (1) The Registrar may, for the purpose of completing or rectifying the registration of any domestic partnership, require any person—

- (a) who is required by this Act to give any notice or statement relating to the domestic partnership; or
- (b) who may reasonably be expected to have knowledge of the true facts relating to the domestic partnership,

to make any written declaration or to give any information within his knowledge relating to the domestic partnership, and to attend at the office of the Registrar-General for the purpose of making the declaration or giving the information.

(2) If the Registrar thinks fit he may require any such declaration or information to be made or given on oath.

Alterations and amendments of the register

24 (1) No alteration in the General Register of Domestic Partnerships shall be made except as authorised by this section.

(2) Any clerical error which may from time to time be discovered in the register may be corrected by the Registrar or by any person authorised by him in that behalf; and where any such correction is made a note to that effect shall be inserted in the register and shall be signed by the Registrar.

(3) Any error of fact or substance in the Register may be corrected by the Registrar in cases where he is satisfied as to the truth of the correction.

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(4) The correction shall be made by entry in the Register (without any alteration in the original entry) and a note to that effect shall be inserted in the Register and shall be signed by the Registrar.

(5) Where a person applies for the correction of an error of fact or substance, the Registrar, if satisfied as to the truth of the correction, and upon payment of the prescribed fee, may make the correction in the manner set out in subsection (4) upon production to him by the applicant of a sworn declaration in writing setting out—

- (a) the nature of the error; and
- (b) the true facts of the case,

and made and signed by a person required to make any statement under the provisions of this Act relating to the domestic partnership to which the application relates, or by any two credible persons having knowledge of the truth of the case.

Domestic partnership celebrants

Appointment of domestic partnership celebrants

25 (1) A person may apply in writing to the Minister to be appointed as a domestic partnership celebrant and shall give his full name, address and date of birth, and such other particulars as may be prescribed.

(2) The Minister may appoint a person as a domestic partnership celebrant if the Minister, after consulting the Registrar, is satisfied—

- (a) that the person is of good character;
- (b) that the person is able to, and will, conscientiously perform the duties of a domestic partnership celebrant under this Act; and
- (c) that the appointment is in the public interest.

(3) The Registrar shall give notice in the Gazette of the name of every person who is appointed as a domestic partnership celebrant.

(4) A person named in a notice given under subsection (3) is entitled to act as a domestic partnership celebrant on and from the date specified in the notice until his appointment ceases under section 26.

Ceasing to be a domestic partnership celebrant

26 (1) A person ceases to be a domestic partnership celebrant—

- (a) in the case of a person who resigns, on the date on which the Registrar receives his written notice of resignation; or
- (b) in the case of a person whose appointment is cancelled by the Registrar under this section, on the date referred to in subsection (5).

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(2) The Minister, after consulting the Registrar, may cancel a person's appointment as a domestic partnership celebrant if he is no longer satisfied, with respect to the person, as to the matters set out in section 25(2).

(3) The Minister shall not cancel a person's appointment as a domestic partnership celebrant without first—

- (a) giving the person notice that he is considering cancelling the appointment;
- (b) giving the person a reasonable opportunity to make submissions on the proposed cancellation; and
- (c) considering any submissions made by the person within that time.

(4) The Registrar shall give notice in writing to the person concerned of the Minister's decision to cancel the person's appointment as a domestic partnership celebrant, and also of any decision not to proceed with a proposed cancellation.

(5) If a person's appointment as a domestic partnership celebrant is cancelled, the notice from the Registrar must specify the date on which the cancellation takes effect, which must be a date not sooner than five days after the date on which the notice is sent.

Publication of list of domestic partnership celebrants

27 (1) The Registrar shall keep affixed in a conspicuous place in the office of the Registrar-General a list showing the names of all domestic partnership celebrants appointed under section 25.

(2) The Registrar shall, at least once every year, publish a list in the Gazette of the names of all current domestic partnership celebrants, and this list may be combined with any notice given under section 25(3).

(3) The Registrar may at any time publish in the Gazette a list of the names of persons who have ceased to be domestic partnership celebrants since the latest list under this section was published.

Deputy Registrars

Deputy Registrars

28 (1) The Minister may appoint a public officer or a domestic partnership celebrant to be a Deputy Registrar for the purpose of formalising a domestic partnership under section 13.

(2) A Deputy Registrar shall be appointed on such terms and conditions as the Minister may determine and shall act in accordance with the directions of the Registrar.

(3) A person who ceases to be a domestic partnership celebrant under section 26 shall at the same time cease to be a Deputy Registrar.

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Protection for marriage officers

Provision in respect of marriage officers

29 (1) For the avoidance of doubt, a person granted a licence as a marriage officer under—

- (a) the Marriage Act 1944;
- (b) the Jewish Marriage Act 1946;
- (c) the Baha'i Marriage Act 1970;
- (d) the Muslim Marriage Act 1984; or
- (e) the Maritime Marriage Act 1999,

is not authorised to formalise a domestic partnership unless he is also appointed as a domestic partnership celebrant under this Act.

(2) No marriage officer appointed under any of the enactments listed in subsection (1)(a) to (d) shall be compellable to permit the use of any place of worship under his control for the formalisation of a domestic partnership.

Maritime domestic partnerships

Maritime domestic partnerships: interpretation

30 In sections 31 to 35—

“Bermuda ship” has the meaning given in section 2(1) of the Merchant Shipping Act 2002;

“high seas” means all parts of the sea that are not included in the territorial sea or the internal waters of a state or territory;

“master” includes every person (except a pilot) having command or charge of any ship;

“Registrar of Shipping” means the Registrar of Shipping appointed under the Merchant Shipping Act 2002.

Maritime domestic partnerships: domestic partnership celebrants

31 (1) The Minister may grant a licence to the master of a Bermuda ship to be a domestic partnership celebrant for the purposes of this Act.

(2) An application for the grant to a master of a licence to be a domestic partnership celebrant shall be made in writing to the Minister and shall state the full name of the applicant, his address and date of birth, and shall contain such other particulars as may be prescribed.

(3) An application shall be forwarded to the Registrar of Shipping accompanied by a certificate of the applicant's qualifications to be a master of a Bermuda ship and a letter of his appointment to serve on board a Bermuda ship.

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(4) The Registrar of Shipping on being satisfied that the application contains sufficient information to enable it to be considered by the Minister, shall forward the application to the Registrar with his recommendation on the application.

(5) Every licence granted by the Minister under this section shall have effect as from such date and shall be valid for such period as may be specified in the licence, and may, by the terms of the licence, limit to any particular ship or ships the functions of the master so licensed.

(6) A licence granted by the Minister under this section shall be in the prescribed form.

(7) The Registrar shall give notice in the Gazette as soon as practicable after the grant of a licence under this section.

(8) The Minister may at any time and without assigning any reason revoke a licence granted by him under this section.

(9) A domestic partnership celebrant may at any time by notice in writing to the Minister surrender his licence.

(10) The Registrar shall give notice in the Gazette of every revocation of a licence under subsection (8) or surrender of licence under subsection (9).

Maritime domestic partnerships: provisional domestic partnership celebrants

32 (1) The Minister may grant a licence to a person who is the second in command to the master of a Bermuda ship to be a provisional domestic partnership celebrant for the purposes of this Act.

(2) The making of an application for a licence under subsection (1) and the way the application is dealt with shall be the same as an application for a licence under section 31(2) to (4).

(3) Section 31(5) to (10) shall apply, with necessary modifications, to a licence granted under subsection (1).

(4) Notwithstanding subsections (2) and (3), a licence granted under subsection (1) shall be granted subject to the condition that the licensee shall formalise a domestic partnership ceremony only if he is at the time scheduled for the domestic partnership, the master of a ship.

Maritime domestic partnerships: register of domestic partnership celebrants

33 The Registrar shall keep affixed in a conspicuous place in the office of the Registrar-General a list showing the names of all domestic partnership celebrants licensed under section 31 and the names of the ships on which they are serving.

Maritime domestic partnerships: general provisions

34 (1) Subject to the requirements of this Act relating to notice of domestic partnership and the issue of a licence for domestic partnership, a domestic partnership may

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be formalised before a domestic partnership celebrant on the high seas under the authority of a licence for domestic partnership.

(2) A domestic partnership may be formalised before a domestic partnership celebrant on the high seas without notice of domestic partnership or the issue of any licence for domestic partnership under the authority of a special licence.

(3) A domestic partnership in extremis may be formalised on the high seas by a domestic partnership celebrant in accordance with section 15.

(4) A domestic partnership formalised in the manner provided in this Act on board Bermuda ships on the high seas before a domestic partnership celebrant shall be as valid in law as if it had been formalised in Bermuda.

(5) In this section, “domestic partnership celebrant” means one granted a licence under section 31.

Maritime domestic partnerships: notices and register

35 (1) The Registrar shall indicate on any notice published in relation to a maritime domestic partnership that it relates to a maritime domestic partnership.

(2) The General Register of Domestic Partnerships shall contain a separate part for the registration of maritime domestic partnerships.

Overseas relationships treated as domestic partnerships

Meaning of “overseas relationships”

36 (1) For the purposes of this Act, “overseas relationship” means a relationship—

- (a) which is either a specified relationship or a relationship which meets the general conditions in section 37(4), and
- (b) which is registered (whether before or after the passing of this Act) with a responsible authority in a country or territory outside Bermuda in accordance with the relevant law, by two people neither of whom is already a domestic partner or lawfully married;

but does not include marriage contracted between parties who are respectively male and female.

(2) In this section and sections 37 to 39, “relevant law” means the law of the country or territory where the relationship is registered, including its rules of private international law.

Specified relationships and the general conditions

37 (1) The specified relationships are listed in Schedule 2.

(2) The Minister may by order amend Schedule 2.

(3) No order shall be made under subsection (2) to add an overseas relationship to the list in Schedule 2 unless the Minister is satisfied that it is established or recognised under the relevant law and meets the general conditions.

- (4) The “general conditions” are that the relevant law—
- (a) prohibits a person from entering into the relationship if either party is already a party to a similar relationship or married, and requires that during the relationship the parties may not enter into another similar relationship or marry anyone else;
 - (b) requires that the parties explicitly consent to entering into the relationship;
 - (c) provides that the relationship ends only—
 - (i) on the death of a party; or
 - (ii) by a judicial or other process that would be recognised under the law of Bermuda as a dissolution or annulment; and
 - (d) does not permit or recognise the relationship if the parties are related as—
 - (i) parent and child;
 - (ii) siblings or half-siblings; or
 - (iii) grandparent and grandchild.

Overseas relationships treated as domestic partnerships

38 (1) Two people are to be treated as having entered into a domestic partnership as a result of having registered an overseas relationship if, under the relevant law, they—

- (a) had capacity to enter into the relationship; and
- (b) met all requirements necessary to ensure the formal validity of the relationship.

(2) Subject to subsection (3), the date on which they are to be treated as having entered into the domestic partnership is—

- (a) the date on which the overseas relationship is registered (under the relevant law) as having been entered into; or
- (b) if later, the date on which both parties have attained the age of 18 years.

(3) If the overseas relationship is registered (under the relevant law) as having been entered into before the commencement date, the date on which they are to be treated as having entered into a domestic partnership is—

- (a) the commencement date; or
- (b) if later, the date on which both parties have attained the age of 18 years.

(4) But subsection (3) does not apply if a dissolution or annulment of the overseas relationship was obtained outside Bermuda which would be recognised in Bermuda had

the overseas relationship been treated as a domestic partnership at the time of the dissolution or annulment.

(5) The Minister may by regulations make such further provision as he considers necessary or expedient with respect to the treating of overseas relationships as domestic partnerships in Bermuda.

Public policy exception

39 Two people are not to be treated as having entered into a domestic partnership as a result of having entered into an overseas relationship if it would be manifestly contrary to public policy to recognise the capacity, under the relevant law, of one or both of them to enter into that relationship.

Breakdown, dissolution and financial relief

Application of Matrimonial Proceedings (Magistrates' Courts) Act and Rules 1974

40 (1) Subject to this section, the Matrimonial Proceedings (Magistrates' Courts) Act 1974 ("the Act") and the Magistrates' Courts (Matrimonial Proceedings) Rules 1974 ("the Rules") apply to proceedings brought in respect of a domestic partnership as they apply in respect of matrimonial proceedings, with the necessary modifications; and in their application the Act and Rules shall, in particular, be read as if the following adaptations were made.

(2) The words "marriage" and "matrimonial" shall in each place be read as "domestic partnership".

(3) In section 2(1) of the Act, the words "A married woman or a married man" shall be read as "A domestic partner".

(4) Section 3(1) of the Act shall be read as if—

- (a) in paragraph (b), the words "the husband shall pay to the wife" were "one domestic partner shall pay to the other"; and
- (b) paragraph (c) were omitted.

(5) Section 9A of the Act shall be read as if—

- (a) the following were substituted for subsection (7)—

"(7) This section and section 9B shall apply to two persons who are living with each other in the same household as domestic partners and to former domestic partners as it applies to the parties to a domestic partnership.";

(b) in subsection (8)—

- (i) the following were substituted for paragraph (b)—

"(b) two persons live with each other as domestic partners in the same household"; and

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(ii) the word “spouses” (in both places) were “domestic partners”.

(6) The Forms in the Schedule to the Rules shall be modified accordingly.

Application of Matrimonial Causes Act, Rules and Order 1974

41 (1) Subject to this section, the Matrimonial Causes Act 1974 (“the Act”), the Matrimonial Causes Rules 1974 (“the Rules”) and the Matrimonial Causes (Decree Absolute) Order 1974 apply to proceedings brought in respect of a domestic partnership as they apply in respect of matrimonial proceedings, with the necessary modifications; and in their application the Act and Rules shall, in particular, be read as if the following adaptations were made.

(2) The words and expressions listed in the first column of the table shall in each place be read as the corresponding word or expression in the second column—

divorce	dissolution
husband	domestic partner
husband and wife	the parties to a domestic partnership
marriage	domestic partnership
married person	party to a domestic partnership
matrimonial	domestic partnership
remarriage	entering into a subsequent domestic partnership or marriage
spouse	domestic partner
wife	domestic partner

(3) The Act shall be read as if the following provisions were omitted: sections 3, 5(2)(a), 6(1) and (2), 15, 16, 18(2), 31(8), 49, 50, 51 and Schedule 2.

(4) References to sections 15 and 16 of the Act (void and voidable marriages) shall be read as references to sections 18 and 19 of this Act (void and voidable domestic partnerships).

(5) Section 31 of the Act shall be read as if the following were substituted for subsection (1)—

“(1) Either party to a domestic partnership may apply to the court for an order under this section on the ground that the other party to the domestic partnership (in this section referred to as the respondent) has wilfully neglected—

- (a) to provide reasonable maintenance for the applicant; or
- (b) to provide, or to make a proper contribution towards, reasonable maintenance for any child of the family to whom this section applies.”

(6) The Rules shall be read as if the following provisions were omitted—

- (a) rules 13, 22, 30, 31, 33(1)(f), 92(5) and (6), 98(6) and (7) and 99(6);

- (b) in rule 76(1), all words following “opposite party”, and rule 76(2); and
 - (c) any other references, or provisions relating, to “adultery”, “improper association”, “co-respondent” and “party cited”.
- (7) The Forms in the Appendix to the Rules shall be modified accordingly.

Offences in connection with domestic partnerships

Offences

- 42 (1) A person commits an offence if he—
- (a) knowingly and wilfully formalises a domestic partnership without being the Registrar, a Deputy Registrar or a domestic partnership celebrant;
 - (b) being the Registrar, a Deputy Registrar or a domestic partnership celebrant, formalises a domestic partnership knowing that the domestic partnership is void on any ground, or knowing that it is an irregular domestic partnership (see subsection (6)), or accepts or publishes a notice, or issues a licence, in respect of any intended domestic partnership knowing that the domestic partnership would be void or irregular;
 - (c) is a party to a domestic partnership, knowing that the domestic partnership is void on any ground and that the other party believes it to be valid;
 - (d) personates any other person in a domestic partnership or enters into a domestic partnership under a false name or description, with intent to deceive the other party to the domestic partnership;
 - (e) in any declaration, notice, statement, certificate, entry, licence or document required by any of the provisions of this Act to be made, given or issued for the purposes of a domestic partnership, declares, states, certifies or enters any material matter or thing which he knows to be false; or
 - (f) attempts or aids or abets the commission of an offence under any of the preceding paragraphs,

and is liable on conviction on indictment to a term of imprisonment of four years.

- (2) Without prejudice to the effect of subsection (1)(c) or (d), a person commits an offence if he—
- (a) is a party to a domestic partnership knowing that it is void on any ground or knowing that it is an irregular domestic partnership (see subsection (6));
 - (b) enters into a domestic partnership under a false name or description; or
 - (c) attempts or aids or abets the commission of an offence under either of the preceding paragraphs,

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and is liable on conviction on indictment to a term of imprisonment of two years, or a fine of \$16,800 or both.

(3) Without prejudice to the effect of subsection (1)(e), a person commits an offence if, in any declaration, notice, statement, certificate, entry, licence or document required by any of the provisions of this Act to be made, given or issued for the purposes of a domestic partnership, he declares, states, certifies or enters any material matter or thing which is false, and is liable on conviction on indictment to a term of imprisonment of one year, or a fine \$8,400 or both.

(4) A person commits an offence if he attempts to prevent a domestic partnership by pretending that there is any legal impediment to the domestic partnership knowing that the pretence is false, or having no reason to believe that it is true, and is liable on conviction on indictment to a term of imprisonment of two years, or a fine \$16,800 or both.

(5) Any domestic partnership celebrant who, without reasonable cause or excuse, fails within seven days after the formalisation of any domestic partnership to transmit to the Registrar a duplicate statement in accordance with section 21 commits an offence against this Act, and is liable on summary conviction to a fine of \$2,000.

(6) For the purpose of this section, “irregular domestic partnership” means a domestic partnership (other than a void domestic partnership or a domestic partnership in extremis) formalised—

- (a) without any notice given of the domestic partnership as required by this Act;
- (b) without the authority, as the case may be,—
 - (i) of a domestic partnership licence issued by the Registrar under by section 9; or
 - (ii) of a special licence granted by the Minister under section 10;
- (c) after the expiration of three months from the date of the issue of a domestic partnership licence or from the date of the grant of a special licence; or
- (d) before the removal of a caveat entered against the issue of a licence.

(7) A prosecution under this section shall not be instituted without the written consent of the Director of Public Prosecutions.

Extension of bigamy to include domestic partnerships

43 Section 201 of Criminal Code Act 1907 (bigamy) is repealed and replaced as follows—

“Bigamy

201 (1) Any person who is married or in a domestic partnership and who purports to—

- (a) marry any other person during the life of his spouse or domestic partner;

- (b) marry any person whom he knows to be married or in a domestic partnership;
- (c) enter into a domestic partnership with any other person during the life of his spouse or domestic partner;
- (d) enter into a domestic partnership with any person whom he knows to be married or in a domestic partnership;

is liable on conviction by a court of summary jurisdiction to imprisonment for twelve months and on conviction on indictment to imprisonment for two years.

(2) This section does not extend—

- (a) to any person whose marriage or domestic partnership with such husband, wife or domestic partner has been dissolved or declared void by a court of competent jurisdiction;
- (b) to any person who contracts a marriage or enters into a domestic partnership during the life of a former husband, wife or domestic partner, if such husband, wife or domestic partner, at the time of the subsequent marriage or domestic partnership, has been absent from such person for the period of seven years, and has not been heard of by such person as being alive within that time.

(3) In this section, “domestic partner” and “domestic partnership” have the meanings given in the Domestic Partnership Act 2017.

(4) This section applies to a person in an overseas relationship treated as a domestic partnership in accordance with section 38 of that Act as it applies to a person in a domestic partnership.”

Miscellaneous

Evidence of domestic partnership by means of Register

44 Every entry in the General Register of Domestic Partnerships kept by the Registrar under this Act, and every copy of any such entry purporting to be certified as a true copy under the hand and seal of the Registrar, shall be received in all courts and in all proceedings whatsoever as evidence of the domestic partnership to which the entry relates.

Information may be recorded in electronic form

45 The information contained in any register, book or other document required to be kept by the Registrar under this Act may be recorded and kept by him in electronic form or such other form as he thinks fit, provided that it is possible to inspect the information and to produce a copy of it in legible form.

Use of foreign language

46 Where any party to a domestic partnership is not conversant with the English language, then the statements and declarations required by this Act to be used in the

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formalisation of the domestic partnership shall, so far as they affect or are to be used by that party, be made in the language which that party commonly uses.

Annual report

47 The Registrar shall within ninety days after the expiration of every calendar year, compile for publication in such form and manner as the Minister may approve, a summary of the domestic partnerships registered under this Act during that year.

Application of Human Rights Act 1981

Application of Human Rights Act 1981

48 (1) The following provisions have effect notwithstanding anything to the contrary in the Human Rights Act 1981—

- (a) section 4 (persons must be 18 years of age to enter into a domestic partnership);
- (b) section 29(2) (no marriage officer shall be compellable to permit the use of any place of worship under his control for the formalisation of a domestic partnership);
- (c) sections 36 to 39 (overseas relationships treated as domestic partnerships in Bermuda);
- (d) section 55 (saving for certain same sex marriages);
- (e) Schedule 3 (certain enactments not to be read as if modified in the case of domestic partnerships).

(2) Section 15(c) of the Matrimonial Causes Act 1974 (which provides that a marriage is void unless the parties are male and female) has effect notwithstanding anything to the contrary in the Human Rights Act 1981.

(3) In the Human Rights Act 1981—

- (a) in section 2(2)(a)(iii), after “marital status” insert “or domestic partnership status”; and
- (b) after “marital status” in each other place where those words occur, insert “or domestic partnership status”.

Consequential and related amendments

Reference to domestic partnership in any other enactment

49 In any other enactment, unless the context otherwise requires, a reference to a domestic partnership refers to—

- (a) a domestic partnership entered into and registered under and in accordance with this Act; and

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- (b) an overseas relationship treated as a domestic partnership under and in accordance with section 38,

and “domestic partner” shall be construed accordingly.

Application by reference of enactments relating to marriage etc

50 (1) In any enactment, whether passed before or after the commencement date, the words and expressions listed in the first column of the table shall, in the case of a person in a domestic partnership, in each place be read as the corresponding word or expression in the second column unless—

- (a) the context otherwise requires;
- (b) the enactment is specifically amended by or under this Act;
- (c) the enactment contains an express provision to the contrary; or
- (d) the enactment is listed in Schedule 3.

conjugal	pertaining to domestic partnership
dissolution (of marriage)	dissolution (of domestic partnership)
divorce	dissolution
divorced	former domestic partner where domestic partnership dissolved
former spouse	former domestic partner where domestic partnership dissolved or annulled
husband	domestic partner
husband and wife	the parties to a domestic partnership
marital	pertaining to domestic partnership
marriage	domestic partnership
married	party to a domestic partnership
marry	enter into a domestic partnership
matrimonial	domestic partnership
next of kin	includes domestic partner
relative	includes domestic partner
remarriage	entering into a subsequent domestic partnership or marriage
remarry	entering into a subsequent domestic partnership or marriage
separated (of spouses)	separated (of domestic partners)
spouse	domestic partner
widow or widower	surviving domestic partner
wife	domestic partner

(2) The Minister may by order amend the table and the list of enactments in Schedule 3.

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Fees

51 The Government Fees Regulations 1976 are amended by inserting the following Head after Head 14—

Head 14A		
Domestic Partnership Act 2017		
(1)	Entering a notice of—	
	(a) an intended domestic partnership under section 7	\$112
	(b) a caveat under section 16	\$58
(2)	Issuing a licence for domestic partnership under section 9	\$58
(3)	Applying for a special licence under section 10	\$30
(4)	Issuing a special licence under section 10	\$678
(5)	Formalising a domestic partnership before the Registrar under section 13—	
	(a) at the office of the Registrar General	\$245
	(b) at an alternative approved location under section 13(4)(b)	\$450
(6)	Copying an entry in the General Register of Domestic Partnerships under section 22	\$35
(7)	Providing express service (within 2 days) on request in connection with paragraph (6) (fee is refundable if deadline not met)	\$24
(8)	Searching the General Register of Domestic Partnerships under section 22	\$24
(9)	Correcting an entry in the General Register of Domestic Partnerships under section 24	\$40
(10)	Applying for a domestic partnership celebrant licence under section 31 (maritime domestic partnerships)	\$100

Consequential and related amendments

52 (1) Schedule 4, which makes consequential and related amendments, shall have effect.

(2) The Minister may, by regulations, make such further consequential and related amendments to other enactments as the Minister considers necessary to give effect to this Act.

Final provisions

Regulations and orders

53 (1) The Minister may make regulations for the purpose of prescribing forms, and generally for the purpose of giving effect to this Act.

(2) Regulations and orders made under this Act are subject to the negative resolution procedure.

Crown binding

54 This Act binds the Crown.

Saving for certain same sex marriages

55 (1) In this section—

“pre-commencement same sex marriage” means a marriage entered into under the Marriage Act 1944 or the Maritime Marriage Act 1999 during the transitional period by two persons of the same sex;

“transitional period” means the period beginning on 5 May 2017 (the date of the Supreme Court judgment in *Godwin and DeRoche v The Registrar General and others*) and ending the day before the commencement date.

(2) Nothing in this Act affects the validity of a pre-commencement same sex marriage.

(3) In relation to a pre-commencement same sex marriage, any reference in any enactment to marriage, the parties to marriage or the dissolution of marriage shall be read with the necessary modifications.

(4) Notwithstanding the provisions of sections 38 and 48(2), nothing in this Act prevents the recognition in Bermuda of a marriage lawfully entered into and registered in an overseas jurisdiction during the transitional period by two persons of the same sex who—

(a) had capacity to enter into the marriage under the law of the overseas jurisdiction; and

(b) met all the requirements necessary to ensure the formal validity of the marriage under that law,

provided that both parties were over 18 years of age at the time of the marriage.

Commencement

56 This Act comes into operation on such day as the Minister may appoint by notice published in the Gazette.

SCHEDULE 1

(Section 6)

PROHIBITED DEGREES OF DOMESTIC PARTNERSHIP

1 A person may not enter into a domestic partnership with his—

- (a) grandparent;
- (b) parent;
- (c) child;
- (d) grandchild;
- (e) sibling;
- (f) parent's sibling;
- (g) sibling's child;
- (h) grandparent's former spouse or domestic partner;
- (i) parent's former spouse or domestic partner;
- (j) spouse's or domestic partner's grandparent;
- (k) spouse's or domestic partner's parent;
- (l) spouse's or domestic partner's child;
- (m) spouse's or domestic partner's grandchild;
- (n) child's former spouse or domestic partner;
- (o) grandchild's former spouse or domestic partner.

2 The prohibited degrees of domestic partnership apply whether the relationships described in paragraph 1 are by the whole blood or by the half blood.

3 In this Schedule, spouse and domestic partner includes a former spouse or former domestic partner, whether alive or deceased, and whether the marriage or domestic partnership was terminated by death, dissolution, or otherwise.

4 (1) Two people who are within the prohibited degrees of affinity, but who are not within the prohibited degrees of consanguinity, may apply to a Judge of the Supreme Court for an order under this paragraph.

(2) On an application under subparagraph (1), the Court may make an order disapplying section 6(1) as it applies to the applicants.

(3) The Registrar of the Court shall send a copy of the order to the Registrar.

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5 The Minister may, by order, amend this Schedule and make such transitional or further provision as he considers necessary in consequence.

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SCHEDULE 2

(Section 37)

SPECIFIED RELATIONSHIPS

List of specified relationships for purposes of section 37

1

Country or territory	Description
Andorra	unión estable de pareja or partnership domestic
Argentina	marriage
Argentina: Autonomous City of Buenos Aires	unión domestic
Australia: Australian Capital Territory	civil partnership
Australia: New South Wales	registered relationship registered
Australia: Queensland	civil partnership
Australia: Tasmania	significant relationship
Australia: Victoria	registered domestic relationship
Austria	eingetragene Partnerschaft
Belgium	cohabitation légale, wettelijke samenwoning or gesetzliches zusammenwohnen
Belgium	marriage
Brazil	marriage
Brazil	união estável or casamento civil homoafetivo
Canada	marriage
Canada: Manitoba	common-law relationship or union de fait
Canada: Nova Scotia	domestic partnership
Canada: Quebec	union civile or civil union
Colombia	unión marital de hecho
Czech Republic	registrované partnersví
Denmark	marriage
Denmark	registreret partnerskab
Ecuador	unión civil
Finland	rekisteröity parisuhde or registrerad partnerskap
France	pacte civil de solidarité
Germany	gleichgeschlechtliche Ehe
Germany	eingetragene lebenspartnerschaft

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Country or territory	Description
Gibraltar	civil partnership
Greenland	nalunaarsukkamik inooqatigiinneq or registreret partnerskab
Hungary	bejegyzett élettársi kapcsolat
Iceland	marriage
Iceland	staðfesta samvist
Ireland	marriage
Ireland	civil partnership
Isle of Man	civil partnership
Jersey	civil partnership
Liechtenstein	eingetragene partnerschaft
Luxembourg	partenariat légal or eingetragene partnerschaft
Malta	Żwieġ bejn l-istess sess
Malta	unjoni ċivili
Mexico: Coahuila	pacto civil de solidaridad
Mexico: Mexico City Federal District	marriage
Mexico: Mexico City Federal District	sociedad de convivencia
Netherlands	geregistreerd partnerschap
Netherlands	marriage
New Zealand	civil union
Norway	marriage
Norway	registrert partnerskap
Portugal	marriage or união de facto
Slovenia	zakon o registraciji istospolne partnerske skupnosti
South Africa	marriage
South Africa	civil partnership
Spain	marriage or pareja de hecho
Sweden	marriage
Switzerland	eingetragene partnerschaft, partenariat enregistré or partnership domestica registrata
United Kingdom: England & Wales	marriage
United Kingdom: England & Wales	civil partnership

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Country or territory	Description
United Kingdom: Northern Ireland	civil partnership
United Kingdom: Scotland	marriage
United Kingdom: Scotland	civil partnership
United States of America (including the unincorporated territories of Guam, the Northern Mariana Islands, Puerto Rico and the United States Virgin Islands)	marriage
United States of America: California	domestic partnership
United States of America: Colorado	the relationship between designated beneficiaries
United States of America: Connecticut	civil union
United States of America: Delaware	civil union
United States of America: Hawaii	civil union
United States of America: Hawaii	reciprocal beneficiary relationship
United States of America: Illinois	civil union
United States of America: Maine	domestic partnership
United States of America: Nevada	domestic partnership
United States of America: New Jersey	civil union
United States of America: New Jersey	domestic partnership
United States of America: Oregon	domestic partnership
United States of America: Rhode Island	civil union
United States of America: Vermont	civil union
United States of America: Washington D.C.	domestic partnership
United States of America: Washington State	state registered domestic partnership
United States of America: Wisconsin	domestic partnership
Uruguay	unión concubinaria

SCHEDULE 3

(Section 50)

ENACTMENTS TO WHICH SECTION 50 DOES NOT APPLY

Application by reference of certain enactments relating to marriage not affected by section 50

1 Section 50 does not apply to the following enactments—

- (a) section 15 of the Evidence Act 1905;
- (b) Married Women's Conveyancing Act 1923;
- (c) Marriage Act 1944;
- (d) Jewish Marriage Act 1946;
- (e) Baha'i Marriage Act 1970;
- (f) Matrimonial Causes Act 1974 and Matrimonial Causes Rules 1974;
- (g) Matrimonial Proceedings (Magistrates' Courts) Act 1974 and Magistrates' Courts (Matrimonial Proceedings) Rules 1974;
- (h) sections 2, 3, 4, 10 and 11 of the Law Reform (Husband and Wife) Act 1977;
- (i) Muslim Marriage Act 1984;
- (j) Maritime Marriage Act 1999.

SCHEDULE 4

(Section 52)

CONSEQUENTIAL AND RELATED AMENDMENTS

Interpretation Act 1951

1 After section 7 of the Interpretation Act 1951 insert—

“Domestic partnerships and domestic partners

7A (1) In every Act and every statutory instrument—

(a) “domestic partnership” means—

(i) a domestic partnership entered into and registered under and in accordance with the Domestic Partnership Act 2017; and

(ii) an overseas relationship that is treated as a domestic partnership in accordance with section 38 of that Act;

(b) “domestic partner” means a party to a domestic partnership.

(2) Section 50 of the Domestic Partnership Act 2017 provides that certain words and expressions pertaining to marriage in any enactment, (whether passed before or after the commencement date of that Act) shall, in the case of a person in a domestic partnership, be read as the specified corresponding word or expression relating to domestic partnership, subject to certain exceptions.”

Matrimonial Causes Act 1974

2 (1) Delete section 1(3) of the Matrimonial Causes Act 1974 and substitute—

“(3) References in this Act to remarriage include references to—

(a) a marriage which is by law void or voidable; and

(b) entering into a domestic partnership, including a domestic partnership which is by law void or voidable.”

(2) In section 15(b) of that Act, after “married” insert “or in a domestic partnership or overseas relationship (as defined in the Domestic Partnership Act 2017)”.

(3) The provisions of section 15 of that Act become subsection (1) of that section and after that subsection insert—

“(2) Subsection (1)(c) has effect notwithstanding anything to the contrary in the Human Rights Act 1981.”

DOMESTIC PARTNERSHIP BILL 2017

EXPLANATORY MEMORANDUM

This Bill seeks to make provision for the formalisation and registration of a relationship between adult couples, to be known as a “domestic partnership”.

Clause 1 is self-explanatory.

Clause 2 provides definitions for the purposes of the Bill.

Clause 3 gives an overview of domestic partnerships.

Clause 4 prohibits a person under the age of 18 years from entering into a domestic partnership.

Clause 5 prohibits a person from entering into a domestic partnership if already married or in a domestic partnership or overseas relationship.

Clause 6 prohibits two people from entering into a domestic partnership if they are within the prohibited degrees of domestic partnership as set out in Schedule 1.

Clause 7 requires a party to an intended domestic partnership to give notice to the Registrar.

Clause 8 sets out the process for registration and publication of the notice by the Registrar.

Clause 9 provides for the Registrar to issue a licence to enter into a domestic partnership.

Clause 10 provides for the Minister to issue a special licence to enter into a domestic partnership in special or exceptional circumstances.

Clause 11 provides that a licence or special licence lapses after three months.

Clause 12 clarifies that a licence authorises, but does not oblige, a domestic partnership celebrant to formalise the domestic partnership.

Clause 13 sets out the procedure for formalisation of a domestic partnership by the Registrar.

Clause 14 sets out the procedure for formalisation of a domestic partnership by a domestic partnership celebrant.

Clause 15 allows for domestic partnership without notice or licence in circumstances where one party is dying.

Clause 16 provides for the lodging of a caveat with the Registrar by a person on the grounds that a licence should not be issued for the domestic partnership, and requires the Registrar to submit the caveat to a judge.

Clause 17 sets out the powers of the judge in relation to a caveat.

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Clause 18 provides that a domestic partnership is void in certain circumstances.

Clause 19 provides that a domestic partnership is voidable in certain circumstances.

Clause 20 clarifies that a defect in compliance with formalities and procedures does not, of itself, render a domestic partnership void.

Clause 21 sets out the procedure for the registration of domestic partnerships in the General Register of Domestic Partnerships.

Clause 22 allows a person to search the register on payment of the prescribed fee.

Clause 23 empowers the Registrar to require a declaration or information from a person, including on oath, for the purpose of completing or rectifying the register.

Clause 24 sets out the circumstances in which the register can be amended and the process for making corrections.

Clause 25 allows a person to apply to the Minister for appointment as a domestic partnership celebrant.

Clause 26 sets out the circumstances in which a person ceases to be a domestic partnership celebrant.

Clause 27 requires the Registrar to post a list of domestic partnership celebrants in his office, and to publish a list in the Gazette of domestic partnership celebrants at least once a year.

Clause 28 provides for the Minister to appoint a public officer or a domestic partnership celebrant as a Deputy Registrar for the purpose of formalising a domestic partnership under clause 13 in place of the Registrar.

Clause 29 gives statutory protection to a marriage officer by clarifying that he is not authorised to formalise a domestic partnership unless also appointed as a domestic partnership celebrant, and providing that he is not compellable to permit the use of a place of worship under his control for the formalisation of a domestic partnership.

Clauses 30 to 35 make special additional provision in relation to maritime domestic partnerships formalised on the high seas on Bermuda registered ships. Clause 30 sets out some definitions.

Clause 31 allows the master of a ship to apply to the Minister to be licensed as a domestic partnership celebrant.

Clause 32 allows the second-in-command to the master of a ship to apply to the Minister to be licensed as a provisional domestic partnership celebrant.

Clause 33 requires the Registrar to post a notice of all maritime domestic partnership celebrants.

Clause 34 sets out some general provisions in relation to maritime domestic partnerships.

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Clause 35 requires the Registrar to indicate on a notice if it relates to a maritime domestic partnership, and provides for the register to contain a separate part for maritime domestic partnerships.

Clause 36 defines “overseas relationship” and “relevant law”.

Clause 37 provides for specified overseas relationships to be listed in Schedule 2, empowers the Minister to amend the Schedule by order, and sets out the general conditions.

Clause 38 provides for an overseas relationship to be treated as a domestic partnership either from the date of registration under the relevant (ie overseas) law or, from the commencement date in the case of a relationship registered before the commencement of this Act, or from the date on which both parties attain 18 years of age (if later).

Clause 39 sets out the public policy exception.

Clause 40 applies the Matrimonial Proceedings (Magistrates’ Courts) Act 1974 and the Magistrates’ Courts (Matrimonial Proceedings) Rules 1974 to proceedings brought in respect of a domestic partnership with the necessary modifications, and with certain specified amendments by reference.

Clause 41 applies the Matrimonial Causes Act 1974, the Matrimonial Causes Rules 1974 and the Matrimonial Causes (Decree Absolute) General Order 1974 to proceedings brought in respect of a domestic partnership with the necessary modifications, and with certain specified amendments by reference. Adultery, or its equivalent, will not be a ground for dissolution of a domestic partnership.

Clause 42 creates offences in relation to domestic partnerships.

Clause 43 repeals and replaces section 201 of the Criminal Code Act 1907 to extend the offence of bigamy to a person who purports to marry or enter into a domestic partnership when already married or in a domestic partnership or overseas relationship.

Clause 44 provides that a certified copy of an entry in the register is to be received in all courts as prima facie evidence of the domestic partnership.

Clause 45 allows information in the register etc to be recorded in electronic form.

Clause 46 provides for the use of a foreign language if a person is not familiar with English.

Clause 47 requires the Registrar to issue an annual report.

Clause 48 provides that clauses 4, 29(2), 36 to 39, 55 and Schedule 3 have effect notwithstanding the Human Rights Act 1981. It also provides that section 15(c) of the Matrimonial Causes Act 1974 (marriage void unless parties are male and female) has effect notwithstanding the Human Rights Act 1981. The Human Rights Act 1981 is amended to add a reference to domestic partnership status as a protected ground, and also in each place where there is a reference to marital status.

Clause 49 has effect with respect to references to domestic partnerships in other legislation.

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Clause 50 provides that specified words or phrases relating to marriage in other legislation shall, in the case of a person in a domestic partnership, be read as a reference to the corresponding word or phrase relating to domestic partnership as set out in the table, unless the context otherwise requires, the enactment is specifically amended by this Bill or contains an express provision to the contrary, or it is listed in Schedule 3. A reference to this provision is inserted into the Interpretation Act 1951 by Schedule 4.

Clause 51 inserts new Head 14A into the Government Fees Regulations 1976 specifying fees for the purposes of this Bill.

Clause 52 introduces Schedule 4 which makes consequential and related amendments, and empowers the Minister to make further amendments to other legislation by regulation to give effect to this Bill.

Clause 53 empowers the Minister to make regulations, subject to the negative resolution procedure, to prescribe forms and generally for the purpose of giving effect to the Bill.

Clause 54 provides that the Bill binds the Crown.

Clause 55 provides that nothing in the Bill shall invalidate any marriages which took place under the Marriage Act 1944 or the Maritime Marriage Act 1999 by two persons of the same sex after 5 May 2017 (the date of the Supreme Court judgment in *Godwin and DeRoche v The Registrar General and others*) and before the commencement of this Act (the “transitional period”). Subsection (3) provides for any reference in any enactment to marriage, the parties to marriage or the dissolution of marriage to be read with the necessary modifications in the case of such a marriage. Subsection (4) displaces the rule in clause 38 to provide that nothing in the Bill prevents the recognition in Bermuda of a marriage lawfully entered into and registered in an overseas jurisdiction during the transitional period by two persons of the same sex, provided they were both over 18 years of age.

Clause 56 provides for commencement by notice.