



New South Wales

# Relationships Register Amendment (Recognition of Same-sex and Gender-diverse Relationships) Bill 2014

## Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

## Overview of Bill

The object of this Bill is to provide for the legal recognition of relationships between two adult persons of the same sex, or two adult persons, one or both of whom is gender-diverse, who have had their union solemnised as a marriage or a civil union in certain other countries or in certain other Australian States or Territories. This is achieved:

- (a) by providing for parties to such unions who apply for the registration of their relationship to be automatically eligible for registration under the *Relationships Register Act 2010*, and
- (b) by providing for parties to relationships that are so registered to be automatically treated as de facto partners in a de facto relationship for the purposes of New South Wales law.

## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on the date of assent to the proposed Act.

## Schedule 1      **Amendment of Relationships Register Act 2010 No 19**

**Schedule 1 [1]** updates the long title of the *Relationships Register Act 2010* to reflect the proposed extension of that Act to cover unions solemnised overseas, and civil unions, where both of the parties are of the same sex, or one or both of the parties is gender-diverse.

**Schedule 1 [2]** amends the object of the Act to reflect the proposed extension of the Act to cover unions solemnised overseas as marriages or civil unions, where both of the parties are of the same sex, or one or both of the parties is gender-diverse.

**Schedule 1 [3]** inserts definitions for expressions used in the other amendments made by the proposed Act. A *person who is gender-diverse* is defined as a person who is, or identifies as, neither wholly female nor wholly male, a combination of female and male or neither female nor male.

**Schedule 1 [4]** moves the definition of *related by family* so that it applies to all of the Act.

**Schedule 1 [5]** restates the eligibility for registration of a relationship. In addition to the current eligibility (that two adult persons are in a relationship as a couple) certain relationships can automatically be registered if an application is made (that is, without having to prove a relationship as a couple). The relationships to which the new provision extends are:

- (a) the relationship between two adults who are married to each other in a recognised union solemnised as a marriage in another country or in another Australian State or Territory that was solemnised when both parties were adults, or
- (b) the relationship between two adults who are parties to a recognised civil union solemnised in another country or another Australian State or Territory that was solemnised when both parties were adults.

The amendment also provides additional reasons why a relationship cannot be registered (in addition to if either person is married in a marriage recognised under Commonwealth law, that is, in a marriage between a man and a woman). The additional reasons are:

- (a) either person is married in a recognised union solemnised as a marriage in another country or in another Australian State or Territory to another person, or
- (b) either person is a party to a recognised civil union solemnised in another country or in another Australian State or Territory with another person.

The amendment also provides that, whereas currently an application for registration must be accompanied by a statutory declaration by each person stating that they are in a relationship as a couple with each other, the application must now state that one of the following is true:

- (a) the person is in a relationship as a couple with the other person,
- (b) the person is married to the other person in a recognised union solemnised as a marriage in another country or in another Australian State or Territory,
- (c) the person is a party with the other person to a recognised civil union solemnised in another country or in another Australian State or Territory.

The statutory declaration must also state the following:

- (a) that the person is not registered under the Act or a corresponding law as being in a registered relationship or an interstate registered relationship, whether with the other applicant or any other person,
- (b) that the person is not in a relationship as a couple with a person other than the other applicant,
- (c) that the person is not married in a recognised union solemnised as a marriage in another country or in another Australian State or Territory with another person,
- (d) that the person is not a party to a recognised civil union solemnised in another country or in another Australian State or Territory with another person.

**Schedule 1 [6]** makes it clear that an existing reference to marriage means a marriage recognised under Commonwealth law (that is, a marriage between a man and a woman).

**Schedule 1 [7]** provides for the regulations to recognise the following:

- (a) a class of unions solemnised in another country (or one or more particular states of another country) or in another Australian State or Territory as marriages between two parties of the same sex or where one or both of the parties is a person who is gender-diverse,
- (b) a class of civil unions solemnised in another country (or one or more particular states of another country) or in another Australian State or Territory as civil unions between two parties of the same sex or where one or both of the parties is a person who is gender-diverse.

The amendment also provides that, for the purposes of any New South Wales law, a person is a de facto partner of, and in a de facto relationship with, another person if the person is in a recognised union solemnised as a marriage in another country or another Australian State or Territory or a recognised civil union solemnised in another country or another Australian State or Territory.

**Schedule 1 [8]** updates a heading to a section.