

ACTS AMENDMENT (LESBIAN AND GAY LAW REFORM) BILL 2001

Council's Amendments

Amendments made by the Council now considered.

Consideration in Detail

The amendments made by the Council were as follows -

No. 1

Clause 36, page 15, after line 15 - To insert -

- (2) Section 186(1) is amended by deleting in both cases “man” and inserting instead -
“ person ”.

No. 2

Clause 38, page 16, line 23 - To insert before “It” -

- “ Subject to subsection (9a) ”.

No. 3

Clause 38, page 16, after line 27 - To insert -

- (9a) Where the child is under the care, supervision, or authority of the accused person it is immaterial that the accused person -

- (a) believed on reasonable grounds that the child was of or over the age of 16 years; and
(b) was not more than 3 years older than the child.

No. 4

Clause 40, page 17, line 12 - To delete “repealed” and insert instead -
amended by deleting “a” and inserting instead -

- “ no ”.

No. 5

Clause 83, page 48, after line 10 - To insert -

- “**de facto partner**” and “**de facto relationship**” have the meanings given in section 13A;

No. 6

Clause 83, page 48, after line 15 - To insert -

- “**spouse**”, in relation to a person, means a person who is lawfully married to that person;

No. 7

Page 48, after line 16 - To insert the following New Clause -

85. Section 13A inserted

After section 13 the following section is inserted —

13A. References to de facto relationship and de facto partner

- (1) A reference in a written law to a de facto relationship shall be construed as a reference to a relationship (other than a legal marriage) between 2 persons who live together in a marriage-like relationship.
- (2) The following factors are indicators of whether or not a de facto relationship exists between 2 persons, but are not essential —
- (a) the length of the relationship between them;
- (ab) whether the 2 persons have resided together;
- (b) the nature and extent of common residence;
- (c) whether there is, or has been, a sexual relationship between them;

- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
 - (e) the ownership, use and acquisition of their property (including property they own individually);
 - (f) the degree of mutual commitment by them to a shared life;
 - (g) whether they care for and support children;
 - (h) the reputation, and public aspects, of the relationship between them.
- (3) It does not matter whether —
- (a) the persons are different sexes or the same sex; or
 - (b) either of the persons is legally married to someone else or in another de facto relationship.
- (4) A reference in a written law to a de facto partner shall be construed as a reference to a person who lives, or where the context requires, has lived, in a de facto relationship.
- (5) The de facto partner of a person (the “**first person**”) is the person who lives, or lived, in the de facto relationship with the first person.

No. 8

Long Title, page 1, - To insert after “**the Human Reproductive Technology Act 1991**” -

- **the Interpretation Act 1984;**

Mr McGINTY: I move -

That amendments Nos 1 to 8 made by the Council be agreed to.

I understand that the amendments moved in the Legislative Council were agreed to by all parties. They will tidy up a number of administrative matters and give greater clarity to the Bill. This has been a controversial Bill, and the amendments moved in the Legislative Council assist in a clearer understanding of its objects. Accordingly, the Government is happy to accept the amendments.

Mrs EDWARDES: The Opposition supports these amendments. In the main, they are technical and provide definitions in the Interpretation Act. The Attorney General made some late changes when the Bill was previously before this House. The amendments passed by the Council seek to complete the drafting to make sense of some of the Attorney General’s changes. They probably serve to remind us that when we make last-minute amendments the consequential effect of those is not always recognised at first blush.

One of the amendments affects section 321(9) of the Criminal Code. A defence was provided to an accused person if that person believed on reasonable grounds that a child was 16 or over the age of 16 and the accused person was not more than three years older than the child. The amendment provides that when the child is under the care, supervision or authority of an accused person, it is immaterial that the accused person believed on reasonable grounds that the child was over the age of 16 and there was more than three years difference in their ages. That is a suitable amendment to such a defence. Considerable debate occurred on the matter in this House. I am pleased, therefore, to support these amendments.

Question put and passed; the Council’s amendments agreed to.

The Council acquainted accordingly.