

Marriage (Gender Clarification) Amendment Bill

Member's Bill

Explanatory note

The purpose of this Bill is to clarify that parties to a marriage must be one man and one woman. In 1996 the High Court was faced with the question of whether same-sex couples could lawfully obtain a marriage licence and marry pursuant to the provisions of the Marriage Act 1955 in the case of *Quilter v Attorney-General* [1998] 1 NZLR 523. This Bill will codify the decision of the High Court in that case, clarifying Parliament's intention that marriage means a union between a man and a woman, not between persons of the same sex.

Clause 4 amends section 3 of the Marriage Act 1955. It specifies that parties to a marriage must be one man and one woman.

Clause 5 inserts a *new section 15A* in the Marriage Act 1955. A marriage or civil union between two people of the same gender, solemnised in a foreign country, will not be recognised as a marriage in New Zealand.

Clause 6 inserts a *new clause 2A* in Schedule 2 of the Marriage Act 1955. It provides that a marriage between two people of the same gender is forbidden.

Clause 7 amends section 19 of the New Zealand Bill of Rights Act 1990. It provides that measures intended to promote or advance marriage will not be considered discriminatory.

Larry Baldock

Marriage (Gender Clarification) Amendment Bill

Member's Bill

Contents

1	Title	6	New clause 2A inserted in Schedule 2
2	Commencement		
3	Purpose		2A Forbidden marriages
Part 1		Part 2	
Amendments to Marriage Act 1955		Amendment to New Zealand Bill of Rights Act 1990	
4	Application of Act		
5	New section 15A inserted	7	Freedom from discrimination
	15A Certain unions are not marriages		

The Parliament of New Zealand enacts as follows:

1 Title

- (1) This Act is the Marriage (Gender Clarification) Amendment Act **2005**.
- (2) In this Act, the Marriage Act 1955¹ is called “the principal Act”.
- ¹ 1955 No 92

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Purpose

The purpose of this Act is to clarify that parties to a marriage must be one man and one woman. 10

Part 1 Amendments to Marriage Act 1955

4 Application of Act

Section 3 of the principal Act is amended by adding the following subsection:

5

“(3) For the avoidance of doubt, marriage may only occur between one man and one woman.”

5 New section 15A inserted

The principal Act is amended by inserting, after section 15, the following section:

10

“15A Certain unions are not marriages

A union solemnised in a foreign country between two people of the same gender is not recognised as a marriage in New Zealand.”

6 New clause 2A inserted in Schedule 2

15

Schedule 2 of the principal Act is amended by inserting, after clause 2, the following clause:

“2A Forbidden marriages

A person may not marry another person of the same gender.”

Part 2

20

Amendment to New Zealand Bill of Rights Act 1990

7 Freedom from discrimination

Section 19 of the New Zealand Bill of Rights Act 1990 is consequentially amended by adding the following subsection:

“(3) Measures taken in good faith for the purpose of assisting or advancing marriage do not constitute discrimination.”

25

