

## SECOND READING SPEECH

### RELATIONSHIPS (MISCELLANEOUS AMENDMENTS) BILL 2009

In 2003 this Parliament passed the *Relationships Act 2003* which provides for the recognition and registration of significant relationships between same sex or opposite sex partners. At the same time the then Attorney-General Judy Jackson also sought to remove from all Tasmanian laws any provisions which would discriminate against people in significant relationships and in particular against couples in same sex relationships.

Two aspects of the consequential amendments did not gain the support of the Legislative Council and I believe now is the time to bring those matters forward again and to seek their approval by Parliament.

The first is an amendment to the *Status of Children Act*. That Act deals at least in part with the situation of children who are born through in vitro fertilisation or more appropriately these days Assisted Reproductive Technology or ART. Under the Act when a woman gives birth to a child as a result of the use of ART her male partner (whether married or as part of a significant relationship) is deemed to be the father of the child for legal purposes if he had consented to his partner using ART to become pregnant.

Under the Act it does not matter whether conception uses an egg or sperm from the couple or donated material from other persons.

What the Act does not currently cover is the situation where two women are in a significant relationship and agree to one becoming pregnant using ART. As the law stands the birth mother is registered as the mother and the partner has no rights at law.

This Bill will rectify that situation and put a same sex partner in the same position as a male partner who has agreed to their partner becoming pregnant through ART.

This amendment to the *Status of Children Act 1974* was recommended by the Tasmanian Law Reform Institute in its report into Same Sex Adoption.

It is an important amendment for women and their partners but it is even more about protecting the rights of the children born into these circumstances.

The current law provides inadequate protection for these children and it is time we acted to redress that situation.

The Bill makes a second change which relates to adoption and it must be recognised will only ever apply in a very small number of cases.

The Adoption Act specifies whose consent is required before a child can be adopted. These provisions are quite complex but in very broad terms the parents of a child must both consent before that child can be adopted by a third party.

As the Act currently stands a woman co-parent is not recognised for the purposes of giving (or refusing) consent for her child to be adopted.

By contrast a male co-parent in a significant relationship must be asked for his consent.

The number of adoptions of local children is extremely small in Tasmania and the number of local children born into significant relationships between two women who are later made available for adoption will be smaller still.

Nevertheless the current law is clearly discriminatory and the Bill will rectify that situation by requiring the consent of a co-mother in these cases.

Things have moved a long way in terms of acceptance of same sex relationships since 2003 and I look forward not only to the support of this House but of the Legislative Council to the changes we are placing before the Parliament today.

## CLAUSE NOTES

### RELATIONSHIPS (MISCELLANEOUS AMENDMENTS) BILL 2009

**Clause 1:** The Act will be called the Relationships Miscellaneous Amendments Act 2009.

**Clause 2:** The Act will commence on a day to be proclaimed.

**Clause 3:** Inserts a Schedule which amends the Adoption Act and the Status of Children Act.

#### **Schedule 1:**

Clause 1 amends Section 29 of the Adoption Act 1988 to add a new subsection 4A which provides that where a child conceived through a fertilisation procedure is born to a woman in a same sex relationship and is to be adopted the woman and her female partner at the time of conception or birth or during pregnancy, must be asked to consent to the adoption.

Clause 2 amends Section 10C of the Status of Children Act 1974 to add a further presumption to the effect that where a woman who is in a same sex relationship undergoes fertility treatment with the consent of her partner, any child born as a result of the pregnancy is to be treated as the child of both women.

## FACT SHEET

### **Relationships (Miscellaneous Amendments) Bill 2009**

In 2003 the Tasmanian Parliament passed the *Relationships Act 2003* which provides for the recognition and registration of significant relationships between same sex or opposite sex partners. At the same time the Attorney General Judy Jackson sought to remove from all Tasmanian laws any provisions which would continue the discrimination against unmarried couples and in particular against couples in same sex relationships.

Two of those reforms did not gain the support of the Legislative Council and this Bill brings those matters forward again.

As the law stands if two women are in a significant relationship and one with the consent of the other conceives through assisted reproductive technology only the birth mother is treated as the child's mother for legal purposes.

This Bill will put co-mothers in the same legal position as a man who has agreed to his partner becoming pregnant through ART.

The Bill also changes the Adoption Act so that both of a child's co-mothers must give their consent before that child can be considered for adoption.