2008

The Parliament of the Commonwealth of Australia

THE SENATE

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Bill 2008

(Amendments to be moved by Senator Hanson-Young on behalf of the Australian Greens in committee of the whole)

(1) Clause 2, page 2 (table items 2, 3, 4 and 5), omit the table items, substitute:
   3. Schedules 1 to 5 1 July 2008

   [commencement]

(2) Government amendment no. (4), item 1, omit proposed section 22A, substitute:

22A References to couple relationships

For the purposes of a provision of an Act that is a provision in which couple relationship has the meaning given by this Act, a person is a partner of a couple relationship with another person (whether of the same sex or a different sex) if:
   (a) the person is in a registered relationship with the other person under section 22B; or
   (b) the person is in a de facto relationship with the other person under section 22C.

[Acts Interpretation Act: couple relationship]

Note: The General Law Reform Bill will require consequential amendments to omit ‘de facto partner’ and substitute ‘partner of a couple relationship’.

(3) Government amendment no. (4), item 1, omit proposed section 22B, substitute:

22B Registered relationships

(1) For the purposes of paragraph 22A(a), a person is in a registered relationship with another person if the relationship between the persons is:
   (a) registered under a prescribed law of a State or Territory as a prescribed kind of relationship; or
   (b) registered in a foreign country where, under the local law, the relationship was, at the time when it was registered, recognised as valid.
(2) To avoid doubt, paragraph 22B(1)(b) does not provide for the recognition of marriages under foreign law which are recognised under Part VA of the Marriage Act 1961.

[Acts Interpretation Act: registered relationships]

(4) Government amendment no. (6), after proposed item 13, insert:

13A At the end of Part 4

Add:

36A Information on discrimination (private superannuation funds)

(1) A private sector fund must, within 60 days of the commencement of Schedule 4 of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008, provide to APRA a report containing the following information:
    (a) whether the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined); and
    (b) whether the trust deed by which the entity is constituted recognises members of the same sex as a couple (however defined); and
    (c) any differences in the way the trust deed recognises as a couple (however defined) members of the opposite sex, as compared with members of the same sex.

(2) APRA must place a copy of any report made under this section on the Internet with public access through APRA’s home page.

(3) If there is any material change to the information published by an entity under this Division, the entity must provide an up-to-date report within 7 days.

[private super funds to provide information on discrimination]

(5) Government amendment no. (6), after proposed item 13, insert:

13B After section 40

Insert:

40A Complying funds must not discriminate in couple definitions

Despite any other provision in this Part, a private sector fund is not a complying fund unless, within 60 days of the commencement of Schedule 4 of the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008:
    (a) the trust deed by which the entity is constituted adopts the definition of spouse contained in this Act; or
    (b) to the extent that the trust deed by which the entity is constituted recognises members of the opposite sex as a couple (however defined), the deed also recognises members of the same sex as a couple.

[private super funds must not discriminate]
Amendments consequential upon amendment no. (3):

(3A) Government amendment no. (3), item 9, omit paragraph (ba), substitute:

(ba) the persons’ relationship was registered under:

(i) a law of a State or Territory prescribed for the purposes of paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that paragraph; or

(ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts Interpretation Act 1901;

[registered relationships]

(3B) Government amendment no. (3), item 29, omit paragraph (ba), substitute:

(ba) the persons’ relationship was registered under:

(i) a law of a State or Territory prescribed for the purposes of paragraph 22B(1) (a) of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that paragraph; or

(ii) a law recognised as valid in accordance with paragraph 22B(1) (b) of the Acts Interpretation Act 1901;

[registered relationships]

(3C) Government amendment no. (4), item 9, omit paragraph (ba), substitute:

(ba) the persons’ relationship was registered under:

(i) a law of a State or Territory prescribed for the purposes of paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that paragraph; or

(ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts Interpretation Act 1901;

[registered relationships]

(3D) Government amendment no. (4), item 22, omit paragraph (ba), substitute:

(ba) the persons’ relationship was registered under:

(i) a law of a State or Territory prescribed for the purposes of paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that paragraph; or

(ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts Interpretation Act 1901;

[registered relationships]

(3E) Government amendment no. (5), item 13, omit paragraph (ba), substitute:

(ba) the persons’ relationship was registered under:

(i) a law of a State or Territory prescribed for the purposes of paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that paragraph; or

(ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts Interpretation Act 1901;

[registered relationships]
(3F) Government amendment no. (6), item 1, omit paragraph (2)(a), substitute:
   (a) another person (whether of the same sex or a different sex) with whom the person is
       in a relationship that is registered under:
       (i) a law of a State or Territory prescribed for the purposes of
           paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of
           relationship prescribed for the purposes of that paragraph; or
       (ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts
           Interpretation Act 1901; and

[registered relationships]

(3G) Government amendment no. (6), item 4, omit paragraph (a), substitute:
   (a) another person (whether of the same sex or a different sex) with whom the person is
       in a relationship that is registered under:
       (i) a law of a State or Territory prescribed for the purposes of
           paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of
           relationship prescribed for the purposes of that paragraph; or
       (ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts
           Interpretation Act 1901; and

[registered relationships]

(3H) Government amendment no. (6), item 6, omit paragraph (a), substitute:
   (a) another person (whether of the same sex or a different sex) with whom the person is
       in a relationship that is registered under:
       (i) a law of a State or Territory prescribed for the purposes of
           paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of
           relationship prescribed for the purposes of that paragraph; or
       (ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts
           Interpretation Act 1901; and

[registered relationships]

(3I) Government amendment no. (6), item 10, omit paragraph (a), substitute:
   (a) another person (whether of the same sex or a different sex) with whom the person is
       in a relationship that is registered under:
       (i) a law of a State or Territory prescribed for the purposes of
           paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of
           relationship prescribed for the purposes of that paragraph; or
       (ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts
           Interpretation Act 1901; and

[registered relationships]

(3J) Government amendment no. (7), item 5, omit paragraph (ba), substitute:
   (ba) the persons’ relationship was registered under:
       (i) a law of a State or Territory prescribed for the purposes of
           paragraph 22B(1)(a) of the Acts Interpretation Act 1901 as a kind of
           relationship prescribed for the purposes of that paragraph; or
       (ii) a law recognised as valid in accordance with paragraph 22B(1)(b) of the Acts
           Interpretation Act 1901;

[registered relationships]