

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Adoption of Children Legislation Amendment (Equality) Bill 2017

This Bill is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011* (Cth).

Overview of the Bill

The Bill amends the *Adoption of Children Act* and *Adoption of Children Regulations* to enable same-sex and de facto couples to apply to adopt children in the Northern Territory. It also makes the *Act* more compliant with the *Sex Discrimination Act 1984* (Cth) by removing biological sex and gender specific references.

In particular the Bill:

- broadens the eligibility criteria for prospective adoptive parents by expanding relationship status to include de facto couples, which includes same-sex couples; and
- removes most biological sex and gender specific references where it is material to the person applying to be eligible to adopt a child.

Human rights implications

This Bill engages the rights to equality and non-discrimination referred to in *the International Convention on Civil and Political Rights (ICCPR)* under the following articles:

- Article 2(1) of the *ICCPR* provides that Governments undertake to respect and ensure recognition of the rights under the *ICCPR* without discrimination.
- Article 14 (1) of the *ICCPR* provides that all persons shall be equal before the courts and tribunals.
- Article 26 of the *ICCPR* provides that all persons shall be equal before the law.

The Adoption of Children Legislation Amendment (Equality) Bill widens the scope of eligibility criteria to enable couples in de facto relationships, including same-sex de facto relations to apply to adopt a child. This will ensure that persons who are in de facto relationships wanting to apply to adopt a child will not be discriminated against on the basis of their marital status, sexual orientation, gender identity or intersex status.

The Bill removes most biological sex and gender specific references from the *Adoption of Children Act* and replaces them with gender neutral terms such as “person”, “spouse”, and “partner.” These gender neutral terms promote equality before the law and freedom from discrimination.

Conclusion

This Bill creates amendments that remove discriminatory elements of existing law. The amendments will promote greater enjoyment of human rights and freedoms for people by allowing persons in de facto relationships, including same sex relationships to apply to adopt a child in the Northern Territory.

This Bill is therefore compatible, supportive and promotes human rights.