THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

HOUSE OF REPRESENTATIVES

MARRIAGE AMENDMENT BILL 2004

EXPLANATORY MEMORANDUM

(Circulated by authority of the Attorney-General, the Honourable Philip Ruddock MP)
MARRIAGE AMENDMENT BILL 2004

GENERAL OUTLINE
The purpose of the Marriage Amendment Bill 2004 (‘the Bill’) is to give effect to the Government’s commitment to protect the institution of marriage by ensuring that marriage means a union of a man and a woman and that same sex relationships cannot be equated with marriage.

The principal provisions of the Bill:
– define marriage as the union of a man and a woman to the exclusion of all others, voluntarily entered into for life; and
– confirm that unions solemnized overseas between same sex couples will not be recognized as marriages in Australia.

FINANCIAL IMPACT STATEMENT
There is no financial impact from this Bill.
NOTES ON CLAUSES

Clause 1 – Short title

1. Clause 1 will provide that the Act may be cited as the *Marriage Amendment Act 2004*.

Clause 2 – Commencement

2. Clause 2 of the Bill provides that this Act commences when it receives Royal Assent.

Clause 3 – Schedule

3. Clause 3 of the Bill will provide that each Act specified in a Schedule will be amended or repealed as set out in the applicable items in the Schedule. Clause 3 of the Bill will also provide that any other item in a Schedule has effect according to its terms.

SCHEDULE 1 – AMENDMENT OF THE *MARRIAGE ACT 1961*

Item 1 – Subsection 5(1) (definition of marriage)

4. Currently, there is no definition of marriage in the Marriage Act. Section 46(1) requires authorized celebrants, who are not ministers of religion of a recognized denomination, to explain the nature of the marriage relationship before solemnizing a marriage. The authorized celebrant shall say to the parties certain words, including: “Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life”, or words to that effect.

5. Item 1 amends the Marriage Act so that marriage is defined in subsection 5(1) to mean the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.

Item 2 – Addition of subsection 88B(4)

6. Part VA of the Act relates to the recognition in Australia of foreign marriages. The addition of subsection 88B(4) is to make clear that the meaning given to marriage in subsection 5(1) applies to Part VA of the Act.

Item 3 – Insertion of section 88EA

7. This item confirms that unions between same sex couples entered into in foreign countries will not be recognised as marriages in Australia.