

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

Explanatory note

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

Overview of Bill

The object of this Bill is to amend certain Acts, Regulations and other instruments to make further provision in relation to their application to de facto relationships within the meaning of the *Property (Relationships) Act 1984 (the PR Act)*. In particular, this Bill:

- (a) amends the *Anti-Discrimination Act 1977* to rename the “marital status” ground of discrimination as “marital or domestic status” and extend that ground to include the status or condition of being in a de facto relationship, within the meaning of the PR Act, between same sex partners, and
- (b) amends the *Status of Children Act 1996* to extend to same sex partners of birth mothers the parenting presumptions applying under that Act in relation to children born as a result of a pregnancy achieved by a fertilisation procedure, and
- (c) amends various Acts and instruments as a consequence of the amendments to the *Status of Children Act 1996*, including the *Births, Deaths and Marriages Registration Act 1995*, the *Industrial Relations Act 1996* and the PR Act, and
- (d) extends to de facto relationships, within the meaning of the PR Act, provisions in Acts, Regulations and other instruments that currently apply in relation to spouses, and
- (e) clarifies that existing references in Acts, Regulations and other instruments to de facto relationships are references to de facto relationships within the meaning of the PR Act, and
- (f) clarifies that references to the partner of a person in a number of instruments are references to the partner of the person, whether of the same or the opposite sex.

For the purposes of the PR Act, a de facto relationship is a relationship between two adult persons:

- (a) who live together as a couple, and
- (b) who are not married to one another or related by family.

A de facto relationship can be an opposite or a same sex relationship.

In determining whether two persons are in a de facto relationship, all the circumstances of the relationship are to be taken into account, including certain matters specified in section 4 (2) of the PR Act.

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 a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Anti-Discrimination Act 1977* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Status of Children Act 1996* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the other Acts and instruments set out in Schedule 3.

Clause 6 makes it clear that the explanatory notes contained in the Schedules do not form part of the proposed Act.

Clause 7 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Anti-Discrimination Act 1977 No 48

The amendments to this Act are explained in detail in the explanatory note set out in

Schedule 2 Amendment of Status of Children Act 1996 No 76

The amendments to this Act are explained in detail in the explanatory note set out in Schedule 2.

Schedule 3 Amendment of other Acts and instruments

Schedule 3 makes amendments to the following Acts and instruments:

Aboriginal Land Rights Act 1983
Agricultural Industry Services Act 1998
Apprenticeship and Traineeship Act 2001
Bail Regulation 1999
Births, Deaths and Marriages Registration Act 1995
Births, Deaths and Marriages Registration Regulation 2006
Central Coast Water Corporation Act 2006
Charles Sturt University Act 1989
Charles Sturt University By-law 2005
Commercial Agents and Private Inquiry Agents Act 2004
Commercial Agents and Private Inquiry Agents Regulation 2006
Constitution (Disclosures by Members) Regulation 1983
Contaminated Land Management Act 1997
Co-operative Housing and Starr-Bowkett Societies Act 1998
Co-operative Housing and Starr-Bowkett Societies Regulation 2005
Crimes (Administration of Sentences) Regulation 2001
Criminal Procedure Regulation 2005
Day Procedure Centres Regulation 1996
Drug and Alcohol Treatment Act 2007
Farm Produce Act 1983
Fire Brigades Regulation 2003
Greyhound and Harness Racing Administration Act 2004
Greyhound Racing Act 2002
Growth Centres (Development Corporations) Act 1974
Harness Racing Act 2002
Home Building Act 1989
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Industrial Relations Act 1996
Irrigation Areas (Reduction of Rents) Act 1974
Liquor Act 1982
Local Government Act 1993
Local Government (General) Regulation 2005
Lotteries and Art Unions Regulation 2007
Macquarie University Act 1989
Pre-Trial Diversion of Offenders Act 1985

Privacy and Personal Information Protection Act 1998
Private Hospitals Regulation 1996
Property (Relationships) Act 1984
Property, Stock and Business Agents Act 2002
Public Sector Employment and Management Act 2002
Road Transport (General) Act 2005
Rural Lands Protection Act 1998
Southern Cross University Act 1993
State Owned Corporations Act 1989
Supreme Court Act 1970
Sydney Cricket and Sports Ground Act 1978
Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Thoroughbred Racing Act 1996
University of New England Act 1993
University of New South Wales Act 1989
University of Newcastle Act 1989
University of Sydney Act 1989
University of Technology, Sydney, Act 1989
University of Western Sydney Act 1997
University of Wollongong Act 1989
Water Industry Competition Act 2006

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in Schedule 3.