



# Legislative Council

## Miscellaneous Acts Amendment (Relationships) Bill Hansard - Extract

18/06/2002

### Second Reading

**The Hon. IAN MACDONALD** (Parliamentary Secretary [8.45 p.m.]): I move:

That this bill be now read a second time.

This bill proposes to extend the definition of "de facto relationship" contained in the Property (Relationships) Act 1984 to a range of statutes. These statutes confer employment benefits and entitlements, or relate to rights, powers, protections or other legal consequences, that arise from a person's status as a partner in a marriage or a de facto relationship. The definition of "de facto relationship" contained in the Property (Relationships) Act speaks of a relationship between two adult persons who live together as a couple and who are not married to each other or related by family. The definition therefore does not differentiate between same and opposite sex couples.

This definition was introduced into New South Wales law through the passage of the Property (Relationships) Amendment Act 1999, which replaced the earlier De Facto Relationships Act 1984. These 1999 amendments acknowledged that New South Wales law needed to recognise and accommodate the range of domestic relationships that exist in our society. In addition to introducing a neutral definition of de facto relationship, the legislation passed in 1999 made consequential amendments to 25 statutes to give parties to de facto relationships, regardless of their sexual orientation, the same rights and responsibilities on the hospitalisation or incapacitation of their partners. Amendments were also made to end the discrimination that existed in the operation of wills and probate and family provision legislation.

The bill continues the law reform agenda that was set in train by the 1999 amendments. It is also consistent with initiatives adopted by this Government to extend equal rights to opposite and same sex partners with regard to public sector superannuation and workers compensation. Moreover, the bill's amendment of 25 Acts will bring us closer to the desirable goal of achieving a consistent definition of "de facto relationship" across all New South Wales legislation. Each of the Acts proposed for amendment presently operates to exclude or discriminate against same sex de facto couples. In a number of instances the Acts also presently exclude opposite sex de facto couples. The bill will cure this situation by extending the Property (Relationships) Act definition of "de facto relationship" to those Acts so that their provisions will capture all bona fide spousal relationships, whether married or de facto, and regardless of sexual orientation.

Some of the changes that will be brought into effect by this bill include amendment to the Public Sector Management Act 1988, the Police Services Act 1970 and a number of other Acts to allow employment entitlements and other financial benefits to be paid out to a de facto partner on the death of the person who accrued those benefits. Amendment to these Acts will put surviving de facto partners on the same footing as married spouses in relation to these entitlements. Same sex partners will be given the same rights as married and heterosexual de facto spouses in the conduct of certain court proceedings, including the right to appear on behalf of a spouse in local court proceedings. Same sex partners will be able to access the protections provided under the Evidence Act 1995 and the Defamation Act 1974 in relation to the compellability of spouses to give evidence. They will also be brought within the provisions of the Trustee Companies Act 1964 in relation to who can apply for an account of estate, as well as provisions relating to the conduct of compensation to relatives proceedings.

The Credit Act 1984 will be amended to bring same sex spouses within the ambit of provisions relating to guarantors. Amendment to the Health Insurance Levies Act 1982 will make same sex spouses eligible to access family membership benefits in certain areas of health insurance, and changes to the Motor Vehicles Taxation Act 1988 will apply certain pensioner tax exemptions equally to de facto as well as married couples. An amendment to the Adoption Act 2000 will enable people in de facto relationships to access adoption information about their partner in certain circumstances. In relation to these amendments I emphasise that the proposed changes are restricted to adoption information. They will have no effect on provisions governing the adoption of children or any other aspect of the Adoption Act.

The Industrial Relations Act 1996 will be amended to include same sex partners in provisions governing certain mortality fund benefits, and contract agreements in the area of public vehicles and carriers. As well as continuing this Government's law reform agenda with domestic relationships, the amendments contained in this bill will bring New South Wales into line with many of the initiatives adopted in Victoria, Western Australia and other States. I commend the bill to the House.