

BILL

To provide for the definition of the term "Spouse"; invoke Articles 81 and 45 of the Namibian Constitution to contradict a decision of the Supreme Court of Namibia and assert the representative nature of the National Assembly; and to provide for incidental matters thereto.

ARRANGEMENT OF SECTIONS

- 1. Definitions
 - 2. Contradiction of a decision of the Supreme Court
 - 3. Representative nature of Parliament
 - 4. Short Title
- Schedule

BE IT ENACTED as passed by the Parliament, and assented to by the President of the Republic of Namibia as follows:

Definitions

- 1. In this Act, unless the context otherwise indicates-

"spouse" means a person, being one half of a legal union between a man and a woman of the opposite sex of that person.

Contradiction of decision of the Supreme Court

- 2. (1) In accordance with Article 81 of the Namibian Constitution, the decision of the Supreme Court of Namibia in the cases listed in the Schedule is hereby contradicted so far as that decision –
 - (a) Authorizes the recognition of marriages between persons of the same sex, whose marriages were validly contracted and solemnized outside Namibia;
 - (b) Directs the Government of the Republic of Namibia to recognize the civil marriage of persons of the same sex; and
 - (c) Declares parties to a same sex marriage as spouses under section 2(1) of the Immigration Control Act, 1993 (Act No. 7 of 1993)

(2) No marriage between persons of the same sex shall be recognized as a valid marriage in the Republic of Namibia.

(3) Persons involved in marriages with persons of the same sex shall not be regarded as spouses for purposes of any law in the Republic of Namibia.

Representative nature of the National Assembly

3. (1) For purposes of section 2, the National Assembly asserts its representative nature in respect of all persons in Namibia, and in accordance with Article 45 of the Namibian Constitution read together with Article 63(1) of the that Constitution as the principal legislative authority in Namibia, in the interest of the people of Namibia, enacts that section to protect the family values as provided under Article 14 of the Namibian Constitution.

Short title

4. (1) This Act is called the Definition of Spouse Act, 2023 and shall come into operation upon publication in the Gazette.

SCHEDULE

(Section 2)

Contradicted Supreme Court Judgements	
1	Digashu and Another v GRN and Others; Seiler-Lilles and Another v GRN and Others (SA 6/2022; SA 7/2022) [2023] NASC 14 (16 May 2023)