

BETWEEN: THE COMMONWEALTH OF AUSTRALIA
Plaintiff

**AND: THE AUSTRALIAN CAPITAL
TERRITORY**
Defendant

ORDER

JUSTICE: French CJ
DATE GIVEN: 4 November 2013
INITIATING
PROCESS: Summons for directions



APPEARANCE: Mr J T Gleeson SC, Solicitor General of the Commonwealth of Australia, Mr G A Hill and Mr C L Lenehan, for the Plaintiff
Mr P J F Garrisson SC, Solicitor General for the Australian Capital Territory, Ms K L Eastman SC and Ms H Younan, for the Defendant

THE COURT ORDERS THAT:

- 10 1. The plaintiff has leave to amend the statement of claim by amendment of paragraph 36 as per the amended statement of claim filed on 28 October 2013.
2. Pursuant to s 18 of the *Judiciary Act 1903* (Cth), the following questions are reserved for determination by the Full Court:
 1. Is the *Marriage Equality (Same Sex) Act 2013* (ACT), in part or in its entirety:
 - (a) inconsistent with the *Marriage Act 1961* (Cth) within the meaning of s 28(1) of the *Australian Capital Territory (Self-Government Act 1988* (Cth); and/or

Filed on behalf of the Plaintiff by:
Australian Government Solicitor
4 National Circuit
Barton ACT 2600
DX 5678 Canberra



Date of this document: 6 November 2013
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(b) repugnant to the *Marriage Act 1961* (Cth)?

2. If the answer to question 1(a) is 'yes', to what extent, if any, is the *Marriage Equality (Same Sex) Act 2013* (ACT) of no effect?
3. If the answer to question 1(b) is 'yes', to what extent, if any, is the *Marriage Equality (Same Sex) Act 2013* (ACT) void?
4. Is the *Marriage Equality (Same Sex) Act 2013* (ACT), in part or in its entirety:
 - (a) inconsistent with the *Family Law Act 1975* (Cth) within the meaning of s 28(1) of the *Australian Capital Territory (Self-Government) Act 1988* (Cth); and/or

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(b) repugnant to the *Family Law Act 1975* (Cth)?

5. If the answer to question 4(a) is 'yes', to what extent, if any, is the *Marriage Equality (Same Sex) Act 2013* (ACT) of no effect?
6. If the answer to question 4(b) is 'yes', to what extent, if any, is the *Marriage Equality (Same Sex) Act 2013* (ACT) void?
7. In light of the answers to the preceding questions what, if any, orders should be made for the final disposition of these proceedings?
8. What orders should be made in relation to costs of the questions reserved and of the proceedings generally?

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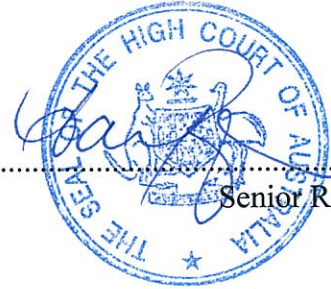
3. The parties and any interveners are to file and serve submissions and other materials in accordance with the following timetable:

- 3.1. The plaintiff file and serve a Questions Reserved book by 8 November 2013.
- 3.2. The plaintiff file and serve annotated submissions and a chronology by 13 November 2013.
- 3.3. Any interveners in support of the plaintiff file and serve annotated submissions by 13 November 2013.
- 3.4. The plaintiff, and any interveners in support of the plaintiff, file and serve a list of authorities by 14 November 2013.
- 3.5. The defendant, and any interveners in support of the defendant or in support of neither party, file and serve annotated submissions by 25 November 2013.
- 3.6. The defendant, and any interveners in support of the defendant or in support of neither party, file and serve a list of authorities by 26 November 2013.
- 3.7. The plaintiff file and serve annotated submissions in reply by 29 November 2013.
- 3.8. The defendant file and serve any annotated submissions in reply to the submissions of any interveners in support of neither party by 29 November 2013.

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4. Save as to timing, Part 44 of the High Court Rules 2004 (except rule 44.06) applies to this proceeding as if it were an appeal.
5. The matter be listed before the Full Court on 3 December 2013 for 2 days.
6. Costs of the directions hearing on 4 November 2013 be reserved.

DATE AUTHENTICATED: 6 November 2013



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Senior Registrar