Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008

No. 144, 2008

An Act to address discrimination against same-sex couples and their children in Commonwealth laws, and for other purposes

Note: An electronic version of this Act is available in ComLaw (http://www.comlaw.gov.au/)

Contents

1 Short title 1
2 Commencement 2
3 Schedule(s) 5

Schedule 1—Agriculture, Fisheries and Forestry 6

Australian Meat and Live-stock Industry Act 1997 6

Farm Household Support Act 1992 6

Schedule 2—Attorney-General 7

Part 2—Amendment of other Acts 7

Administrative Decisions (Judicial Review) Act 1977 7

Age Discrimination Act 2004 7

Australian Federal Police Act 1979 8

Bankruptcy Act 1966 9

Crimes Act 1914 11

Crimes (Superannuation Benefits) Act 1989 13

Customs Act 1901 14

Family Law Act 1975 16

High Court Justices (Long Leave Payments) Act 1979 16

Judges (Long Leave Payments) Act 1979 17

Passenger Movement Charge Collection Act 1978 18

Proceeds of Crime Act 2002 18

Service and Execution of Process Act 1992 20

Sex Discrimination Act 1984 20

Witness Protection Act 1994 24

Part 3—Regulations 25

Schedule 3—Broadband, Communications and the Digital Economy 26

Australian Postal Corporation Act 1989 26

Broadcasting Services Act 1992 26

Telstra Corporation Act 1991 28

Schedule 4—Defence 30

Defence Force (Home Loans Assistance) Act 1990 30
Defence (Parliamentary Candidates) Act 1969 35
Royal Australian Air Force Veterans' Residences Act 1953 36

Schedule 5—Education, Employment and Workplace Relations 38
Education Services for Overseas Students Act 2000 38
Higher Education Support Act 2003 39
Judicial and Statutory Officers (Remuneration and Allowances) Act 1984 39
Safety, Rehabilitation and Compensation Act 1988 40
Seafarers Rehabilitation and Compensation Act 1992 43
Student Assistance Act 1973 45

Schedule 6—Families, Housing, Community Services and Indigenous Affairs 46

Part 1—Amendments commencing on the day after Royal Assent 46
Aboriginal Land Grant (Jervis Bay Territory) Act 1986 46
Corporations (Aboriginal and Torres Strait Islander) Act 2006 47

Part 2—Amendments commencing on 1 July 2009 49
A New Tax System (Family Assistance) Act 1999 49
A New Tax System (Family Assistance) (Administration) Act 1999 50
Child Support (Assessment) Act 1989 50
Child Support (Registration and Collection) Act 1988 52
Social Security Act 1991 53

Schedule 7—Finance and Deregulation 67

Part 1—General amendments 67
Commonwealth Electoral Act 1918 67
Medibank Private Sale Act 2006 68
Members of Parliament (Life Gold Pass) Act 2002 70
Parliamentary Entitlements Act 1990 77

Part 2—Superannuation amendments 78
Superannuation Act 1976 78

Schedule 8—Foreign Affairs and Trade 79

Part 1—Amendment commencing on 1 July 2009 79

Australian Passports Act 2005 79

Part 2—Amendments commencing on the day after Royal Assent 80

Export Market Development Grants Act 1997 80

Trade Representatives Act 1933 81

Schedule 9—Health and Ageing 83

Part 1—Amendments commencing on the day after Royal Assent 83

Prohibition of Human Cloning for Reproduction Act 2002 83

Research Involving Human Embryos Act 2002 83

Part 2—Amendments commencing on 1 January 2009 84

Health Insurance Act 1973 84

National Health Act 1953 85

Part 3—Amendments commencing on 1 July 2009 88

Aged Care Act 1997 88

Schedule 10—Immigration and Citizenship 90

Part 1—Australian Citizenship Act 2007 90

Part 2—Migration Act 1958 93

Division 1—Main amendments 93

Migration Act 1958 93

Division 2—Consequential amendment 104

Australian Citizenship Act 2007 104

Part 3—Immigration (Education) Act 1971 105

Part 4—Immigration (Guardianship of Children) Act 1946 106

Schedule 11—Infrastructure, Transport, Regional Development and Local Government 107

Part 1—Carriers' liability amendments (general) 107

Civil Aviation (Carriers' Liability) Act 1959 107

Part 2—Carriers' liability amendments if Montreal Convention amendments commence earlier 108

Civil Aviation (Carriers' Liability) Act 1959 108

Part 3—Carriers' liability amendments if Montreal Convention amendments commence later 110

Civil Aviation (Carriers' Liability) Act 1959 110

Part 4—Other amendments 113

Airports Act 1996 113

Navigation Act 1912 115

Schedule 12—Innovation, Industry, Science and Research 120

Pooled Development Funds Act 1992 120

Schedule 13—Prime Minister and Cabinet 122

Privacy Act 1988 122

Schedule 14—Treasury 124

Part 1—Amendment of tax laws 124

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 124

Fringe Benefits Tax Assessment Act 1986 124

Income Tax Assessment Act 1936 125

Income Tax Assessment Act 1997 132

Part 2—Amendment of market regulation laws 140

Financial Sector (Shareholdings) Act 1998 140

Foreign Acquisitions and Takeovers Act 1975 142

Insurance Acquisitions and Takeovers Act 1991 144

Life Insurance Act 1995 145

Part 3—Amendment of the Corporations Act 2001 147

Corporations Act 2001 147

Schedule 15—Veterans' Affairs 150

Defence Service Homes Act 1918 150

Military Rehabilitation and Compensation Act 2004 153
Veterans' Entitlements Act 1986 156

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008

No. 144, 2008

An Act to address discrimination against same-sex couples and their children in Commonwealth laws, and for other purposes

[*Assented to 9 December 2008*]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*.

2 Commencement

(1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day on which this Act receives the Royal Assent.	9 December 2008
2. Schedule 1	The day after this Act receives the Royal Assent.	10 December 2008
4. Schedule 2, items 2 and 3	1 July 2009.	1 July 2009
5. Schedule 2, items 4 to 23	The day after this Act receives the Royal Assent.	10 December 2008
6. Schedule 2, item 24	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 13 of Schedule 2 to the *Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
7. Schedule 2, item 25	The day after this Act receives the Royal Assent.	10 December 2008
8. Schedule 2, item 26	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 15 of Schedule 2 to the *Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008*.	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
	However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 2, item 27	The day after this Act receives the Royal Assent.	10 December 2008
10. Schedule 2, item 28	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 17 of Schedule 2 to the *Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008*. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
11. Schedule 2, items 29 to 86	The day after this Act receives the Royal Assent.	10 December 2008
12. Schedules 3, 4 and 5	The day after this Act receives the Royal Assent.	10 December 2008
13. Schedule 6, Part 1	The day after this Act receives the Royal Assent.	10 December 2008
14. Schedule 6, Part 2	1 July 2009.	1 July 2009
15. Schedule 7, items 1 to 7	On the day after the end of the period of 3 months beginning on the day on which this Act receives the Royal Assent.	9 March 2009
16. Schedule 7, items 8 to 55	The day after this Act receives the Royal Assent.	10 December 2008
22. Schedule 8, Part 1	1 July 2009.	1 July 2009
23. Schedule 8, Part 2	The day after this Act receives the Royal Assent.	10 December 2008
24. Schedule 9, Part 1	The day after this Act receives the Royal Assent.	10 December 2008
25. Schedule 9, Part 2	1 January 2009.	1 January 2009

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
26. Schedule 9, Part 3	1 July 2009.	1 July 2009
27. Schedule 10, Part 1	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
28. Schedule 10, Parts 2 and 3	1 July 2009.	1 July 2009
29. Schedule 10, Part 4	A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.	
30. Schedule 11, Part 1	The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of Schedule 2 to the *Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008*.	
31. Schedule 11, Part 2	The day after this Act receives the Royal Assent. However, the provision(s) do not commence at all if Schedule 2 to the *Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008* does not commence on or before the day after this Act receives the Royal Assent.	
32. Schedule 11, Part 3	The day after this Act receives the Royal Assent. However, the provision(s) do not commence at all if Schedule 2 to the *Civil Aviation Legislation Amendment (1999 Montreal*	

Commencement information		
Column 1	**Column 2**	**Column 3**
Provision(s)	**Commencement**	**Date/Details**
	Convention and Other Amendments) Act 2008 commences on or before the day after this Act receives the Royal Assent.	
33. Schedule 11, Part 4	The day after this Act receives the Royal Assent.	10 December 2008
34. Schedule 12	The day after this Act receives the Royal Assent.	10 December 2008
35. Schedule 13	1 July 2009.	1 July 2009
36. Schedule 14	The day after this Act receives the Royal Assent.	10 December 2008
37. Schedule 15	1 July 2009.	1 July 2009

Note: This table relates only to the provisions of this Act as originally passed by both Houses of the Parliament and assented to. It will not be expanded to deal with provisions inserted in this Act after assent.

(2) Column 3 of the table contains additional information that is not part of this Act. Information in this column may be added to or edited in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Agriculture, Fisheries and Forestry

Australian Meat and Live-stock Industry Act 1997

1 Section 3 (paragraph (b) of the definition of *associate*)

Repeal the paragraph, substitute:

(b) the spouse, or de facto partner (within the meaning of the *Acts Interpretation Act 1901*), of the subject person; and

Farm Household Support Act 1992

2 Subsection 3(1)

Insert:

armed services widow

3 Subsection 3(1)

Insert:

armed services widower

Schedule 2—Attorney-General

Part 2—Amendment of other Acts

Administrative Decisions (Judicial Review) Act 1977

2 Subparagraph (d)(iv) of Schedule 2

Repeal the subparagraph, substitute:

(iv) decisions relating to a person who, having entered Australia as a diplomatic or consular representative of another country, a member of the staff of such a representative or the spouse, de facto partner or a dependent relative of such a representative, was in Australia at the time of the decision (for the purposes of this subparagraph, ***enter Australia***, ***spouse***, ***de facto partner*** and relative have the same meanings as in that Act);

3 Application

The amendment of the *Administrative Decisions (Judicial Review) Act 1977* made by this Part applies in relation to decisions to which section 13 of that Act applies that are made on or after the commencement of this item.

Age Discrimination Act 2004

4 Subsection 29(4)

Insert:

child: without limiting who is a child of a person for the purposes of paragraph (a) of the definition of ***near relative*** in this subsection, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

5 Subsection 29(4)

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

6 Subsection 29(4) (paragraph (b) of the definition of *near relative*)

Omit “de facto spouse”, substitute “de facto partner”.

7 Subsection 29(4)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of paragraph (a) of the definition of ***near relative*** in this subsection, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

8 At the end of section 29

Add:

Family relationships

(5) For the purposes of paragraph (a) of the definition of ***near relative*** in subsection (4), if one person is the child of another person because of the definition of ***child*** in that subsection, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

Australian Federal Police Act 1979

9 At the end of section 42F

Add:

(3) For the purposes of paragraph (2)(e), family relationships are taken to include the following (without limitation):
  (a) relationships between de facto partners (within the meaning of the *Acts Interpretation Act 1901*);
  (b) relationships of child and parent that arise if someone is the child of a person because of the definition of ***child*** in this section;
  (c) relationships traced through relationships mentioned in paragraphs (a) and (b).

(4) In this section:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

10 Application

The amendment of the *Australian Federal Police Act 1979* made by this Part applies in relation to an application for an order under Part VA of that Act made on or after the commencement of this item.

Bankruptcy Act 1966

11 Subsection 5(1) (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of a person for the purposes of this Act, each of the following is the ***child*** of a person:

(a) an adopted child, stepchild or exnuptial child of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

12 Subsection 5(1) (definition of *close relative*)

Omit “de facto spouse”, substitute “de facto partner”.

13 Subsection 5(1)

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

14 Subsection 5(1) (definition of *de facto spouse*)

Repeal the definition.

15 Subsection 5(1) (definition of *parent*)

Repeal the definition, substitute:

parent: a person is the ***parent*** of anyone who is the person’s child.

16 Subsection 5(1) (paragraph (g) of the definition of *related entity*)

After “spouse”, insert “, or de facto partner,”.

17 Subsection 5(1) (definition of *relative*)

Omit "de facto spouse", substitute "de facto partner".

18 Subsection 5(1)

Insert:

> ***stepchild***: without limiting who is a stepchild of a person for the purposes of this Act, someone is the ***stepchild*** of a person if he or she would be the person's stepchild except that the person is not legally married to the person's de facto partner.

19 At the end of section 5

Add:

(6) For the purposes of this Act, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in this section;

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

20 Paragraphs 60(4)(a) and (b)

After "spouse", insert "or de facto partner".

21 At the end of subsection 60(4)

Add:

Note: See also subsection 5(6).

22 Subparagraphs 116(2)(d)(i) and (2)(g)(i) and (ii)

After "spouse", insert "or de facto partner".

23 At the end of paragraph 116(2)(g)

Add:

Note: See also subsection 5(6).

24 Paragraph 116(2)(r)

Omit “de facto spouse”, substitute “de facto partner”.

25 Paragraphs 120(5)(b) and (c)

Omit “de facto spouse”, substitute “de facto partner”.

26 Paragraph 120(5)(f)

Omit “de facto spouse”, substitute “de facto partner”.

27 Paragraphs 121(6)(b) and (c)

Omit “de facto spouse”, substitute “de facto partner”.

28 Paragraph 121(6)(f)

Omit “de facto spouse”, substitute “de facto partner”.

29 Paragraph 134(1)(ma)

After “spouse”, insert “or de facto partner”.

30 At the end of paragraph 134(1)(ma)

Add:

Note: See also subsection 5(6).

31 Section 139K (definition of *spouse*)

Omit “de facto spouse”, substitute “de facto partner”.

32 At the end of subsection 265(2)

Add:

Note: See also subsection 5(6).

33 At the end of subsection 268(6)

Add:

Note: See also subsection 5(6).

Crimes Act 1914

34 Subsection 3(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

35 Subsection 3(1)

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

36 Subsection 3(1)

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone (the ***adult***) is the ***parent*** of a person if:

(a) the adult is legally entitled to, and has, custody of the person; or

(b) the adult is legally responsible for the day-to-day care, welfare and development of the person and has the person in his or her care.

37 Subsection 3(1)

Insert:

relative has a meaning affected by subsection (3).

38 At the end of section 3

Add:

(3) For the purposes of this Act, the relatives of a person are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in this section;

(c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

39 At the end of section 16A

Add:

(4) For the purposes of a reference in this section to a family, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in section 3;

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

40 Subsection 23WA(1) (definition of *parent*)

Repeal the definition.

Crimes (Superannuation Benefits) Act 1989

41 At the end of section 10

Add:

(3) For the purposes of paragraph (2)(e), family relationships are taken to include the following (without limitation):

(a) relationships between de facto partners (within the meaning of the *Acts Interpretation Act 1901*);

(b) relationships of child and parent that arise if someone is the child of a person because of the definition of ***child*** in this section;

(c) relationships traced through relationships mentioned in paragraphs (a) and (b).

(4) In this section:

child: without limiting who is a child of a person for the purposes of this section, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

42 Application

The amendment of the *Crimes (Superannuation Benefits) Act 1989* made by this Part applies in relation to an application for a superannuation order or a restraining order made on or after the commencement of this item.

Customs Act 1901

43 Subsection 4(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, each of the following is the child of a person:

(a) an adopted child or exnuptial child of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

44 Subsection 4(1)

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subsection.

45 After section 4

Insert:

4AAA Members of family

For the purposes of this Act, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person (within the meaning of the *Acts Interpretation Act 1901*);

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in section 4;

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

46 Subparagraph 154(3)(a)(i)

Repeal the subparagraph, substitute:

(i) they are members of the same family; or

47 At the end of subsection 154(3)

Add:

Note: In relation to the reference to member of a family in subparagraph (3)(a)(i), see also section 4AAA.

48 At the end of sections 219ZJB and 219ZJC

Add:

Note: In relation to references in this section to family member, see also section 4AAA.

49 At the end of section 243AB

Add:

(3) For the purposes of paragraph (2)(e), family relationships are taken to include (without limitation) relationships between persons covered by section 4AAA.

50 Subparagraph 269TAA(4)(a)(i)

Repeal the subparagraph, substitute:

(i) they are members of the same family; or

51 At the end of subsection 269TAA(4)

Add:

Note: In relation to the reference to member of a family in subparagraph (4)(a)(i), see also section 4AAA.

52 Application

Amendments of section 154

(1) The amendments of section 154 of the *Customs Act 1901* made by this Part apply in relation to goods imported into Australia on or after the commencement of this item.

Amendments affecting Part XIII

(2) The amendments of Part I of the *Customs Act 1901* made by this Part apply in relation to proceedings instituted under section 243B of that Act on or after the commencement of this item.

(3) Subitem (2) does not limit the operation of the amendments of Part I of the *Customs Act 1901* made by this Part in relation to other provisions of that Act.

Family Law Act 1975

52A Subsection 4(1) (paragraphs (b) and (c) of the definition of *step-parent*)

Repeal the paragraphs, substitute:

(b) is, or has been, married to or a de facto partner (within the meaning of section 60EA) of, a parent of the child; and

(c) treats, or at any time while married to, or a de facto partner of, the parent treated, the child as a member of the family formed with the parent.

52B Paragraph 66M(3)(b)

After "marriage to", insert ", or relationship with,".

52C Application to the *Child Support (Registration and Collection) Act 1988*

To the extent that the amendment of the *Family Law Act 1975* made by this Schedule affects the definition of ***step-parent*** in subsection 4(1) of the *Child Support (Registration and Collection) Act 1988*, it applies in relation to that definition on and after 1 July 2009.

High Court Justices (Long Leave Payments) Act 1979

53 Paragraphs 5(2)(a) and (b)

Omit "widow or widower" (wherever occurring), substitute "surviving spouse or de facto partner".

54 After subsection 5(2)

Insert:

(2A) If an amount is payable under paragraph (2)(a) and the Justice leaves more than one surviving spouse or de facto partner, the Attorney-General may give a direction as to the distribution of the amount between or among them.

55 At the end of section 5

Add:

(5) In this section:

surviving spouse or de facto partner of a Justice who has died means a person who was the spouse or de facto partner (within the meaning of the *Acts Interpretation Act 1901*) of the Justice immediately before he or she died.

56 Application

The amendments of the *High Court Justices (Long Leave Payments) Act 1979* made by this Part apply in respect of a Justice who dies on or after the commencement of this item.

Judges (Long Leave Payments) Act 1979

57 Paragraphs 5(2)(a) and (b)

Omit “widow or widower” (wherever occurring), substitute “surviving spouse or de facto partner”.

58 After subsection 5(2)

Insert:

(2A) If an amount is payable under paragraph (2)(a) and the Judge leaves more than one surviving spouse or de facto partner, the Attorney-General may give a direction as to the distribution of the amount between or among them.

59 At the end of section 5

Add:

(5) In this section:

surviving spouse or de facto partner of a Judge who has died means a person who was the spouse or de facto partner (within the

meaning of the *Acts Interpretation Act 1901*) of the Judge immediately before he or she died.

60 Application

The amendments of the *Judges (Long Leave Payments) Act 1979* made by this Part apply in respect of a Judge who dies on or after the commencement of this item.

Passenger Movement Charge Collection Act 1978

61 Section 3 (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of a person for the purposes of this Act, each of the following who is under 18 years old is the ***child*** of a person:

(a) an adopted child, stepchild or exnuptial child of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

62 Section 3

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

63 Section 3 (definition of *spouse*)

Repeal the definition, substitute:

spouse of a person includes a de facto partner of the person.

64 Section 3

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone is the ***stepchild*** of a person if he or she would be the person's stepchild except that the person is not legally married to the person's de facto partner.

Proceeds of Crime Act 2002

65 Paragraphs 180(1)(c) and 181(1)(c)

Omit "(including de facto spouse)", substitute "or *de facto partner".

66 At the end of section 337

Add:

(6) For the purposes of this section, family relationships are taken to include the following (without limitation):

(a) relationships between *de facto partners;

(b) relationships of child and parent that arise if someone is the child of a person because of the definition of ***child*** in section 338;

(c) relationships traced through relationships mentioned in paragraphs (a) and (b).

67 Section 338

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

68 Section 338

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

69 Section 338 (paragraph (a) of the definition of *dependant*)

Omit "de facto partner", substitute "*de facto partner".

70 Section 338 (paragraph (b) of the definition of *dependant*)

Omit "child", substitute "*child".

71 Section 338

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the

person is his or her child because of the definition of ***child*** in this section.

72 Application

The amendments of the *Proceeds of Crime Act 2002* made by this Part apply in relation to a proceeding under that Act instituted on or after the commencement of this item.

Service and Execution of Process Act 1992

73 Section 95

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

74 Section 95

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subsection.

75 At the end of section 96

Add:

(5) For the purposes of this section, the members of a person's family are taken to include the following (without limitation):
  (a) a de facto partner of the person (within the meaning of the *Acts Interpretation Act 1901*);
  (b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in section 3;
  (c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

Sex Discrimination Act 1984

76 Subsection 4A(2) (definition of *child*)

Repeal the definition, substitute:

> ***child***: without limiting who is a child of a person for the purposes of this section, each of the following is the ***child*** of a person:
>
> (a) an adopted child, stepchild or exnuptial child of the person;
>
> (b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

77 Subsection 4A(2)

Insert:

> ***de facto partner*** has the meaning given by the *Acts Interpretation Act 1901*.

78 Subsection 4A(2)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this section, someone is the ***parent*** of a person if the person is his or her child because of paragraph (b) of the definition of ***child*** in this subsection.

79 Subsection 4A(2) (definition of *spouse*)

Repeal the definition, substitute:

> ***spouse*** includes a former spouse, a de facto partner and a former de facto partner.

80 Subsection 4A(2)

Insert:

> ***stepchild***: without limiting who is a stepchild of a person for the purposes of this section, someone is the ***stepchild*** of the person if he or she would be the person's stepchild except that the person is not legally married to the partner.

81 At the end of section 4A

Add:

(3) For the purposes of this section, if one person is the child of another person because of paragraph (b) of the definition of ***child*** in subsection (2), relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

82 After subsection 9(10)

Insert:

(10A) Subsection 14(3A) has effect in relation to discrimination involving dismissal of employees on the ground of family responsibilities, to the extent that the subsection gives effect to any of the following instruments:

(a) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 [1980] ATS 23 (a copy of the English text of which is set out in Schedule 2 to the *Human Rights and Equal Opportunity Commission Act 1986*);

(b) the International Covenant on Economic, Social and Cultural Rights done at New York on 16 December 1966 [1976] ATS 5;

(c) ILO Convention (No. 111) concerning Discrimination in respect of Employment and Occupation done at Geneva on 25 June 1958 [1974] ATS 12 (a copy of the English text of which is set out in Schedule 1 to the *Human Rights and Equal Opportunity Commission Act 1986*);

(d) the Convention on the Rights of the Child done at New York on 20 November 1989 [1991] ATS 4.

Note: In 2008, the text of international agreements in the Australian Treaty Series was accessible through the Australian Treaties Library on the AustLII website (www.austlii.edu.au).

83 At the end of subsection 10(1)

Add “or (10A)”.

84 After section 11

Insert:

11A Operation of State and Territory laws that further objects of other instruments

(1) A reference in this section to this Act is a reference to this Act as it has effect because of subsection 9(10A).

(2) A reference in this section to a law of a State or Territory is a reference to a law of a State or Territory that deals with discrimination involving dismissal of employees on the ground of family responsibilities.

(3) This Act is not intended to exclude or limit the operation of a law of a State or Territory that furthers the objects of a relevant instrument and is capable of operating concurrently with this Act.

(4) If:

(a) a law of a State or Territory that furthers the objects of a relevant instrument deals with a matter dealt with by this Act; and

(b) a person has made a complaint, instituted a proceeding or taken any other action under that law in respect of an act or omission in respect of which the person would, but for this subsection, have been entitled to make a complaint under the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under subsection 14(3A) of this Act;

the person is not entitled to make a complaint or institute a proceeding under the *Human Rights and Equal Opportunity Commission Act 1986* alleging that the act or omission is unlawful under that subsection.

(5) If:

(a) a law of a State or Territory that furthers the objects of a relevant instrument deals with a matter dealt with by this Act; and

(b) an act or omission by a person that constitutes an offence against that law also constitutes an offence against this Act;

the person may be prosecuted and convicted either under that law of the State or Territory or under this Act, but nothing in this subsection renders a person liable to be punished more than once in respect of the same act or omission.

(6) In this section:

relevant instrument means an instrument referred to in subsection 9(10A).

Witness Protection Act 1994

85 Section 3

Insert:

parent: without limiting who is a parent of anyone for the purposes of this Act, a person is the ***parent*** of another person if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

Part 3—Regulations

86 Regulations may deal with transitional, saving or application matters

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to amendments and repeals made by this Schedule or any other Schedule to this Act.

Schedule 3—Broadband, Communications and the Digital Economy

Australian Postal Corporation Act 1989

1 At the end of subsection 90K(2)

Add:

Note: See also subsection (6).

2 At the end of section 90K

Add:

Next of kin

(6) In determining for the purposes of subsection (2) whether a person is next of kin of another person, the following persons are also to be taken into account:

(a) a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*;

(b) someone who is the child of the person, or of whom the person is the child, because of subsection (7);

(c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

(7) For the purposes of paragraph (6)(b), someone is the ***child*** of a person because of this subsection if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

Broadcasting Services Act 1992

3 Subsection 6(1) (paragraph (a) of the definition of *associate*)

Omit “(including a *de facto* spouse)”.

4 Subsection 6(1) (note at the end of the definition of *associate*)

Omit “Note”, substitute “Note 1”.

5 Subsection 6(1) (at the end of the definition of *associate*)

Add:

Note 2: See also subsection (3).

6 Subsection 6(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

7 Subsection 6(1)

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

8 Subsection 6(1)

Insert:

spouse of a person includes a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*.

9 At the end of section 6

Add:

(3) For the purposes of paragraph (a) of the definition of ***associate*** in subsection (1), if one person is the child of another person because of the definition of ***child*** in this section, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

10 Transitional provision

For the purposes of the *Broadcasting Services Act 1992*, if:

(a) apart from this item, a person would be in a position to exercise control of a licence, a newspaper or a company on the day on which the amendments of that Act made by this Schedule commence; and

(b) the person would be in that position only because of the amendments;

the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be in that position for so long as the person would otherwise have been in that position.

Telstra Corporation Act 1991

11 Clause 2 of the Schedule

Before "In Part 2A", insert "(1)".

12 Clause 2 of the Schedule

Insert:

child: without limiting who is a child of a person for the purposes of Part 2A and this Schedule, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

13 Clause 2 of the Schedule

Insert:

parent: without limiting who is a parent of a person for the purposes of Part 2A and this Schedule, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this clause.

14 Clause 2 of the Schedule (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

(b) a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*; or

15 Clause 2 of the Schedule (paragraph (d) of the definition of *relative*)

Omit "son, daughter", substitute "child".

16 Clause 2 of the Schedule (at the end of the definition of *relative*)

Add:

Note: See also subclause (2).

17 At the end of clause 2 of the Schedule

Add:

(2) For the purposes of paragraphs (c), (d) and (e) of the definition of ***relative*** in subclause (1), if one person is the child of another person because of the definition of ***child*** in that subclause, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

18 Transitional provision

(1) For the purposes of sections 8BI and 8BJ of the *Telstra Corporation Act 1991*, if:

(a) apart from this subitem, an unacceptable foreign-ownership situation would exist on the day on which the amendments of that Act made by this Schedule commence; and

(b) the situation would exist only because of the amendments;

the situation is, during the period of 6 months starting on the day on which the amendments commence, taken not to exist for so long as it would otherwise have existed.

(2) If:

(a) on the day on which the amendments of the *Telstra Corporation Act 1991* made by this Schedule commence, a person would, apart from this subitem, be required by regulations made for the purposes of section 8BN of that Act to do something in relation to an ownership matter; and

(b) the person would not have been required to do that thing if the amendments had not been made;

the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.

Schedule 4—Defence

Defence Force (Home Loans Assistance) Act 1990

2 Section 3 (definition of *child*)

Repeal the definition, substitute:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if:
>
> (a) he or she is:
>
> (i) a legally adopted child or a stepchild of the person; or
>
> (ii) a child of the person within the meaning of the *Family Law Act 1975*; and
>
> (b) he or she is:
>
> (i) under 16; or
>
> (ii) a student.

3 Section 3

Insert:

> ***de facto partner*** has the meaning given by the *Acts Interpretation Act 1901*.

4 Section 3

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the person is his or her child because of the definition of ***child*** in this subsection.

5 Section 3 (definition of *spouse*)

Repeal the definition.

6 Section 3

Insert:

> ***surviving spouse or de facto partner***, in relation to a deceased person, means a person who was the spouse or de facto partner of

the deceased person immediately before the deceased person's death.

Note: See also section 8.

7 Section 3 (definition of *widow*)

Repeal the definition (including the note).

8 Section 3 (definition of *widower*)

Repeal the definition (including the note).

10 Paragraphs 5(1)(b) and (c)

After "spouse", insert ", de facto partner".

11 Paragraphs 6(a), (b) and (c)

After "spouse", insert "or de facto partner".

12 Section 8

Repeal the section, substitute:

8 Multiple surviving spouses or de facto partners

(1) If a deceased person has more than one surviving spouse or de facto partner, the surviving spouse or de facto partner who was living with the person immediately before his or her death is taken, for the purposes of Division 1 of Part 2 and paragraph 29(h), to be the person's sole surviving spouse or de facto partner.

(2) For the purposes of subsection (1), the person is taken to have been living with a spouse or de facto partner immediately before the death of the person if they were not living together at that time only because of:

(a) a temporary absence from each other; or

(b) illness or infirmity of either or both of them.

13 Subsection 10(3)

Omit "widow or widower", substitute "surviving spouse or de facto partner".

14 Subparagraph 12(1)(b)(ii)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

15 Subsection 12(3)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

16 Application provision

The amendments of sections 10 and 12 of the *Defence Force (Home Loans Assistance) Act 1990* made by this Schedule apply in relation to an application for an entitlement certificate made on or after the commencement of this Schedule.

17 Subsection 14(4)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

18 Paragraph 15(1)(b)

After “spouse”, insert “or de facto partner”.

19 Paragraphs 17(1)(a) and (b)

After “spouse”, insert “or de facto partner”.

20 Paragraph 17(1)(b)

After “spouse’s”, insert “or de facto partner’s”.

21 Paragraph 18(1)(b)

After “spouse”, insert “or de facto partner”.

22 Application provision

The amendments of sections 14, 15, 17 and 18 of the *Defence Force (Home Loans Assistance) Act 1990* made by this Schedule apply in relation to an application made under section 14 of that Act on or after the commencement of this Schedule.

23 Paragraph 20(2)(d)

After “spouse”, insert “or de facto partner”.

24 Application provision

If:

(a) a person is an entitled person immediately before the commencement of the amendment of paragraph 20(2)(d) of the *Defence Force (Home Loans Assistance) Act 1990* made by this Schedule; and

(b) apart from this item, subsidy would not become payable to the person on a loan on or after that commencement; and

(c) subsidy would not become payable to the person on the loan only because of the amendment;

the amendment does not apply in respect of the person and the loan.

25 Subparagraph 20(2)(e)(i)

After "spouse" (wherever occurring), insert "or de facto partner".

26 Subsections 24(1), (2) and (3)

Omit "widow or widower" (wherever occurring), substitute "surviving spouse or de facto partner".

27 Subsection 24(4)

Insert:

surviving spouse or de facto partner does not include a surviving spouse or de facto partner who is an eligible person.

28 Subsection 24(4) (definition of *widow or widower*)

Repeal the definition.

29 Subsection 26(1)

After "spouse", insert "or de facto partner".

Note: The heading to section 26 is altered by adding at the end "**or de facto partners**".

30 Subsection 26(2)

After "spouses", insert "or de facto partners".

31 Subparagraph 26(2)(a)(i)

After "spouse", insert "or de facto partner".

32 Subparagraph 26(2)(a)(ii)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

33 Paragraph 26(2)(b)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

34 Paragraph 29(c)

After “spouse”, insert “or de facto partner”.

35 Application provision

To avoid doubt, the amendment of paragraph 29(c) of the *Defence Force (Home Loans Assistance) Act 1990* made by this Schedule does not apply in relation to a subsidised loan on a property where the ownership of the property was converted from a joint tenancy into a tenancy in common with effect before the commencement of the amendment.

36 Paragraph 29(d)

Omit “person’s spouse or former spouse, or to the person and his or her former spouse”, substitute “person’s spouse or de facto partner, or former spouse or former de facto partner, or to the person and his or her former spouse or former de facto partner”.

37 Paragraph 29(g)

Omit “is not survived by a widow or widower”, substitute “does not have a surviving spouse or de facto partner”.

38 Paragraph 29(h)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

39 Paragraph 30(1)(a)

Omit “is survived by a widow or widower”, substitute “has a surviving spouse or de facto partner”.

40 Paragraph 30(1)(b)

Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

41 Paragraph 30(2)(a)

Omit “is survived by a widow or widower”, substitute “has a surviving spouse or de facto partner”.

42 Paragraph 30(3)(b)

Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

43 Paragraph 30(4)(b)

Omit “surviving widow or widower who was legally married to the borrower”, substitute “surviving spouse or de facto partner”.

44 Paragraph 30(4)(d)

Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

45 Subsection 30(6)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

46 Paragraph 36A(1)(d)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

Defence (Parliamentary Candidates) Act 1969

47 Subsection 16(3)

Repeal the subsection, substitute:

(3) For the purposes of this section, the members of a family, in relation to any person, are taken to include the following (without limitation):

(a) a de facto partner of the person (within the meaning of the *Acts Interpretation Act 1901*);

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in subsection (4);

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

(4) In this section:

child: without limiting who is a child of a person for the purposes of subsection (3), someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

dependent means wholly or substantially dependent.

Royal Australian Air Force Veterans' Residences Act 1953

48 Section 2

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

49 Section 2 (at the end of paragraphs (a), (b) and (c) of the definition of *eligible person*)

Add "or".

50 Section 2 (paragraphs (d), (e) and (f) of the definition of *eligible person*)

Repeal the paragraphs, substitute:

(d) a surviving spouse or de facto partner of a person referred to in paragraph (a), (b) or (c); or

(e) a parent of a former member referred to in paragraph (a), (b) or (c), if:

(i) the former member is deceased and does not have a surviving spouse or de facto partner; and

(ii) the parent is the surviving spouse or de facto partner of another person who has died; and

(iii) the parent was, at the time of the former member's appointment to, or enlistment in, the Force or Service referred to in paragraph (a), (b) or (c), dependent on the former member; or

(f) a parent of a former member referred to in paragraph (a), (b) or (c), if:

(i) the former member is deceased and does not have a surviving spouse or de facto partner; or

(ii) the parent has a spouse or de facto partner who is so incapacitated as to be unable to contribute materially to the support of the parent.

51 Section 2

Insert:

parent: without limiting who is a parent of anyone for the purposes of this Act, a person is the ***parent*** of another person if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

52 Section 2

Insert:

surviving spouse or de facto partner, in relation to a deceased person, means a person who was the spouse or de facto partner of the deceased person immediately before the deceased's death.

53 Application provision

The amendments of the *Royal Australian Air Force Veterans' Residences Act 1953* made by this Schedule apply in relation to a person referred to in paragraph (a), (b) or (c) of the definition of ***eligible person*** in section 2 of that Act who dies on or after the commencement of this Schedule.

Schedule 5—Education, Employment and Workplace Relations

Education Services for Overseas Students Act 2000

1 Subsection 6(1) (paragraphs (a), (b) and (c) of the definition of *associate*)

Omit "de facto spouse", substitute "de facto partner".

2 Subsection 6(7)

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this section, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

Note: The heading to subsection 6(7) is replaced by the heading "*Other definitions*".

3 Subsection 6(7)

Insert:

> ***de facto partner*** of a person has the meaning given by the *Acts Interpretation Act 1901*.

4 Subsection 6(7)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this section, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

5 At the end of section 6

Add:

Certain family relationships

(8) For the purposes of paragraph (d) of the definition of ***associate*** in subsection (1), if one person is the child of another person because

of the definition of ***child*** in this section, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

Higher Education Support Act 2003

6 Clause 1 of Schedule 1

Before "In this Act", insert "(1)".

7 Clause 1 of Schedule 1 (paragraph (e) of the definition of *Overseas student*)

After "spouse", insert ", de facto partner (within the meaning of the *Acts Interpretation Act 1901*)".

8 Clause 1 of Schedule 1 (at the end of the definition of *Overseas student*)

Add:

Note: In relation to paragraph (e) of the definition of ***Overseas student***, see also subclause (2).

9 At the end of Schedule 1

Add:

(2) For the purposes of paragraph (e) of the definition of ***Overseas student*** in subclause (1), a representative's relatives include (without limitation):

(a) an exnuptial or adoptive child of the representative, or someone of whom the representative is an exnuptial or adoptive child; and

(b) someone who is a child of the representative, or of whom the representative is a child, because of subclause (3); and

(c) relatives traced through relationships referred to in paragraphs (a) and (b).

(3) For the purposes of paragraph (2)(b), one person is the ***child*** of another person because of this subclause if he or she is a child of the other person within the meaning of the *Family Law Act 1975*.

Judicial and Statutory Officers (Remuneration and Allowances) Act 1984

10 After subsections 4(4A) and 6(4A)

Insert:

(4B) For the purposes of subsection (4A), ***spouse*** includes a de facto partner of a person within the meaning of the *Acts Interpretation Act 1901*.

Safety, Rehabilitation and Compensation Act 1988

11 Subsection 4(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

12 Subsection 4(1)

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

13 Subsection 4(1) (paragraph (a) of the definition of *dependant*)

Omit "father, mother, step-father, step-mother, father-in-law, mother-in-law, grandfather, grandmother, son, daughter, step-son, step-daughter, grandson, grand-daughter, brother, sister, half-brother or half-sister", substitute "parent, step-parent, father-in-law, mother-in-law, grandparent, child, stepchild, grandchild, sibling or half-sibling".

14 Subsection 4(1) (at the end of the definition of *dependant*)

Add:

Note: See also subsection 4(2).

15 Subsection 4(1)

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the

person is his or her child because of the definition of ***child*** in this section.

16 Subsection 4(1) (paragraph (a) of the definition of *spouse*)

Repeal the paragraph, substitute:

(a) in relation to an employee or a deceased employee—a person who is, or immediately before the employee's death was, a de facto partner of the employee; and

17 Subsection 4(1)

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the ***stepchild*** of the person if he or she would be the person's stepchild except that the person is not legally married to the partner.

18 Subsection 4(1)

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a de facto partner of a parent of the person is the ***step-parent*** of the person if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

19 Subsection 4(2)

Repeal the subsection, substitute:

(2) For the purposes of this Act, relationships (including the relationship of being family or being relatives) are taken to include (without limitation):

(a) relationships between de facto partners; and

(b) relationships of child and parent that arise:

(i) if someone is an exnuptial or adoptive child of a person; or

(ii) because of the definitions of ***child*** and ***parent*** in this section; and

(c) relationships traced through relationships referred to in paragraphs (a) and (b).

20 Subsection 4(6)

Omit “son or daughter”, substitute “child”.

21 Subparagraph 19(12)(b)(i)

Omit “father, mother, step-father, step-mother, father-in-law, mother-in-law, grandfather, grandmother, son, daughter, step-son, step-daughter, grandson, granddaughter, brother, sister, half-brother or half-sister”, substitute “parent, step-parent, father-in-law, mother-in-law, grandparent, child, stepchild, grandchild, sibling or half-sibling”.

22 At the end of subsection 19(12)

Add:

Note: In relation to subparagraph (12)(b)(i), see also subsection 4(2).

23 Subsection 19(13)

Repeal the subsection.

24 At the end of subsection 29(2)

Add:

Note: In relation to paragraph (2)(d), see also subsection 4(2).

25 At the end of subsection 29(4)

Add:

Note: In relation to paragraph (4)(f), see also subsection 4(2).

26 Application of amendments of the *Safety, Rehabilitation and Compensation Act 1988*

(1) The amendments of the *Safety, Rehabilitation and Compensation Act 1988* made by this Schedule apply in relation to a payment made under that Act on or after the commencement of the amendments, other than a payment of a lump sum benefit to which subitem (2) applies.

(2) The amendments of the *Safety, Rehabilitation and Compensation Act 1988* made by this Schedule apply in relation to a lump sum benefit payable in respect of the death of a person if the death occurs on or after the commencement of the amendments.

Seafarers Rehabilitation and Compensation Act 1992

27 Section 3

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

28 Section 3

Insert:

> ***de facto partner*** of a person has the meaning given by the *Acts Interpretation Act 1901*.

29 Section 3 (paragraph (b) of the definition of *dependant*)

Omit "father, mother, step-father, step-mother, father-in-law, mother-in-law, grandfather, grandmother, son, daughter, step-son, step-daughter, grandson, grand-daughter, brother, sister, half-brother or half-sister", substitute "parent, step-parent, father-in-law, mother-in-law, grandparent, child, stepchild, grandchild, sibling or half-sibling".

30 Section 3

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

31 Section 3 (subparagraph (b)(i) of the definition of *prescribed person*)

Omit "father, mother, step-father, step-mother, father-in-law, mother-in-law, grandfather, grandmother, son, daughter, step-son, step-daughter, grandson, grand-daughter, brother, sister, half-brother or half-sister", substitute "parent, step-parent, father-in-law, mother-in-law, grandparent, child, stepchild, grandchild, sibling or half-sibling".

32 Section 3 (paragraph (a) of the definition of *spouse*)

Repeal the paragraph, substitute:

(a) in relation to an employee or a deceased employee—a person who is, or immediately before the employee's death was, a de facto partner of the employee; and

33 Section 3

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the ***stepchild*** of the person if he or she would be the person's stepchild except that the person is not legally married to the partner.

34 Section 3

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a de facto partner of a parent of the person is the ***step-parent*** of the person if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

35 Subsection 15(3)

Omit "son or daughter", substitute "child".

36 Section 16

Repeal the section, substitute:

16 Certain family relationships

For the purposes of this Act, relationships (including the relationship of being family or being relatives) are taken to include (without limitation):

(a) relationships between de facto partners; and

(b) relationships of child and parent that arise:

(i) if someone is an exnuptial or adoptive child of a person; or

(ii) because of the definitions of ***child*** and ***parent*** in section 3; and

(c) relationships traced through relationships referred to in paragraphs (a) and (b).

37 At the end of subsection 43(3)

Add:

Note: In relation to paragraph (3)(d), see also section 16.

38 At the end of subsection 43(5)

Add:

Note: In relation to paragraph (5)(f), see also section 16.

39 Application of amendments of the *Seafarers Rehabilitation and Compensation Act 1992*

(1) The amendments of the *Seafarers Rehabilitation and Compensation Act 1992* made by this Schedule apply in relation to a payment made under that Act on or after the commencement of the amendments, other than a payment of a lump sum benefit to which subitem (2) applies.

(2) The amendments of the *Seafarers Rehabilitation and Compensation Act 1992* made by this Schedule apply in relation to a lump sum benefit payable in respect of the death of a person if the death occurs on or after the commencement of the amendments.

Student Assistance Act 1973

40 Subsection 43B(5)

Insert:

child: without limiting who is a child of a person for the purposes of this section, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

41 Subsection 43B(5) (paragraph (a) of the definition of *parent*)

After “of the person”, insert “or someone of whom the person is a child because of the definition of ***child*** in this section”.

Schedule 6—Families, Housing, Community Services and Indigenous Affairs

Part 1—Amendments commencing on the day after Royal Assent

Aboriginal Land Grant (Jervis Bay Territory) Act 1986

1 Subsection 37(1)

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

2 Subsection 37(1)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subsection.

3 Subsection 37(1) (definition of *spouse*)

Repeal the definition, substitute:

> ***spouse*** of a person includes a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*.

4 At the end of section 37

Add:

(5) For the purposes of the definition of ***relative*** in subsection (1), if one person is the child of another person because of the definition of ***child*** in that subsection, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

Corporations (Aboriginal and Torres Strait Islander) Act 2006

5 Paragraph 293-1(2)(d)

Omit "and de facto spouses".

6 At the end of Division 694

Add:

694-115 Certain family relationships

For the purposes of this Act, relationships (including the relationship of being family) are taken to include (without limitation):

(a) relationships between de facto partners (within the meaning of the *Acts Interpretation Act 1901*); and

(b) relationships of child and parent that arise:

(i) if someone is an exnuptial or adoptive child of a person; or

(ii) if someone is the child of a person because of the definition of ***child*** in this Act; and

(c) relationships traced through relationships referred to in paragraphs (a) and (b).

7 Section 700-1

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

8 Section 700-1 (definition of *de facto spouse*)

Repeal the definition.

9 Section 700-1

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the

person is his or her child because of the definition of ***child*** in this section.

10 Section 700-1

Insert:

spouse of a person includes a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*.

Part 2—Amendments commencing on 1 July 2009

A New Tax System (Family Assistance) Act 1999

11 Subsection 3(1)

Insert:

relationship child has the same meaning as in the *Social Security Act 1991*.

12 Subsection 3(1)

Insert:

relationship parent has the same meaning as in the *Social Security Act 1991*.

17 Subsection 23(5)

Insert:

parent includes a relationship parent.

Note: The heading to subsection 23(5) is altered by inserting "*parent and*" after "*of*".

18 At the end of section 23

Add:

Parents of relationship children

(6) If a child (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the child's only parents for the purposes of paragraph (c) of the definition of ***qualifying period*** in subsection (5).

19 Subparagraph 28(3)(c)(i)

Omit "natural or adopted child", substitute "natural child, adopted child or relationship child".

20 At the end of section 36

Add:

Definition of parent

(7) In this section:

parent includes a relationship parent.

A New Tax System (Family Assistance) (Administration) Act 1999

21 At the end of subsection 50R(1)

Add:

; (c) the relationship between a relationship child and his or her relationship parent.

22 Subsection 50R(2) (paragraphs (a) and (b) of the definition of *step-parent*)

Omit "biological or adoptive parent", substitute "biological parent, adoptive parent or relationship parent".

Child Support (Assessment) Act 1989

22A Subsection 5(1) (paragraph (b) of the definition of *member of a couple*)

Repeal the paragraph, substitute:

(b) a person who is living with another person as the partner of the other person on a genuine domestic basis although not legally married to the other person; or

(c) a person whose relationship with another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section, and is not living separately and apart from the other person on a permanent or indefinite basis.

22B Subsection 5(1) (definition of *parent*)

Repeal the definition, substitute:

parent:

(a) when used in relation to a child who has been adopted—means an adoptive parent of the child; and

(b) when used in relation to a child born because of the carrying out of an artificial conception procedure—means a person who is a parent of the child under section 60H of the *Family Law Act 1975*; and

(c) when used in relation to a child born because of a surrogacy arrangement—includes a person who is a parent of the child under section 60HB of the *Family Law Act 1975*.

22C Subsection 5(1)

Insert:

relative has a meaning affected by subsection (4).

22D At the end of section 5

Add:

Relatives

(4) For the purposes of section 26A and subparagraph 150(4E)(b)(ii), the relatives of a person are taken to include the following (without limitation):

(a) a partner of the person;

(b) someone who is a parent of the person, or someone of whom the person is a parent, because of the definition of ***parent*** in this section;

(c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

22E Paragraph 29(2)(d)

Omit “the father or mother”, substitute “a parent”.

22F At the end of subsection 29(2)

Add:

; or (i) that the person is a parent of the child under section 60H or section 60HB of the *Family Law Act 1975*.

22G Sub-subparagraph 163A(2)(b)(v)(B)

Repeal the sub-subparagraph, substitute:

(B) in a de facto relationship with each other;

22H Subsection 163A(5)

Repeal the subsection, substitute:

(5) In this section:

de facto relationship means:

(a) a relationship between 2 persons (whether of the same sex or different sexes) who, although not legally married to each other, live with each other on a genuine domestic basis in a relationship as a couple; or

(b) a relationship between 2 persons (whether of the same sex or different sexes) that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section.

Child Support (Registration and Collection) Act 1988

22J Subsection 4(1)

Insert:

relative has a meaning affected by subsection (5).

22K At the end of section 4

Add:

(5) For the purposes of this Act, the relatives of a person are taken to include the following (without limitation):

(a) a partner (within the meaning of the Assessment Act) of the person;

(b) someone who is the parent of the person, or someone of whom the person is a parent, because of the definition of ***parent*** in the Assessment Act;

(c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

Social Security Act 1991

23 Subsection 4(1)

Insert:

> ***prohibited relationship*** has the meaning given by subsections (12) and (13).

24 After paragraph 4(2)(a)

Insert:

(aa) both of the following conditions are met:

(i) a relationship between the person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(ii) the person is not, in the Secretary's opinion (formed as mentioned in subsection (3)), living separately and apart from the other person on a permanent or indefinite basis; or

25 Subparagraph 4(2)(b)(i)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

26 Subparagraph 4(2)(b)(iii)

Omit "marriage-like", substitute "de facto".

27 Subparagraph 4(2)(b)(v)

Omit "for the purposes of section 23B of the *Marriage Act 1961*".

28 Subsection 4(2) (note)

Repeal the note.

29 Subsection 4(3)

After "(2)(a)", insert ", subparagraph (2)(aa)(ii)".

30 Subparagraph 4(3)(c)(i)

After “to”, insert “, or in a de facto relationship with,”.

31 At the end of subparagraph 4(3)(e)(iv)

Add “or a de facto relationship”.

32 Subsection 4(3A)

Omit “marriage-like”, substitute “de facto”.

33 Paragraph 4(7)(a)

Omit “a matrimonial”, substitute “their”.

34 At the end of section 4

Add:

Prohibited relationship

(12) For the purposes of this Act, a person and his or her partner are within a ***prohibited relationship*** if the person is:

(a) an ancestor or a descendant of the partner; or

(b) a brother, sister, half-brother or half-sister of the partner.

(13) For the purposes of subsection (12), a child who is, or has ever been, an adopted child of a person is taken to be the natural child of that person and the person is taken to be the natural parent of the child.

35 Subsection 5(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

36 Subsection 5(1) (subparagraph (a)(i) of the definition of *parent*)

Repeal the subparagraph, substitute:

(i) in relation to a person (the ***relevant person***), other than an adopted child—a natural parent or relationship parent of the relevant person; or

37 Subsection 5(1) (subparagraph (a)(ii) of the definition of *parent*)

Omit “young person”, substitute “child”.

38 Subsection 5(1) (subparagraph (b)(i) of the definition of *parent*)

Omit “natural or adoptive parent”, substitute “natural parent, adoptive parent or relationship parent”.

39 Subsection 5(1) (subparagraph (b)(iv) of the definition of *parent*)

Omit “natural or adoptive parent”, substitute “natural parent, adoptive parent or relationship parent”.

40 Subsection 5(1)

Insert:

> ***relationship child*** has the meaning given by subsection (25).

41 Subsection 5(1)

Insert:

> ***relationship parent*** has the meaning given by subsection (25).

42 Subsection 5(1)

Insert:

> ***step-child***: without limiting who is a step-child of a person for the purposes of this Act, someone who is a child of a partner of the person is the ***step-child*** of the person, if he or she would be the person’s step-child except that the person is not legally married to the partner.

43 Subsection 5(1)

Insert:

> ***step-parent***: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a partner of a parent of the person is the ***step-parent*** of the person, if he or she would be the person’s step-parent except that he or she is not legally married to the person’s parent.

44 Subsection 5(1) (definition of *substitute care*)

Repeal the definition.

46 Subparagraph 5(2)(b)(i)

After "paragraph (a)", insert "or (aa)".

47 At the end of section 5

Add:

Relationship child and relationship parent

(25) If:

(a) someone is a child of a person because of:

(i) the definition of ***child*** in subsection (1); or

(ii) paragraph (b) of the definition of ***child*** in section 1207A; or

(iii) paragraph (b) of the definition of ***child*** in subsection 1209R(5); and

(b) he or she is not a biological or adopted child of the person;

the child is the ***relationship child*** of the person and the person is the ***relationship parent*** of the child.

48 Section 5E

Before "A person", insert "(1)".

49 Paragraph 5E(a)

Omit "natural parent, adoptive parent", substitute "parent".

50 At the end of section 5E

Add:

(2) For the purposes of subparagraph (1)(b)(i), if one person is a relationship child, or a step-child, of another person, relationships traced to or through the person are to be determined on the basis that the person is related by blood to the other person.

51 Paragraph 8(8)(z)

Omit "the person's father, mother, son, daughter, brother or sister", substitute "a parent, child, brother or sister of the person".

52 At the end of subsection 10B(3)

Add:

Note: For parent see subsection 5(1), paragraph (b) of the definition of ***parent***.

53 Paragraph 14A(3)(a)

Omit "natural or adopted child", substitute "natural child, adopted child or relationship child".

54 Subsection 17A(1) (paragraph (a) of the definition of *eligible descendant*)

Omit "step child", substitute "step-child".

55 Subsection 23(1) (paragraph (a) of the definition of *immediate family member*)

Omit "natural parent, adoptive parent", substitute "parent".

56 Subsection 23(1)

Insert:

prohibited relationship has the meaning given by subsections 4(12) and (13).

57 Subsection 23(1)

Insert:

relationship child has the meaning given by subsection 5(25).

58 Subsection 23(1)

Insert:

relationship parent has the meaning given by subsection 5(25).

59 Subsection 23(1) (definition of *widow*)

Repeal the definition.

60 Paragraph 23(14)(a)

Omit ", father or mother", substitute "or a parent".

61 At the end of subsection 23(14)

Add:

Note: For parent see subsection 5(1), paragraph (a) of the definition of ***parent***.

62 At the end of section 23

Add:

(22) For the purposes of this Act, if one person is the relationship child of another person, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

(23) Subsection (22) does not apply for the purposes of determining when a person and his or her partner are within a prohibited relationship under subsection 4(12).

63 After subsection 24(1)

Insert:

(1A) If:

(a) a relationship between a person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and

(b) the person is not living separately and apart from the other person on a permanent or indefinite basis; and

(c) the Secretary is satisfied that the person should, for a special reason in the particular case, not be treated as a member of a couple;

the Secretary may determine, in writing, that the person is not to be treated as a member of a couple for the purposes of this Act.

64 Paragraph 24(2)(a)

Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

65 Paragraph 24(2)(c)

Omit “marriage-like”, substitute “de facto”.

66 At the end of section 24

Add:

(3) A determination made under subsection (1), (1A) or (2) is not a legislative instrument.

Note: The headings to subsections 93J(1) and (2) are altered by omitting "*marital*" and substituting "*couple*".

67 Subsection 553B(3) (note 2)

Repeal the note, substitute:

Note 2: For parent see subsection 5(1), paragraph (b) of the definition of ***parent***.

68 At the end of section 993

Add:

(3) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

69 Section 994

Before "A young person", insert "(1)".

70 At the end of section 994

Add:

(2) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

71 At the end of section 995

Add:

(3) If a young person (other than an adopted child) is a relationship child of a person because he or she is a child of the person, and of another person, within the meaning of the *Family Law Act 1975*, the person and the other person are taken to be the young person's only parents for the purposes of this section.

72 Paragraphs 1061PL(2)(a) and (b)

Omit "natural or adopted child", substitute "natural child, adopted child or relationship child".

73 At the end of section 1061PL

Add:

Parents of relationship children

(8) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are taken to be the person's only parents for the purposes of subsections (3), (4), (5), (6) and (7).

74 Paragraph 1064(4)(a)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

75 Paragraph 1064(4)(b)

Omit "marriage-like", substitute "de facto".

76 Paragraph 1065(3)(a)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

77 Paragraph 1065(3)(b)

Omit "marriage-like", substitute "de facto".

78 Paragraph 1066(3)(a)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

79 Paragraph 1066(3)(b)

Omit "marriage-like", substitute "de facto".

80 Paragraph 1066A(5)(a)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

81 Paragraph 1066A(5)(b)

Omit “marriage-like”, substitute “de facto”.

82 Paragraph 1066B(4)(a)

Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

83 Paragraph 1066B(4)(b)

Omit “marriage-like”, substitute “de facto”.

84 Paragraphs 1067A(3)(a) and (b)

Omit “natural or adoptive child”, substitute “natural child, adoptive child or relationship child”.

85 At the end of section 1067A

Add:

Parents of relationship children

(13) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are taken to be the person’s only parents for the purposes of subsections (5), (6), (7), (8), (9) and (11).

86 Section 1067B

Before “A person”, insert “(1)”.

87 Paragraphs 1067B(d) and (e)

Omit “natural or adoptive child”, substitute “natural child, adoptive child or relationship child”.

88 At the end of section 1067B

Add:

(2) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are

taken to be the person's only parents for the purposes of paragraph (1)(b).

89 After paragraph 1067C(1)(a)

Insert:

(aa) both of the following conditions are met:

(i) a relationship between the person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(ii) the person is not, in the Secretary's opinion (formed as mentioned in subsection (3)), living separately and apart from the other person on a permanent or indefinite basis; or

90 Subparagraph 1067C(1)(b)(i)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

91 Subparagraphs 1067C(1)(b)(iv), (v) and (vi)

Omit "marriage-like", substitute "de facto".

92 Subparagraph 1067C(1)(b)(vii)

Omit "for the purposes of section 23B of the *Marriage Act 1961*".

93 After paragraph 1067C(2)(a)

Insert:

(aa) both of the following conditions are met:

(i) a relationship between the person and another person (whether of the same sex or a different sex) was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section (whether or not the relationship is still registered);

(ii) the person was not, in the Secretary's opinion (formed as mentioned in subsection (3)), living separately and apart from the other person on a permanent or indefinite

basis at all times while the relationship was registered; or

94 Subparagraph 1067C(2)(b)(i)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

95 Subparagraphs 1067C(2)(b)(iv), (v) and (vi)

Omit "marriage-like", substitute "de facto".

96 Subparagraph 1067C(2)(b)(vii)

Omit "for the purposes of section 23B of the *Marriage Act 1961*".

97 Subsection 1067C(3)

After "(1)(a),", insert "subparagraph (1)(aa)(ii),".

98 Subsection 1067C(3)

After "(2)(a)", insert ", subparagraph (2)(aa)(ii)".

99 Subsection 1067C(4)

Omit "marriage-like", substitute "de facto".

100 Section 1067C (note)

Repeal the note.

101 At the end of section 1067D

Add:

Parents of relationship children

(4) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are taken to be the person's only parents for the purposes of paragraph (1)(b).

102 Paragraph 1067G(2)(a)

After "to the other person", insert "(whether the persons are the same sex or different sexes)".

103 Paragraph 1067G(2)(b)

Repeal the paragraph.

107 Point 1067G-H21

Omit “the father, mother, son, daughter”, substitute “a parent, child”.

108 Point 1067G-H22

Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

109 Section 1067J

Before “A person”, insert “(1)”.

110 At the end of section 1067J

Add:

(2) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is a child of the other person, and of a third person, within the meaning of the *Family Law Act 1975*, the other person and the third person are taken to be the person’s only parents for the purposes of subsection (1).

111 Paragraph 1067L(2)(a)

After “to the other person”, insert “(whether the persons are the same sex or different sexes)”.

112 Paragraph 1067L(2)(b)

Omit “of the opposite sex and”.

113 Point 1067L-D17

Omit “the father, mother, son, daughter”, substitute “a parent, child”.

114 Point 1067L-D18

Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

115 Paragraph 1068(2)(a)

Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

116 Paragraph 1068(2)(b)

Omit “marriage-like”, substitute “de facto”.

117 Paragraph (b) of point 1068-B1A

Omit “natural or adopted child”, substitute “natural child, adopted child or relationship child”.

119 Point 1068-G5

Omit “the father, mother, son, daughter”, substitute “a parent, child”.

120 Point 1068-G6

Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

121 Paragraph 1068A(3)(a)

Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

122 Paragraph 1068A(3)(b)

Omit “marriage-like”, substitute “de facto”.

123 Point 1068B-D5

Omit “the father, mother, son, daughter”, substitute “a parent, child”.

124 Point 1068B-D6

Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

125 Section 1207A (definition of *child*)

Repeal the definition, substitute:

> ***child***: without limiting who is a child of a person for the purposes of this Part, each of the following is the ***child*** of a person:
>
> (a) an adopted child, step-child or foster-child of the person;
>
> (b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

126 Subsection 1207B(2)

Repeal the subsection, substitute:

(2) For the purposes of this section, if one person is the child of another person because of the definition of ***child*** in section 1207A, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

127 Subsection 1209R(5) (definition of *child*)

Repeal the definition, substitute:

child of a principal beneficiary means:

(a) a natural child, adopted child or step-child of the beneficiary; or

(b) someone who is a child of the beneficiary within the meaning of the *Family Law Act 1975*.

Schedule 7—Finance and Deregulation

Part 1—General amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1) (at the end of the definition of *child*)

Add:

; and (c) a child of the person within the meaning of the *Family Law Act 1975*.

2 Subsection 4(1)

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

3 Subsection 4(1)

Insert:

next of kin has a meaning affected by subsection (11).

4 Subsection 4(1) (definition of *spouse*)

Repeal the definition.

5 At the end of section 4

Add:

(11) In determining whether a person is next of kin of another person, the following persons are also to be taken into account:

(a) a de facto partner of the person;

(b) a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in this section;

(c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

6 Paragraph 95(1)(a)

After “spouse”, insert “, de facto partner”.

Note: The heading to section 95 is altered by inserting "**, de facto partner**" after "**spouse**".

7 At the end of section 104

Add:

(11) For the purposes of this section, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in section 4;

(c) anyone else who would be a member of the person's family because a person mentioned in paragraph (a) or (b) is taken to be a member of the family.

Medibank Private Sale Act 2006

8 Clause 33 of Schedule 2

Before "In this Part", insert "(1)".

9 Clause 33 of Schedule 2

Insert:

child: without limiting who is a child of a person for the purposes of this Part, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

10 Clause 33 of Schedule 2

Insert:

parent: without limiting who is a parent of a person for the purposes of this Part, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subclause.

11 Clause 33 of Schedule 2 (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

(b) the person's de facto partner within the meaning of the *Acts Interpretation Act 1901*; or

12 Clause 33 of Schedule 2 (paragraph (d) of the definition of *relative*)

Omit “son, daughter”, substitute “child”.

13 Clause 33 of Schedule 2 (at the end of the definition of *relative*)

Add:

Note: See also subclause (2).

14 At the end of clause 33 of Schedule 2

Add:

(2) For the purposes of paragraphs (c), (d) and (e) of the definition of ***relative*** in subclause (1), if one person is the child of another person because of the definition of ***child*** in this Part, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

15 Transitional provision

(1) For the purposes of clauses 29 and 30 of Schedule 2 of the *Medibank Private Sale Act 2006*, if:

(a) apart from this subitem, an unacceptable ownership situation would exist in relation to a Medibank Private company on the day on which the amendments of that Act made by this Schedule commence; and

(b) that situation would exist only because of the amendments;

the situation is, during the period of 6 months starting on the day on which the amendments commence, taken not to exist for so long as it would otherwise have existed.

(2) If:

(a) on the day on which the amendments of the *Medibank Private Sale Act 2006* made by this Schedule commence, a person would, apart from this subitem, be required by regulations made for the purposes of clause 32 of Schedule 2 to that Act to do something in relation to an ownership matter; and

(b) the person would not be required to do that thing if the amendments had not been made;

the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.

Members of Parliament (Life Gold Pass) Act 2002

16 Section 3

Omit:

(a)	spouses of pass-holders; and
(b)	the widows and widowers of deceased pass-holders; and
(c)	the spouses of sitting members who have satisfied the qualifying period for the issue of a Life Gold Pass.

substitute:

(a)	spouses or de facto partners of pass-holders; and
(b)	surviving spouses or de facto partners of deceased pass-holders; and
(c)	the spouses or de facto partners of sitting members who have satisfied the qualifying period for the issue of a Life Gold Pass.

17 Section 4

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

18 Section 4

Insert:

surviving spouse or de facto partner of a person who has died means a spouse or de facto partner of the person immediately before the person died who:

(a) was named in a nomination in force under section 9B; or

(b) if the person died while a member and satisfied the relevant qualifying period for the issue of a Life Gold Pass before his or her death—was named in a nomination in force for the purposes of a travel entitlement administered by the Department; or

(c) if different spouses or de facto partners are named in nominations in force under paragraphs (a) and (b)—the spouse or de facto partner named in the most recent nomination.

19 Section 4 (definition of *widow*)

Repeal the definition.

20 Section 4 (definition of *widower*)

Repeal the definition.

21 Subsection 9(2)

Omit "widow or widower", substitute "surviving spouse or de facto partner".

Note: The heading to subsection 9(2) is replaced by the heading "*Surviving spouse or de facto partner*".

22 Paragraphs 9(3)(a) and (b)

Omit "widow or widower", substitute "surviving spouse or de facto partner".

23 Subsection 9(4)

Omit "widow or widower" (wherever occurring), substitute "surviving spouse or de facto partner".

24 At the end of Part 1

Add:

9A Entitlement of spouses and de facto partners

(1) In order for a spouse or de facto partner of a person to be entitled to domestic return trips under this Act, there must be a nomination in force under section 9B in relation to the spouse or de facto partner.

(2) Only one spouse or de facto partner of a person may be nominated at any time.

9B Nomination of spouse or de facto partner

(1) A person who has a spouse or de facto partner may nominate the spouse or de facto partner as the spouse or de facto partner who is entitled to domestic return trips under this Act.

(2) The nomination must:
  (a) be in writing; and
  (b) name the spouse or de facto partner; and
  (c) specify the day (the ***start day***) from which the spouse or de facto partner is to be entitled to domestic return trips under this Act.

(3) The start day may be earlier than the day the nomination is made but must not be earlier than the day on which the spouse or de facto partner became the spouse or de facto partner of the person.

(4) The nomination is in force during the period:
  (a) beginning on the start day; and
  (b) ending on the earlier of:
    (i) the day the person makes a written revocation of the nomination; or
    (ii) if the person makes a subsequent nomination naming another spouse or de facto partner of the person—the day before the start day for the subsequent nomination.

(5) If the start day for a subsequent nomination naming another spouse or de facto partner of a person includes a period during which a previously nominated spouse or de facto partner of the person took one or more domestic return trips, then, despite section 9A, the previously nominated spouse or de facto partner is taken to have been entitled to those domestic return trips.

Note: Under section 14, the total trips that may be taken by the subsequently nominated spouse or de facto partner in the year in which the start day occurs cannot exceed the number of trips left untaken in that year by the previously nominated spouse or de facto partner.

25 Subsection 10(1) (column 1 of table item 2)

After "spouse", insert "or de facto partner".

26 Subsection 10(1) (table item 3)

Omit "widow or widower", substitute "surviving spouse or de facto partner".

27 Subsection 10(3)

After "spouse", insert "or de facto partner".

28 Subsection 11(2) (column 1 of table item 2)

After "spouse", insert "or de facto partner".

29 Subsection 11(2) (table items 3, 4 and 5)

Omit "widow or widower", substitute "surviving spouse or de facto partner".

30 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Spouses or de facto partners of sitting members

31 Subsection 12(2) (column 1 of table items 1, 2 and 3)

After "spouse", insert "or de facto partner".

Note: The heading to section 12 is altered by inserting "**or de facto partners**" after "**Spouses**".

32 Section 13

After "spouse", insert "or de facto partner".

33 Subsection 14(1) (column 3 table heading)

Omit "**using the pro-rating formula in**", substitute "**under**".

34 Subsection 14(1) (column 1 of table item 2)

After “spouse”, insert “or de facto partner”.

35 Subsection 14(1) (column 2 of table item 2)

Omit “events”.

36 Subsection 14(1) (column 2 of table item 2)

Omit “the person becomes the spouse of the former member”, substitute “there is a start day for a nomination under section 9B of the person as the spouse or de facto partner of the former member”.

37 Subsection 14(1) (column 3 of table item 2)

Omit “the day on which the person became the spouse of the former member”, substitute “the start day for the nomination under section 9B”.

38 Subsection 14(1) (column 1 of table item 3)

After “spouse”, insert “or de facto partner”.

39 Subsection 14(1) (column 2 of table item 3)

Omit “events”.

40 Subsection 14(1) (column 2 of table item 3)

Omit “the person becomes the spouse of the member”, substitute “there is a start day for a nomination under section 9B of the person as the spouse or de facto partner of the former member”.

41 Subsection 14(1) (column 3 of table item 3)

Omit “the day on which the person became the spouse of the member”, substitute “the start day for the nomination under section 9B”.

42 Subsection 14(2)

Repeal the subsection, substitute:

Pro-rating of entitlement

(2) The number of domestic return trips for the purposes of the table is the lower of:

(a) the number of trips worked out using the formula in subsection (2A); and

(b) the difference between:

(i) the maximum number of trips specified in the relevant item of the table in Part 2, 3 or 4 for a spouse or de facto partner of the member or former member; and

(ii) the number of trips (if any) already taken in the year by a spouse or de facto partner of the member or former member previously nominated under section 9B.

(2A) For the purposes of paragraph (2)(a), the formula is:

$$\text{Number of domestic return trips specified in the item} \times \frac{\text{Number of days in the remaining period}}{365}$$

where:

remaining period means the period:

(a) beginning on the day worked out using the table; and

(b) ending at the end of the year.

43 Subsection 19(1) (table item 2)

After “spouse” (wherever occurring), insert “or de facto partner”.

44 Section 21

Omit “widow or widower” (wherever occurring), substitute “surviving spouse or de facto partner”.

45 Sections 22, 23 and 24

After “spouse” (wherever occurring), insert “or de facto partner”.

Note: The headings to sections 22, 23 and 24 are altered by inserting “**or de facto partner**” after “**spouse**”.

46 Subsection 28(2)

Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

47 Paragraph 29(1)(b)

After “spouse”, insert “or de facto partner”.

48 Transitional and application provision for amendments of the *Members of Parliament (Life Gold Pass) Act 2002*

Spouses entitled before commencement

(1) If, immediately before the commencement of the amendments of the *Members of Parliament (Life Gold Pass) Act 2002* made by this Schedule, the spouse of a person was entitled to domestic return trips under that Act, the following provisions of that Act apply as if the spouse were nominated under section 9B of that Act:

(a) sections 9A and 9B;

(b) the definition of ***surviving spouse or de facto partner*** in section 4.

(2) Subitem (1) does not prevent a person from revoking a nomination, or giving a subsequent nomination, under section 9B of that Act.

Spouses or de facto partners who become entitled on commencement

(3) If:

(a) on or after the commencement of the amendments of the *Members of Parliament (Life Gold Pass) Act 2002* made by this Schedule, a person makes a nomination under section 9B of that Act; and

(b) the nomination names someone who was the spouse or de facto partner of the person on the day on which the amendments commenced;

the start day for the nomination cannot be earlier than the day on which the amendments commenced.

Application of amendments to surviving spouses or de facto partners

(4) The amendments of the *Members of Parliament (Life Gold Pass) Act 2002* made by this Schedule apply in relation to entitlements to domestic return trips for the surviving spouse or de facto partner of a person if the person's death occurs on or after the commencement of the amendments.

Application of amendments to widows and widowers

(5) If, immediately before the commencement of the amendments of the *Members of Parliament (Life Gold Pass) Act 2002* made by this Schedule, a person was the widow of a deceased man or the widower of a deceased woman within the meaning of that Act, the person is, after commencement, taken to be the surviving spouse or de facto partner of the man or woman within the meaning of that Act as amended.

Parliamentary Entitlements Act 1990

51 Section 3 (definition of *spouse*)

Repeal the definition, substitute:

> ***spouse*** of a member includes a de facto partner of the member within the meaning of the *Acts Interpretation Act 1901*.

Part 2—Superannuation amendments

Superannuation Act 1976

53 Paragraph 51(6)(a)

After "spouse", insert ", or de facto partner within the meaning of the *Acts Interpretation Act 1901*,".

53A At the end of section 51

Add:

(7) The reference in paragraph (6)(a) to the birth of a child of the person includes a reference to the birth of a child who is a child of the person within the meaning of the *Family Law Act 1975*.

54 Subparagraph 51A(1)(b)(i)

After "spouse", insert ", or de facto partner within the meaning of the *Acts Interpretation Act 1901*,".

54A At the end of section 51A

Add:

(8) The reference in subparagraph (1)(b)(i) to the birth of a child of a person includes a reference to the birth of a child who is a child of the person within the meaning of the *Family Law Act 1975*.

55 Application of amendments of the *Superannuation Act 1976*

An amendment of the *Superannuation Act 1976* made by this Schedule applies in relation to leave commencing on or after the amendment commences.

Schedule 8—Foreign Affairs and Trade

Part 1—Amendment commencing on 1 July 2009

Australian Passports Act 2005

1 After paragraph 53(3)(c)

Insert:

(ca) the name on a certificate, entry or record relating to the registration of the person's relationship with another person, being a certificate, entry or record:

(i) issued or made under, or for the purposes of, a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901*; and

(ii) relating to a kind of relationship prescribed for the purposes of that section; and

(iii) issued or made by the Registrar of births, deaths and marriages (however described) of the State or Territory concerned; or

Part 2—Amendments commencing on the day after Royal Assent

Export Market Development Grants Act 1997

2 List of terms defined in Part 9

Insert the following entry in its appropriate alphabetical position (determined on a letter-by-letter basis):

child

3 List of terms defined in Part 9

Insert the following entry in its appropriate alphabetical position (determined on a letter-by-letter basis):

de facto partner

4 List of terms defined in Part 9

Omit "de facto spouse".

5 List of terms defined in Part 9

Insert the following entry in its appropriate alphabetical position (determined on a letter-by-letter basis):

parent

6 Section 107

Before "In", insert "(1)".

7 Section 107

Insert:

> ***child***: without limiting who is a child of an individual for the purposes of this Act, someone is the ***child*** of an individual if he or she is a child of the individual within the meaning of the *Family Law Act 1975*.

8 Section 107

Insert:

de facto partner of an individual has the meaning given by the *Acts Interpretation Act 1901*.

9 Section 107 (definition of *de facto spouse*)

Repeal the definition.

10 Section 107

Insert:

parent: without limiting who is a parent of an individual for the purposes of this Act, someone is the ***parent*** of an individual if the individual is his or her child because of the definition of ***child*** in this section.

11 Section 107 (definition of *spouse*)

Omit "de facto spouse", substitute "de facto partner".

12 At the end of section 107

Add:

(2) For the purposes of paragraph (b) of the definition of ***relative*** in subsection (1), relationships to an individual may also be traced to or through another individual who is:

(a) a de facto partner of the first individual; or

(b) an exnuptial or adoptive child of the first individual; or

(c) related to the first individual because of the definitions of ***child*** and ***parent*** in this section.

13 Application

The amendments of the *Export Market Development Grants Act 1997* made by this Schedule apply in relation to grants in respect of a grant year commencing on or after 1 July 2009.

Trade Representatives Act 1933

14 Subsection 11(11)

Repeal the subsection, substitute:

(11) For the purposes of this section, the members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person (within the meaning of the *Acts Interpretation Act 1901*);

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in this section;

(c) anyone else who would be a member of the person's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

(12) In this section:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

relevant person means:

(a) a Trade Representative; or

(b) an officer appointed under section 10.

Schedule 9—Health and Ageing

Part 1—Amendments commencing on the day after Royal Assent

Prohibition of Human Cloning for Reproduction Act 2002

1 Subsection 8(1) (definition of *spouse*)

Omit "person who, although not legally married to the person, is living with the person as the person's spouse on a bona fide domestic basis", substitute "de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*".

Research Involving Human Embryos Act 2002

2 Subsection 7(1) (definition of *spouse*)

Omit "person who, although not legally married to the person, is living with the person as the person's spouse on a bona fide domestic basis", substitute "de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*".

Part 2—Amendments commencing on 1 January 2009

Health Insurance Act 1973

3 Subsection 3(1) (sub-subparagraph (f)(v)(A) of the definition of *Australian resident*)

After "child", insert "(each having the same meaning as in the *Migration Act 1958*)".

5 Paragraph 10AA(6)(b)

Repeal the paragraph, substitute:

(b) the person is a dependent child in relation to persons in more than one registered family.

7 Subsection 10AA(7) (paragraph (b) of the definition of *spouse*)

Repeal the paragraph, substitute:

(b) a de facto partner of the person who is not living, on a permanent basis, separately and apart from the person.

8 Subsection 23DZZID(1) (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of a person for the purposes of this Part, each of the following is the ***child*** of a person:

(a) an adopted child or stepchild of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

9 Subsection 23DZZID(1) (definition of *parent*)

Repeal the definition, substitute:

parent: a person is the ***parent*** of anyone who is the person's child.

10 Subsection 23DZZID(1) (at the end of the definition of *relative*)

Add:

Note: See also subsection (3).

11 Subsection 23DZZID(1) (definition of *spouse*)

Omit “de facto spouse”, substitute “de facto partner”.

12 Subsection 23DZZID(1)

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Part, someone is the ***stepchild*** of a person if he or she would be the person’s stepchild except that the person is not legally married to the person’s de facto partner.

13 At the end of section 23DZZID

Add:

(3) For the purposes of this Part, if one person is the child of another person because of the definition of ***child*** in this section, relationships traced to or through that person are to be determined on the basis that the person is the child of the other person.

14 Section 46A

Insert:

parent: without limiting who is a parent of a child for the purposes of this Part, a person is the ***parent*** of a child if the child is a child of the person within the meaning of the *Family Law Act 1975*.

National Health Act 1953

15 Subsection 4(1)

Insert:

de facto partner of a person means:

(a) another person (whether of the same sex or a different sex) with whom the person has a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) another person (whether of the same sex or a different sex) who is living with the person on a genuine domestic basis although not legally married to the person.

16 Subsection 4(1) (definition of *de facto spouse*)

Repeal the definition.

17 Subsection 4(1) (definition of *spouse*)

Omit "de facto spouse", substitute "de facto partner".

19 Subsection 9BA(7)

Insert:

parent: without limiting who is a parent of a child for the purposes of this section, someone is the ***parent*** of a child if:

(a) the child is the person's adoptive child or stepchild; or

(b) the child would be the person's stepchild except that the person is not legally married to the person's de facto partner; or

(c) the child is a child of the person within the meaning of the *Family Law Act 1975*.

20 Subsection 84(1) (at the end of the definition of *child*)

Add:

Note: See also subsection (3B).

21 After subsection 84(3A)

Insert:

(3B) A reference in the definition of ***child*** in subsection (1) to a child of a member includes a reference to:

(a) an adoptive child or a stepchild of the person; and

(b) someone who would be the stepchild of the person except that the person is not legally married to the person's de facto partner; and

(c) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

22 Paragraph 84(4)(b)

Omit "of the spouse", substitute "or the spouse".

25 At the end of paragraph 84B(1)(b)

Add "or the person's spouse".

27 Subsection 84B(4) (paragraph (b) of the definition of *spouse*)

Repeal the paragraph, substitute:

(b) a de facto partner of the person within the meaning of paragraph (a) of the definition of ***de facto partner*** in subsection 4(1), who is not living, on a permanent basis, separately and apart from the person;

(c) a de facto partner of the person within the meaning of paragraph (b) of the definition of ***de facto partner*** in subsection 4(1).

28 Paragraph 84B(5)(a)

Omit "a person who is legally married to another person (the ***person's partner***)", substitute "a person who is the spouse of another person (the ***person's partner***) under paragraph (a) or (b) of the definition".

29 Paragraph 84B(5)(b)

Omit "a person is not taken to have ceased to live with another person (the ***person's partner***)", substitute "a person who is the spouse of another person (the ***person's partner***) under paragraph (c) of the definition is not taken to have ceased to live with the person's partner".

Part 3—Amendments commencing on 1 July 2009

Aged Care Act 1997

30 Subsection 44-11(1)

Insert:

child: without limiting who is a child of a person for the purposes of this section and sections 44-7, 44-8 and 44-10, each of the following is the ***child*** of a person:

(a) a stepchild or an adopted child of the person;

(b) someone who would be the stepchild of the person except that the person is not legally married to the person's partner;

(c) someone who is a child of the person within the meaning of the *Family Law Act 1975*;

(d) someone included in a class of persons specified for the purposes of this paragraph in the Residential Care Subsidy Principles.

31 Subsection 44-11(1) (paragraph (a) of the definition of *close relation*)

Omit "the father or mother", substitute "a parent".

32 Subsection 44-11(1) (at the end of the definition of *close relation*)

Add:

Note: See also subsection (5).

33 Subsection 44-11(1) (after paragraph (a) of the definition of *member of a couple*)

Insert:

(aa) a person whose relationship with another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section, and who is not

living separately and apart from the other person on a permanent basis; or

34 Subsection 44-11(1) (paragraph (b) of the definition of *member of a couple*)

Omit "in a marriage-like relationship", substitute "(whether of the same sex or a different sex) in a de facto relationship".

35 Subsection 44-11(1)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this section and sections 44-7, 44-8 and 44-10, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

38 At the end of section 44-11

Add:

(5) For the purposes of paragraph (b) of the definition of ***close relation*** in subsection (1), if one person is the child of another person because of the definition of ***child*** in this section, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

39 Subparagraph 67A-4(2)(a)(ii)

Omit "a next of kin of such a care recipient, or".

Schedule 10—Immigration and Citizenship

Part 1—Australian Citizenship Act 2007

1 Section 3 (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of a person for the purposes of this Act, each of the following is the ***child*** of a person:

(a) an adopted child, stepchild or exnuptial child of the person;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

2 Section 3 (definition of *commencement day*)

After "54", insert "(as originally enacted)".

3 Section 3

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

4 Section 3

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone is the ***stepchild*** of a person if he or she would be the person's stepchild except that the person is not legally married to the person's de facto partner.

5 After subsection 6(1)

Insert:

(1A) In paragraph (1)(a):

parental responsibility has the same meaning as in Part VII of the *Family Law Act 1975*.

6 Subsection 6(2)

Omit "(1)(a), (b)", substitute "(1)(b)".

7 Section 8

Repeal the section, substitute:

8 Children born as a result of artificial conception procedures or surrogacy arrangements

(1) This section applies if a child is:

(a) a child of a person under section 60H or 60HB of the *Family Law Act 1975*; and

(b) either:

(i) a child of the person's spouse or de facto partner under that section; or

(ii) a biological child of the person's spouse or de facto partner.

(2) The child is taken for the purposes of this Act:

(a) to be the child of the person and the spouse or de facto partner; and

(b) not to be the child of anyone else.

8 Application of amendments affecting sections 3, 6 and 8

The amendments of the *Australian Citizenship Act 2007* made by this Part, except the amendments of section 22 of that Act, apply in relation to the acquisition or cessation of Australian citizenship on or after the commencement of this Part because of circumstances (including relationships) existing before, on or after that commencement.

9 Subsection 22(9)

Omit "widow or widower", substitute "de facto partner or surviving spouse or de facto partner".

Note: The heading to subsection 22(9) is altered by omitting "*widow or widower*" and substituting "*de facto partner or surviving spouse or de facto partner*".

10 Paragraph 22(9)(a)

After "spouse", insert "or de facto partner".

11 Subsection 22(10)

Repeal the subsection, substitute:

(10) In subsection (9):

surviving spouse or de facto partner of a person who has died means a person who was the person's spouse or de facto partner immediately before the person died and who has not later become the spouse or de facto partner of another person.

12 Application of amendments of section 22

The amendments of section 22 of the *Australian Citizenship Act 2007* made by this Part apply in relation to applications to become an Australian citizen:

(a) that are made on or after the commencement of this Part; or

(b) that:

(i) were made before the commencement of this Part; and

(ii) were applications in relation to which decisions were not made before that commencement to approve, or to refuse to approve, the applicants becoming Australian citizens.

Part 2—Migration Act 1958

Division 1—Main amendments

Migration Act 1958

12A Subsection 5(1)

Insert:

adoption has the same meaning as in the regulations.

13 Subsection 5(1)

Insert:

child of a person has a meaning affected by section 5CA.

14 Subsection 5(1)

Insert:

de facto partner has the meaning given by section 5CB.

15 Subsection 5(1) (paragraph (a) of the definition of *health criterion*)

Omit "(within the meaning of the regulations)".

16 Subsection 5(1)

Insert:

member of the family unit of a person has the meaning given by the regulations made for the purposes of this definition.

17 Subsection 5(1)

Insert:

member of the same family unit: one person is a ***member of the same family unit*** as another if either is a member of the family unit of the other or each is a member of the family unit of a third person.

18 Subsection 5(1)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in section 5CA.

19 Subsection 5(1)

Insert:

> ***spouse*** has the meaning given by section 5F.

20 After section 5C

Insert:

5CA Child of a person

(1) Without limiting who is a child of a person for the purposes of this Act, each of the following is the ***child*** of a person:

(a) someone who is a child of the person within the meaning of the *Family Law Act 1975* (other than someone who is an adopted child of the person within the meaning of that Act);

(b) someone who is an adopted child of the person within the meaning of this Act.

(2) The regulations may provide that, for the purposes of this Act, a person specified by the regulations is not a ***child*** of another person specified by the regulations in circumstances in which the person would, apart from this subsection, be the child of more than 2 persons for the purposes of this Act.

(3) Subsection (2), and regulations made for the purposes of that subsection, have effect whether the person specified as not being a child of another person would, apart from that subsection and those regulations, be the child of the other person because of subsection (1) or otherwise.

5CB De facto partner

De facto partners

(1) For the purposes of this Act, a person is the ***de facto partner*** of another person (whether of the same sex or a different sex) if, under subsection (2), the person is in a de facto relationship with the other person.

De facto relationship

(2) For the purposes of subsection (1), a person is in a ***de facto relationship*** with another person if they are not in a married relationship (for the purposes of section 5F) with each other but:
  (a) they have a mutual commitment to a shared life to the exclusion of all others; and
  (b) the relationship between them is genuine and continuing; and
  (c) they:
    (i) live together; or
    (ii) do not live separately and apart on a permanent basis; and
  (d) they are not related by family (see subsection (4)).

(3) The regulations may make provision in relation to the determination of whether one or more of the conditions in paragraphs (2)(a), (b), (c) and (d) exist. The regulations may make different provision in relation to the determination for different purposes whether one or more of those conditions exist.

Definition

(4) For the purposes of paragraph (2)(d), 2 persons are ***related by family*** if:
  (a) one is the child (including an adopted child) of the other; or
  (b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
  (c) they have a parent in common (who may be an adoptive parent of either or both of them).

For this purpose, disregard whether an adoption is declared void or has ceased to have effect.

21 After section 5E

Insert:

5F Spouse

(1) For the purposes of this Act, a person is the ***spouse*** of another person if, under subsection (2), the 2 persons are in a married relationship.

(2) For the purposes of subsection (1), persons are in a ***married relationship*** if:
  (a) they are married to each other under a marriage that is valid for the purposes of this Act; and
  (b) they have a mutual commitment to a shared life as husband and wife to the exclusion of all others; and
  (c) the relationship between them is genuine and continuing; and
  (d) they:
    (i) live together; or
    (ii) do not live separately and apart on a permanent basis.

(3) The regulations may make provision in relation to the determination of whether one or more of the conditions in paragraphs (2)(a), (b), (c) and (d) exist. The regulations may make different provision in relation to the determination for different purposes whether one or more of those conditions exist.

Note: Section 12 also affects the determination of whether the condition in paragraph (2)(a) of this section exists.

5G Relationships and family members

(1) For the purposes of this Act, if one person is the child of another person because of the definition of ***child*** in section 5CA, relationships traced to or through that person are to be determined on the basis that the person is the child of the other person.

(2) For the purposes of this Act, the members of a person's family and relatives of a person are taken to include the following:
  (a) a de facto partner of the person;
  (b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in section 5CA;

(c) anyone else who would be a member of the person's family or a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family or a relative of the person.

This does not limit who is a member of a person's family or relative of a person.

22 Paragraph 36(2)(b)

Omit "the spouse or a dependant of", substitute "a member of the same family unit as".

23 Subsection 48A(2) (paragraph (ab) of the definition of *application for a protection visa*)

Omit "the spouse or a dependant of", substitute "a member of the same family unit as".

24 Application of amendments of sections 36 and 48A

The amendments of sections 36 and 48A of the *Migration Act 1958* made by this Part apply in relation to:

(a) applications for visas made on or after the commencement of this Part; and

(b) applications for visas made before that commencement and not decided before that commencement.

25 Subsection 83(1)

After "spouse" (wherever occurring), insert "or de facto partner".

Note: The heading to section 83 is altered by inserting "**, de facto partner**" after "**spouse**".

26 At the end of subsection 83(1)

Add:

Note: Subsection 5(1) defines ***de facto partner*** and ***spouse***. For the purposes of this section, those definitions apply only in relation to visas granted on or after 1 July 2009: see the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*. This section as in force before the amendment of this Act by that Act continues to apply in relation to visas granted before 1 July 2009.

27 At the end of subsection 83(2)

Add:

Note: Subsection 5(1) defines ***child*** and ***parent***. For the purposes of this section, those definitions apply only in relation to visas granted on or after 1 July 2009: see the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*.

28 Application of amendments affecting section 83

Amendments of subsection 83(1)

(1) The amendments of subsection 83(1) of the *Migration Act 1958* made by this Part apply in relation to visas granted on or after the commencement of this Part.

Other amendments affecting subsection 83(1)

(2) The definitions of ***de facto partner*** and ***spouse*** in subsection 5(1) and sections 5CB and 5F of the *Migration Act 1958* (as amended by this Part) apply for the purposes of the operation of subsection 83(1) in relation to visas granted on or after the commencement of this Part.

(3) Subitem (2) does not limit the operation of those definitions in relation to other provisions of that Act.

Amendments affecting subsection 83(2)

(4) The definitions of ***child*** and ***parent*** in subsection 5(1) of the *Migration Act 1958* (as amended by this Part) apply for the purposes of the operation of subsection 83(2) in relation to visas granted on or after the commencement of this Part.

(5) Subitem (4) does not limit the operation of those definitions in relation to other provisions of that Act.

29 Subsection 84(3)

After “spouse”, insert “, de facto partner”.

30 Paragraph 84(5)(a)

Repeal the paragraph, substitute:

(a) does not have a spouse or de facto partner; and

31 Subsection 87(1)

After “spouse”, insert “, de facto partner”.

32 Paragraph 87(2)(a)

Repeal the paragraph, substitute:

(a) does not have a spouse or de facto partner; and

33 Application of amendments affecting sections 84 and 87

(1) The definition of ***child*** in subsection 5(1) of the *Migration Act 1958* (as amended by this Part) applies for the purposes of the operation of sections 84 and 87 of that Act in relation to:

(a) applications for visas that are made on or after the commencement of this Part; and

(b) applications for visas that were made before the commencement of this Part and were not finally determined before that commencement.

(2) Subitem (1) does not limit the operation of that definition in relation to other provisions of that Act.

(3) The amendments of sections 84 and 87 of the *Migration Act 1958* made by this Part apply in relation to:

(a) applications for visas that are made on or after the commencement of this Part; and

(b) applications for visas that were made before the commencement of this Part and were not finally determined before that commencement.

34 At the end of section 91S

Add:

Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

35 Subsection 134(10) (definition of *member of the family unit*)

Repeal the definition.

36 Subsection 137T(3)

Repeal the subsection.

37 Subsection 140(1)

Omit “(within the meaning of the regulations)”.

38 At the end of subsection 192(7)

Add:

Note: Section 5G may be relevant for determining relationships for the purposes of paragraph (7)(b).

39 Subsections 199(1) and (2) and 205(1) and (2)

After "spouse" (wherever occurring), insert "or de facto partner".

40 Paragraphs 211(1)(a) and (2)(a)

Omit "the spouses of each other within the meaning of the regulations", substitute "spouses or de facto partners of each other".

Note: The heading to section 211 is altered by inserting "**, de facto partners**" after "**spouses**".

41 Subparagraph 211(3)(b)(i)

Omit "spouse within the meaning of the regulations", substitute "spouse or de facto partner".

42 Subparagraph 211(3)(b)(ii)

Omit "such a spouse", substitute "a spouse, or a de facto partner,".

43 Application of amendments of section 211

The amendments of section 211 of the *Migration Act 1958* made by this Part apply in relation to detention starting on or after the commencement of this Part.

44 Paragraphs 212(1)(a) and (2)(a)

Omit "the spouses of each other within the meaning of the regulations", substitute "spouses or de facto partners of each other".

Note: The heading to section 212 is altered by inserting "**, de facto partners**" after "**spouses**".

45 Subparagraph 212(3)(b)(i)

Omit "spouse within the meaning of the regulations", substitute "spouse or de facto partner".

46 Subparagraph 212(3)(b)(ii)

Omit "such a spouse", substitute "a spouse, or a de facto partner,".

47 Application of amendments of section 212

The amendments of section 212 of the *Migration Act 1958* made by this Part apply in relation to removal and deportation on or after the commencement of this Part.

48 Paragraph 237(a)

Omit "married to, or is the de facto spouse of, and has a genuine and continuing marital relationship", substitute "the spouse or de facto partner of, and has a genuine and continuing relationship, involving a shared life to the exclusion of all others".

49 Paragraph 237(b)

Repeal the paragraph.

50 Subparagraphs 237(c)(i), (ii) and (iii)

Repeal the subparagraphs, substitute:

(i) entering into a married relationship that is not intended to be a genuine and continuing relationship involving a shared life to the exclusion of all others; or

(ii) pretending to be a de facto partner of another person.

51 Section 238 (definition of *interdependency relationship*)

Repeal the definition.

52 Subsection 241(1)

Omit "de facto spouses of each other for the purposes of the regulations", substitute "de facto partners of each other".

53 Subsection 241(1)

Omit "such spouses" (wherever occurring), substitute "such de facto partners".

54 Section 242

Repeal the section.

55 Subsection 243(1)

Omit "married to, or being, for the purposes of the regulations, the de facto spouse of,", substitute "the spouse or de facto partner of".

56 Subsection 243(1)

Omit “genuine and continuing marital relationship”, substitute “married relationship (within the meaning of subsection 5F(2)) or de facto relationship (within the meaning of subsection 5CB(2)), as appropriate”.

57 Subsection 243(3)

Omit “married to, or being, for the purposes of the regulations, the de facto spouse of,”, substitute “the spouse or de facto partner of”.

58 Subsection 243(3)

Omit “genuine and continuing marital relationship”, substitute “married relationship (within the meaning of subsection 5F(2)) or de facto relationship (within the meaning of subsection 5CB(2)), as appropriate”.

59 Section 244

Repeal the section.

60 Paragraph 245(1)(a)

Omit “have a genuine and continuing marital relationship between them”, substitute “are in a married relationship (within the meaning of subsection 5F(2))”.

61 Paragraphs 245(1)(b) and (c)

Repeal the paragraphs, substitute:

(b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;

62 Paragraph 245(3)(a)

Omit “have a genuine and continuing marital relationship between them”, substitute “are in a married relationship (within the meaning of subsection 5F(2))”.

63 Paragraphs 245(3)(b) and (c)

Repeal the paragraphs, substitute:

(b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;

64 Application of amendments of Subdivision B of Division 12 of Part 2

The amendments of Subdivision B of Division 12 of Part 2 of the *Migration Act 1958* made by this Part apply in relation to visas applied for on or after the commencement of this Part.

65 Paragraph 338(6)(c)

After “spouse,”, insert “de facto partner,”.

66 At the end of subsection 338(6)

Add:

Note: Section 5G may be relevant for determining family relationships for the purposes of this subsection.

67 Paragraph 338(7)(b)

After “spouse,”, insert “de facto partner,”.

68 At the end of subsection 338(7)

Add:

Note: Section 5G may be relevant for determining family relationships for the purposes of this subsection.

69 Application of amendments of section 338

The amendments of section 338 of the *Migration Act 1958* made by this Part apply to decisions made on or after the commencement of this Part.

70 At the end of subsection 347(2)

Add:

Note: Section 5G may be relevant for determining family relationships for the purposes of paragraph (2)(c).

71 At the end of subsection 431(2)

Add:

Note: Section 5G may be relevant for determining relationships for the purposes of this subsection.

72 Subsection 492(2)

Omit “, 243 or 244”, substitute “or 243”.

73 At the end of subsection 501K(2)

Add:

Note: Section 5G may be relevant for determining relationships for the purposes of this subsection.

74 Subsection 507(1)

Omit "married or being the de facto spouse", substitute "the spouse or de facto partner".

75 Paragraph 507(1)(a)

Omit "de facto spouse", substitute "de facto partner".

Division 2—Consequential amendment

Australian Citizenship Act 2007

76 Subparagraph 34(6)(a)(i)

Omit ", 243 or 244", substitute "or 243, or former section 244 (as in force before its repeal by the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008*),".

Part 3—Immigration (Education) Act 1971

77 Section 3

Insert:

child of a person has the same meaning as in the Migration Act.

78 Section 3

Insert:

parent of a person has the same meaning as in the Migration Act.

Part 4—Immigration (Guardianship of Children) Act 1946

79 Section 4

Insert:

> ***parent***: without limiting who is a parent of anyone for the purposes of this Act, a person is the ***parent*** of another person if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

80 Section 4

Insert:

> ***relative*** of a person includes:
>
> (a) a parent of the person; and
>
> (b) anyone who is a step-parent of the person or would be except that he or she is not legally married to his or her de facto partner (within the meaning of the *Acts Interpretation Act 1901*); and
>
> (c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) were a relative of the person.

81 Section 6

Omit “father and mother”, substitute “parents”.

82 Application

The amendments made by this Part apply in relation to persons under 18 who enter Australia on or after commencement.

Schedule 11—Infrastructure, Transport, Regional Development and Local Government

Part 1—Carriers' liability amendments (general)

Civil Aviation (Carriers' Liability) Act 1959

1 Paragraph 5(2)(a)

Omit "de facto spouse", substitute "de facto partner".

2 Paragraph 5(3)(c)

Repeal the paragraph, substitute:

(c) relationships of child and parent that arise because of the definitions of ***child*** and ***parent*** in this section; and

(d) relationships traced through relationships referred to in paragraphs (a), (b) and (c).

Part 2—Carriers' liability amendments if Montreal Convention amendments commence earlier

Civil Aviation (Carriers' Liability) Act 1959

3 Subsection 5(1)

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

4 Subsection 5(1)

Insert:

> ***de facto partner*** of a person has the meaning given by the *Acts Interpretation Act 1901*.

5 Subsection 5(1)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

6 Subsection 5(1)

Insert:

> ***stepchild***: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the ***stepchild*** of the person, if he or she would be the person's stepchild except that the person is not legally married to the partner.

7 Subsection 5(1)

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a de facto partner of a parent of the person is the ***step-parent*** of the person, if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

Part 3—Carriers' liability amendments if Montreal Convention amendments commence later

Civil Aviation (Carriers' Liability) Act 1959

8 Section 5

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

9 Section 5

Insert:

> ***de facto partner*** of a person has the meaning given by the *Acts Interpretation Act 1901*.

10 Section 5

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

11 Section 5

Insert:

> ***stepchild***: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the ***stepchild*** of the person, if he or she would be the person's stepchild except that the person is not legally married to the partner.

12 Section 5

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a de facto partner of a parent of the person is the ***step-parent*** of the person, if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

13 Subsection 12(5)

Repeal the subsection, substitute:

(5) A reference in subsection (3) to the members of the passenger's family is taken to be a reference to the wife or husband, de facto partner, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger. For this purpose, relationships are taken to include:

(a) ex-nuptial relationships;

(b) relationships by adoption;

(c) relationships of child and parent that arise because of the definitions of ***child*** and ***parent*** in section 5;

(d) relationships traced through relationships referred to in paragraphs (a), (b) and (c).

13A Paragraph 15(d)

After "spouse" (wherever occurring), insert ", de facto partner".

14 Subsection 35(5)

Repeal the subsection, substitute:

(5) A reference in subsection (3) to the members of the passenger's family is taken to be a reference to the wife or husband, de facto partner, parents, step-parents, grandparents, brothers, sisters, half-brothers, half-sisters, children, step-children and grandchildren of the passenger. For this purpose, relationships are taken to include:

(a) ex-nuptial relationships;

(b) relationships by adoption;

(c) relationships of child and parent that arise because of the definitions of ***child*** and ***parent*** in section 5;

(d) relationships traced through relationships referred to in paragraphs (a), (b) and (c).

14A Paragraph 38(d)

After "spouse" (wherever occurring), insert ", de facto partner".

Part 4—Other amendments

Airports Act 1996

15 Clause 2 of the Schedule

Before "In Part 3", insert "(1)".

16 Clause 2 of the Schedule

Insert:

> ***child***: without limiting who is a child of a person for the purposes of Part 3 and this Schedule, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

17 Clause 2 of the Schedule

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of Part 3 and this Schedule, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this clause.

18 Clause 2 of the Schedule (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

(b) a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*; or

19 Clause 2 of the Schedule (paragraph (d) of the definition of *relative*)

Omit "son, daughter", substitute "child".

20 Clause 2 of the Schedule (at the end of the definition of *relative*)

Add:

Note: See also subclause (2).

21 At the end of clause 2 of the Schedule

Add:

(2) For the purposes of paragraphs (c), (d) and (e) of the definition of ***relative*** in subclause (1), if one person is the child of another person because of the definition of ***child*** in that subclause, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

22 Transitional provision

Unacceptable foreign-ownership situation

(1) For the purposes of sections 42 and 43 of the *Airports Act 1996*, if:

(a) apart from this subitem, an unacceptable foreign-ownership situation would exist in relation to an airport-operator company on the day on which the amendments of that Act made by this Schedule commence; and

(b) the situation would exist only because of the amendments;

the situation is, during the period of 6 months starting on the day on which the amendments commence, taken not to exist for so long as it would otherwise have existed.

Unacceptable airline-ownership situation

(2) For the purposes of sections 46 and 47 of the *Airports Act 1996*, if:

(a) apart from this subitem, an unacceptable airline-ownership situation would exist in relation to an airport-operator company on the day on which the amendments of that Act made by this Schedule commence; and

(b) the situation would exist only because of the amendments;

the situation is, during the period of 6 months starting on the day on which the amendments commence, taken not to exist for so long as it would otherwise have existed.

Unacceptable cross-ownership situation

(3) For the purposes of sections 52 and 53 of the *Airports Act 1996*, if:

(a) apart from this subitem, an unacceptable cross-ownership situation would exist in relation to a pair of airport-operator companies on the day on which the amendments of that Act made by this Schedule commence; and

(b) the situation would exist only because of the amendments;

the situation is, during the period of 6 months starting on the day on which the amendments commence, taken not to exist for so long as it would otherwise have existed.

Practical control of an airport-operator company

(4) If:

(a) the Minister administering the *Airports Act 1996* is satisfied, for the purposes of subparagraph 55(1)(a)(ii) of that Act, that a person was in a position to exercise control over an airport-operator company on the day on which the amendments of that Act made by this Schedule commenced; and

(b) the person was in that position on that day only because of the amendments;

the Minister must not make a declaration under section 55 of that Act in relation to that person and that company during the period of 6 months starting on the day on which the amendments commence.

Record-keeping

(5) If:

(a) on the day on which the amendments of the *Airports Act 1996* made by this Schedule commence, a person would, apart from this subitem, be required by regulations made for the purposes of section 60 of that Act to do something in relation to an ownership matter; and

(b) the person would not have been required to do that thing if the amendments had not been made;

the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.

Navigation Act 1912

23 Subsection 6(1)

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

24 Subsection 6(1)

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

25 Subsection 6(1)

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

26 Subsection 6(1)

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the ***stepchild*** of the person, if he or she would be the person's stepchild except that the person is not legally married to the partner.

27 At the end of section 6

Add:

(8) For the purposes of this Act, members of a person's family are taken to include the following (without limitation):

(a) a de facto partner of the person;

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in this section;

(c) anyone else who would be a member of the person's family because someone mentioned in paragraph (a) or (b) is taken to be a member of the person's family.

28 At the end of subsection 7(1)

Add:

Note: In relation to subparagraph (1)(d)(i), see also subsection 6(8).

29 Subparagraph 70(1)(a)(i)

After "husband,", insert "de facto partner,".

30 At the end of section 70

Add:

(5) For the purposes of subparagraph (1)(a)(i), if one person is the child of another person because of the definition of ***child*** in this Act, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

31 At the end of subsection 127(1)

Add:

Note: In relation to paragraph (1)(f), see also subsection 6(8).

32 Subparagraph 156(1)(b)(i)

Omit "be the widow, the widower or", substitute "to have been the deceased's spouse or de facto partner immediately before the deceased's death, to be".

33 Application of amendment of section 156

The amendment of section 156 of the *Navigation Act 1912* made by this Schedule applies in relation to a seaman who dies on or after the commencement of the amendment.

34 Paragraph 157(1)(b)

Omit "related to the testator by blood or marriage", substitute "a relative of the testator".

35 At the end of section 157

Add:

(3) The reference in paragraph (1)(b) to a relative of the testator includes a reference to the following (without limitation):

(a) a de facto partner of the testator;

(b) someone who is the child of the testator, or of whom the testator is the child, because of the definition of ***child*** in section 6;

(c) anyone else who would be a relative of the testator because someone mentioned in paragraph (a) or (b) is taken to be a relative of the testator.

36 Application of amendments of section 157

The amendments of section 157 of the *Navigation Act 1912* made by this Schedule apply in relation to wills made on or after the commencement of the amendments.

37 Subsection 158(6)

Omit "as widow, widower,", substitute "who was the deceased's spouse or de facto partner immediately before the deceased's death, or who is the deceased's".

38 Subsection 158(7)

Omit ", as widow, widower,", substitute "who was the deceased's spouse or de facto partner immediately before the deceased's death, or who is the deceased's".

39 At the end of section 158

Add:

(8) In determining for the purposes of subsections (6) and (7) whether a person is next-of-kin of another person, the following persons are also to be taken into account:

(a) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in this Act;

(b) anyone else who would be a relative of the person because someone mentioned in paragraph (a) is taken into account.

40 Application of amendments of section 158

The amendments of section 158 of the *Navigation Act 1912* made by this Schedule apply in relation to a seaman who dies on or after the commencement of the amendments.

41 Subsection 161(1)

After “husband,”, insert “de facto partner,”.

Schedule 12—Innovation, Industry, Science and Research

Pooled Development Funds Act 1992

1 Subsection 4(1) (definition of *de facto spouse*)

Repeal the definition.

2 Subsection 31(2) (paragraph (a) of the definition of *associate*)

Omit "(including a person who is such a relation by adoption)".

3 Subsection 31(2) (paragraph (b) of the definition of *associate*)

Omit "de facto spouse", substitute "de facto partner".

4 Subsection 31(2)

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this section, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

5 Subsection 31(2)

Insert:

> ***de facto partner*** has the meaning given by the *Acts Interpretation Act 1901*.

6 Subsection 31(2)

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

7 After subsection 31(2A)

Insert:

(2AA) For the purposes of paragraph (a) of the definition of ***associate*** in subsection (2), if one person is the child of another person because of adoption or because of the definition of ***child*** in this section, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

8 Transitional

(1) This item applies if:

(a) on the commencement of the amendments made by this Schedule, a person holds shares in a PDF (the ***initial shares***); and

(b) the person would, but for this item, contravene section 31 of the *Pooled Development Funds Act 1992* only because of one or more of those amendments.

(2) Subject to subitem (4), disregard the person's continued holding of the initial shares in the PDF on and after that commencement when applying that section as then in force to the person and the person's associates.

(3) If, after that commencement, any bonus shares in the PDF are issued to the person because the person is the holder of the initial shares, then, subject to subitem (4), disregard the person's holding of those bonus shares when applying that section as then in force to the person and the person's associates.

(4) If, after that commencement, the person, or any of the person's associates, acquires additional shares (other than bonus shares) in the PDF, the initial shares and the bonus shares are to be taken into account in determining whether the acquisition of those additional shares complies with that section as then in force.

Schedule 13—Prime Minister and Cabinet

Privacy Act 1988

1 At the end of section 6

Add:

(10) For the purposes of this Act, a reference to family in the definition of ***credit*** in subsection 6(1), and in sections 6D and 16E, in relation to any individual is taken to include the following (without limitation):

(a) a de facto partner of the individual (within the meaning of the *Acts Interpretation Act 1901*);

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of ***child*** in subsection (11);

(c) anyone else who would be a member of the individual's family if someone mentioned in paragraph (a) or (b) is taken to be a member of the individual's family.

(11) In this section:

child: without limiting who is a child of a person for the purposes of subsection (10), someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

2 Paragraph 2.5(c) of Schedule 3

Omit "de facto spouse", substitute "de facto partner".

3 Subclause 2.6 of Schedule 3 (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of an individual for the purposes of this clause, each of the following is the ***child*** of an individual:

(a) an adopted child, stepchild, exnuptial child or foster child of the individual; and

(b) someone who is a child of the individual within the meaning of the *Family Law Act 1975*.

4 Subclause 2.6 of Schedule 3

Insert:

de facto partner has the meaning given by the *Acts Interpretation Act 1901*.

5 Subclause 2.6 of Schedule 3 (definition of *parent*)

Repeal the definition, substitute:

parent: without limiting who is a parent of an individual for the purposes of this clause, someone is the ***parent*** of an individual if the individual is his or her child because of the definition of ***child*** in this subclause.

6 Subclause 2.6 of Schedule 3

Insert:

stepchild: without limiting who is a stepchild of an individual for the purposes of this clause, someone is the ***stepchild*** of an individual if he or she would be the individual's stepchild except that the individual is not legally married to the individual's de facto partner.

7 At the end of clause 2 of Schedule 3

Add:

2.7 For the purposes of the definition of ***relative*** in subclause 2.6, relationships to an individual may also be traced to or through another individual who is:

(a) a de facto partner of the first individual; or

(b) the child of the first individual because of the definition of ***child*** in that subclause.

2.8 For the purposes of the definition of ***sibling*** in subclause 2.6, an individual is also a sibling of another individual if a relationship referred to in that definition can be traced through a parent of either or both of them.

Schedule 14—Treasury

Part 1—Amendment of tax laws

A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999

1 Subsection 7(1)

Repeal the subsection, substitute:

De facto couples treated as if married

(1) This Act applies to 2 persons (whether of the same sex or different sexes) as if they were married to each other for a period if:

(a) their relationship is registered for the period under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) they lived together in a relationship as a couple on a genuine domestic basis for the period, although not legally married to each other.

(1A) If, during the period, either or both of the persons was legally married to another person, or in a relationship mentioned in paragraph (1)(a) with another person, this Act applies as if the person or persons were not legally married to, or in a relationship mentioned in paragraph (1)(a) with, the other person.

2 Application of amendment of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999*

The amendment of the *A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999* made by this Schedule applies to the 2009-2010 year of income and later years of income.

Fringe Benefits Tax Assessment Act 1986

3 At the end of section 58V

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining who a person's relatives are for the purposes of paragraphs (b) and (c).

4 Subsection 136(1) (at the end of paragraph (h) of the definition of *fringe benefit*)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining who a person's relatives are for the purposes of paragraph (h).

5 Subsection 136(1)

Insert:

parent has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

6 Application of amendments of the *Fringe Benefits Tax Assessment Act 1986*

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to the FBT year starting on 1 April 2009 and later FBT years.

Income Tax Assessment Act 1936

7 Subsection 6(1)

Insert:

parent has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

8 At the end of subsection 24D(7)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (7).

9 At the end of subsection 24F(4)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (4).

10 At the end of subsection 24G(3)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (3).

11 At the end of subsection 24M(1)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of paragraph (1)(a).

12 At the end of subsection 24M(2)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of paragraph (2)(a).

13 Subsection 73AA(1) (table item 3)

After "Marriage", insert "or relationship".

14 Subsection 100A(13) (at the end of the definition of *agreement*)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of the definition of ***agreement***.

15 Section 102AAB (definition of *de facto marriage*)

Repeal the definition.

16 Section 102AAB

Insert:

de facto relationship means:

(a) a relationship between 2 persons (whether of the same sex or different sexes) that is registered under a law of a State or

Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) a relationship between 2 persons (whether of the same sex or different sexes) who, although not legally married to each other, live with each other on a genuine domestic basis in a relationship as a couple.

17 Subparagraph 102AAH(1)(a)(i)

After “post-marital”, insert “or post-relationship”.

18 Subsection 102AAH(2)

After “post-marital”, insert “or post-relationship”.

19 Subparagraph 102AAH(2)(a)(ii)

Omit “*de facto* marriage”, substitute “de facto relationship”.

20 At the end of subsection 102AAH(3)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of subparagraph (3)(a)(iii).

21 Paragraph 102AGA(2)(a)

Omit “on a genuine domestic basis (whether or not legally married to that person)”.

22 Subparagraph 102AGA(2)(b)(i)

Omit “natural”.

23 Subparagraphs 102AGA(2)(b)(ii) and (iii)

Repeal the subparagraphs.

24 Paragraph 102AGA(2)(c)

Omit “on a genuine domestic basis”.

25 Paragraph 102AGA(3)(a)

Omit “natural”.

26 Paragraph 102AGA(3)(a)

Omit “on a genuine domestic basis (whether or not legally married)”.

27 Paragraph 102AGA(3)(b)

Omit “natural”.

28 Paragraph 102AGA(3)(c)

Omit “natural” (wherever occurring).

29 Section 109ZD (definition of *family law obligation*)

Omit “(c),”.

30 Subsection 124PA(1) (table item 3)

After “Marriage”, insert “or relationship”.

31 Subsection 159J(6) (at the end of the definition of *invalid relative*)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of the definition of ***invalid relative***.

32 At the end of section 177D

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subparagraphs (b)(vi) and (viii).

33 Subsection 251R(2)

Repeal the subsection, substitute:

(2) If, during any period, 2 persons (whether of the same sex or different sexes):

(a) had a relationship that was registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) lived together in a relationship as a couple on a genuine domestic basis, although not legally married to each other;

this Part and any Act imposing levy has effect in relation to the period as if the persons were married to each other.

(2A) If, during the period, either or both of the persons was legally married to another person, or in a relationship mentioned in paragraph (2)(a) with another person, this Part and any Act imposing levy has effect as if the person or persons were not legally married to, or in a relationship mentioned in paragraph (2)(a) with, the other person or persons.

34 At the end of subsection 251U(1)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subparagraph (1)(e)(iii).

35 Subsection 317(1) (definition of *de facto marriage*)

Repeal the definition.

36 Subsection 317(1)

Insert:

de facto relationship means:

(a) a relationship between 2 persons (whether of the same sex or different sexes) that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; or

(b) a relationship between 2 persons (whether of the same sex or different sexes) who, although not legally married to each other, live with each other on a genuine domestic basis in a relationship as a couple.

37 Subsection 318(7)

Repeal the subsection, substitute:

(7) In this section and any other provision of this Act that has effect for the purposes of this section, a reference to the spouse of a person does not include:

(a) a spouse who is legally married to the person but living separately and apart from the person on a permanent basis; or

(b) a spouse within the meaning of paragraph (a) of the definition of ***spouse*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997* who is living separately and apart from the person on a permanent basis.

38 Subparagraph 328(1)(a)(i)

After "post-marital", insert "or post-relationship".

39 Subsection 328(2)

After "post-marital", insert "or post-relationship".

40 Subparagraph 328(2)(a)(ii)

Omit "*de facto* marriage", substitute "de facto relationship".

41 At the end of subsection 328(3)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of subparagraph (3)(a)(iii).

42 After subparagraph 491(2)(a)(i)

Insert:

(ia) a spouse of the person, other than a spouse within the meaning of paragraph (a) of the definition of ***spouse*** in subsection 995-1(1) of the *Income Tax Assessment Act 1997* who is living separately and apart from the person and has been so living for at least 12 months; or

43 At the end of subsection 491(2)

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of subparagraph (2)(a)(iii).

44 Subparagraph 491(2)(b)(i)

Repeal the subparagraph, substitute:

(i) a child of the person (other than a child excluded under subsection (3)); or

45 At the end of section 491

Add:

(3) For the purposes of subparagraph (2)(b)(i), the following children are excluded under this subsection:

(a) a step-child of the person; and

(b) someone who would be the step-child of the person except that the person is not legally married to the person's spouse.

46 Subparagraphs 269-80(1)(c)(i) and (iii) in Schedule 2F

After "marriage", insert "or relationship".

Note: The heading to section 269-80 is altered by omitting "**or marriage breakdown**" and substituting "**or breakdown of marriage or relationship**".

47 Paragraph 269-95(2)(a) in Schedule 2F

After "marriage", insert "or relationship".

48 Subparagraphs 269-95(2)(b)(i) and (ii) and (c)(i) and (ii) in Schedule 2F

After "marriage", insert "or relationship".

49 Paragraphs 269-95(2)(d) and (e) in Schedule 2F

After "marriage", insert "or relationship".

50 Subparagraph 269-95(3)(c)(ii) in Schedule 2F

After "marriage", insert "or relationship".

51 Paragraph 272-90(2A)(a) in Schedule 2F

After "marriage", insert "or relationship".

52 Paragraph 272-90(2A)(b) in Schedule 2F

Repeal the paragraph, substitute:

(b) a person:

(i) who was the spouse of either the primary individual or of a member of the primary individual's family immediately before the death of the primary individual or member of the primary individual's family; and

(ii) who is now the spouse of a person who is not a member of the primary individual's family; and

53 Paragraph 272-90(2A)(c) in Schedule 2F

Omit “step-child”, substitute “child of the spouse”.

54 Paragraph 272-90(2A)(c) in Schedule 2F

After “marriage”, insert “or relationship”.

55 Subsection 272-95(1) in Schedule 2F (note)

Repeal the note, substitute:

Note 1: ***Child***, ***parent*** and ***spouse*** are defined in subsection 6(1).

Note 2: Section 960-255 may be relevant to determining relationships for the purposes of paragraph (1)(a).

56 Subsection 272-140(1) in Schedule 2F (definition of *breakdown in the marriage*)

Repeal the definition.

57 Subsection 272-140(1) in Schedule 2F

Insert:

breakdown in the marriage or relationship of an individual: this occurs if the individual is living with another individual on a genuine domestic basis in a relationship as a couple (whether the individuals are the same sex or different sexes and whether legally married or not) and ceases to do so.

58 Application of amendments of the *Income Tax Assessment Act 1936*

The amendments of the *Income Tax Assessment Act 1936* made by this Schedule apply in relation to the 2009-2010 year of income and later years of income.

Income Tax Assessment Act 1997

59 Subsection 40-340(1) (table item 3)

After “Marriage”, insert “or relationship”.

60 Paragraph 52-105(1)(a)

Omit “parent”, substitute “*parent”.

61 At the end of subsection 70-100(10)

Add:

Note: Section 960-255 may be relevant to determining family relationships for the purposes of paragraph (10)(a).

62 Subsection 100-10(3)

After “marriage”, insert “or relationship”.

63 Subsection 100-33(1)

After “marriage”, insert “or relationship”.

64 Section 112-150 (table items 1, 2 and 7)

After “marriage”, insert “or relationship”.

65 Section 118-75 (heading)

Repeal the heading, substitute:

118-75 Marriage or relationship breakdown settlements

66 Paragraph 118-75(1)(a)

Omit “marriage or de facto marriage”, substitute “relationship between *spouses”.

67 Subparagraph 118-75(1)(b)(i)

Omit “*spouse”, substitute “spouse”.

68 Paragraph 118-178(1)(c)

After “marriage”, insert “or relationship”.

69 Section 118-180 (heading)

Repeal the heading, substitute:

118-180 Acquisition of dwelling from company or trust on marriage or relationship breakdown—roll-over provision applying

70 Subdivision 126-A (heading)

Repeal the heading, substitute:

Subdivision 126-A—Marriage or relationship breakdowns

71 Paragraph 126-5(1)(a)

Repeal the paragraph, substitute:

(a) a court order under the *Family Law Act 1975* or under a *State law, *Territory law or *foreign law relating to breakdowns of relationships between spouses; or

72 Paragraph 126-5(1)(b)

Omit "of that Act", substitute "of the *Family Law Act 1975*".

73 Paragraph 126-5(1)(c)

Repeal the paragraph.

74 Subparagraph 126-5(1)(f)(i)

Omit "de facto marriage breakdowns", substitute "breakdowns of relationships between spouses".

75 Paragraph 126-15(1)(a)

Repeal the paragraph, substitute:

(a) a court order under the *Family Law Act 1975* or under a *State law, *Territory law or *foreign law relating to breakdowns of relationships between spouses; or

76 Paragraph 126-15(1)(b)

Omit "of that Act", substitute "of the *Family Law Act 1975*".

77 Paragraph 126-15(1)(c)

Repeal the paragraph.

78 Subparagraph 126-15(1)(f)(i)

Omit "de facto marriage breakdowns", substitute "breakdowns of relationships between spouses".

79 Paragraph 126-25(1)(b)

Omit "marriage or de facto marriage", substitute "relationship between the spouses or former spouses".

80 Paragraph 126-140(2B)(b)

Omit “or a corresponding foreign law”.

81 Paragraph 126-140(2B)(c)

Omit “de facto marriage breakdowns”, substitute “breakdowns of relationships between *spouses”.

82 Subparagraph 126-140(2B)(e)(i)

Omit “de facto marriage breakdowns”, substitute “breakdowns of relationships between spouses”.

83 Paragraph 126-140(2C)(b)

Omit “marriage or de facto marriage”, substitute “relationship between the spouses or former spouses”.

84 Subsections 149-30(3) and 149-60(4) (table item 1)

Omit “marriage break-downs”, substitute “marriage or relationship breakdowns”.

85 Subsection 152-45(2) (heading)

Repeal the heading, substitute:

Marriage or relationship breakdowns

86 Subsection 152-45(2) (note 2)

After “marriage”, insert “or relationship”.

87 Section 152-100

After “marriage”, insert “or relationship”.

88 Subsection 152-115(2) (heading)

Repeal the heading, substitute:

Marriage or relationship breakdowns

89 Subsection 152-115(2) (note)

After “marriage”, insert “or relationship”.

90 After Subdivision 960-H of Division 960

Insert:

Subdivision 960-J—Family relationships

Guide to Subdivision 960-J

960-250 What this Subdivision is about

This Subdivision has 2 principles for defining family relationships.

The first principle is to treat an unmarried couple (whether of the same sex or different sexes) in the same way as a married couple if:

(a) their relationship is registered under particular State or Territory laws; or

(b) they live together on a genuine domestic basis.

The second principle is to treat anyone who is defined to be an individual's child in the same way as the individual's natural child would be treated.

Both principles extend to tracing other family relationships, including beyond couples and children and their parents.

Table of sections

Operative provisions

960-252 Object of this Subdivision
960-255 Family relationships

Operative provisions

960-252 Object of this Subdivision

(1) The first object of this Subdivision is to ensure that the same consequences flow under this Act and the other Acts to which this Subdivision applies from the relationship between 2 people who are an unmarried couple (whether of the same sex or different sexes) as from a marriage, if:

(a) the relationship is registered under a *State law or *Territory law (as mentioned in paragraph (a) of the definition of ***spouse*** in subsection 995-1(1)); or

(b) they live together on a genuine domestic basis.

(2) The second object of this Subdivision is to ensure that under this Act and the other Acts to which this Subdivision applies, anyone who is defined to be an individual's *child is treated in the same way as if he or she were the individual's natural child.

960-255 Family relationships

Relationships between couples

(1) If one individual is the *spouse of another individual because of the definition of ***spouse*** in subsection 995-1(1), relationships traced to, from or through the individual, and family groups of which either individual is a member, are to be determined in the same way as if the individual were legally married to the other individual.

Example: George and Angelika are not legally married but live together on a genuine domestic basis in a relationship as a couple. This Act treats them as part of each other's family.

Relationships involving children

(2) If one individual is the *child of another individual because of the definition of ***child*** in subsection 995-1(1), relationships traced to, from or through the individual, and family groups of which either individual is a member, are to be determined in the same way as if the individual were the natural child of the other individual.

Example: Clare's stepfather Frank has a sister Angela. This Act applies as if Angela were Clare's aunt because Clare is defined to be Frank's child. That is, Clare's relationship to Angela is determined on the basis that Clare is Frank's natural child.

Application

(3) Subsections (1) and (2) apply for the purposes of this Act. They also apply for the purposes of a provision of another Act if one or more of the following applies for the purposes of that provision (or would apply if it were used in the provision):

(a) the definition of ***child*** in subsection 995-1(1);

(b) the definition of ***parent*** in subsection 995-1(1);

(c) the definition of ***relative*** in subsection 995-1(1);
(d) the definition of ***spouse*** in subsection 995-1(1).

91 Subsection 995-1(1) (definition of *child*)

Repeal the definition, substitute:

child: without limiting who is a child of an individual, each of the following is the ***child*** of an individual:
(a) the individual's *adopted child, stepchild or exnuptial child;
(b) a child of the individual's *spouse;
(c) someone who is a child of the individual within the meaning of the *Family Law Act 1975*.

92 Subsection 995-1(1)

Insert:

parent: an individual is the ***parent*** of anyone who is the individual's *child.

93 Subsection 995-1(1) (paragraph (b) of the definition of *relative*)

Omit "parent", substitute "*parent".

94 Subsection 995-1(1) (at the end of the definition of *relative*)

Add:

Note: Section 960-255 may be relevant to determining relationships for the purposes of paragraph (b) of the definition of ***relative***.

95 Subsection 995-1(1) (definition of *spouse*)

Repeal the definition, substitute:

spouse of an individual includes:
(a) another individual (whether of the same sex or a different sex) with whom the individual is in a relationship that is registered under a *State law or *Territory law prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section; and

(b) another individual who, although not legally married to the individual, lives with the individual on a genuine domestic basis in a relationship as a couple.

96 Application of amendments of the *Income Tax Assessment Act 1997*

The amendments of the *Income Tax Assessment Act 1997* made by this Schedule apply:

(a) in relation to the 2009-2010 income year and later income years; and

(b) to the extent to which the amendments affect the *Fringe Benefits Tax Assessment Act 1986*—in relation to the FBT year starting on 1 April 2009 and later FBT years.

Part 2—Amendment of market regulation laws

Financial Sector (Shareholdings) Act 1998

97 Clause 2 of Schedule 1

Before "In Part 2", insert "(1)".

98 Clause 2 of Schedule 1

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

99 Clause 2 of Schedule 1

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this clause.

100 Clause 2 of Schedule 1 (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

(b) the de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*; or

101 Clause 2 of Schedule 1 (paragraph (d) of the definition of *relative*)

Omit "son, daughter", substitute "child".

102 Clause 2 of Schedule 1 (at the end of the definition of *relative*)

Add:

Note: See also subclause (2).

103 At the end of clause 2 of Schedule 1

Add:

(2) For the purposes of paragraphs (c), (d) and (e) of the definition of ***relative*** in subclause (1), if one person is the child of another person because of the definition of ***child*** in that subclause, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

104 Transitional provisions

Unacceptable ownership situation

(1) For the purposes of section 12 of the *Financial Sector (Shareholdings) Act 1998*, if:

(a) apart from this subitem, an unacceptable ownership situation would exist in relation to a financial sector company on the commencement day; and

(b) the situation would exist only because of the amendments of that Act made by this Part;

then, the situation is, during the period of 6 months starting on the commencement day, taken not to exist for so long as it would otherwise have existed.

Practical control of a financial sector company

(2) If:

(a) the Treasurer is satisfied, for the purposes of subparagraph 23(1)(a)(ii) of the *Financial Sector (Shareholdings) Act 1998*, that a person was in a position to exercise control over a financial sector company on the commencement day; and

(b) the person was in that position on that day only because of the amendments of that Act made by this Part;

then, the Treasurer may not make a declaration under section 23 of that Act in relation to that person and that company during the period of 6 months starting on the commencement day.

Record-keeping

(3) If:

(a) apart from this subitem, a person would be required by regulations made for the purposes of section 26 of the *Financial Sector (Shareholdings) Act 1998* to do something

on the commencement day in relation to an ownership matter; and

(b) the person would not be required to do that thing if the amendments of that Act made by this Part had not been made;

then, the person is, during the period of 6 months starting on the commencement day, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.

Commencement day

(4) In this item:

commencement day means the day on which the amendments of the *Financial Sector (Shareholdings) Act 1998* made by this Part commence.

Foreign Acquisitions and Takeovers Act 1975

105 Subsection 5(1)

Insert:

child has the meaning given by subsection 6(2).

106 Subsection 5(1)

Insert:

parent has the meaning given by subsection 6(2).

107 Section 6

Before “For the purposes”, insert “(1)”.

108 Paragraph 6(a)

After “spouse”, insert “or de facto partner (within the meaning of the *Acts Interpretation Act 1901*),”.

109 Paragraph 6(a)

Omit “son, daughter”, substitute “child”.

110 At the end of section 6

Add:

(2) In this Act:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

(3) For the purposes of paragraph (1)(a), if one person is the child of another person because of the definition of ***child*** in this section, relationships traced to or through that person are to be determined on the basis that the person is the child of the other person.

111 Transitional provisions

(1) If:

(a) apart from this subitem, a person would be an associate of another person for the purposes of paragraph 9(1)(a) or (b) or paragraph 9A(1)(a) or (b) of the *Foreign Acquisitions and Takeovers Act 1975* on the commencement day; and

(b) the persons would be associates only because of the amendments of that Act made by this Part;

then, during the period of 6 months starting on the commencement day, the provision does not apply to them as associates of each other for so long as the persons would otherwise have been associates of each other.

(2) If:

(a) apart from this subitem, a person would be an associate of another person on the commencement day; and

(b) the persons would be associates only because of the amendments of the *Foreign Acquisitions and Takeovers Act 1975* made by this Part;

then, the Treasurer may not make an order under Part II of that Act in relation to them as associates of each other during the period of 6 months starting on the commencement day.

(3) In this item:

commencement day means the day on which the amendments of the *Foreign Acquisitions and Takeovers Act 1975* made by this Part commence.

Insurance Acquisitions and Takeovers Act 1991

112 Section 4

Before "In this Act", insert "(1)".

113 Section 4

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

114 Section 4

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

115 Section 4 (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

(b) the person's de facto partner within the meaning of the *Acts Interpretation Act 1901*; or

116 Section 4 (paragraph (d) of the definition of *relative*)

Omit "son, daughter", substitute "child".

117 Section 4 (at the end of the definition of *relative*)

Add:

Note: See also subsection (2).

118 At the end of section 4

Add:

(2) For the purposes of paragraphs (c), (d) and (e) of the definition of ***relative*** in subsection (1), if one person is the child of another person because of the definition of ***child*** in that subsection, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

119 Transitional provision

If:

(a) apart from this item, a person would be an associate of another person for the purposes of a provision of the *Insurance Acquisitions and Takeovers Act 1991* on the day on which the amendments made by this Part commence; and

(b) the persons would be associates only because of those amendments;

then, during the period of 6 months starting on that day, the provision does not apply to them as associates of each other for so long as the persons would otherwise have been associates of each other.

Life Insurance Act 1995

120 Paragraph 204(1)(b)

After “spouse”, insert “or de facto partner”.

121 Paragraph 211(1)(c)

Omit “father, mother”, substitute “de facto partner, parent”.

122 After subsection 211(1)

Insert:

(1A) For the purposes of paragraph (1)(c), if one person is the child of another person because of the definition of ***child*** in this Act, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

123 Paragraph 212(1)(c)

Omit “father, mother”, substitute “de facto partner, parent”.

124 After subsection 212(1)

Insert:

(1A) For the purposes of paragraph (1)(c), if one person is the child of another person because of the definition of ***child*** in this Act, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

125 Schedule

Insert:

child: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

126 Schedule

Insert:

de facto partner of a person has the meaning given by the *Acts Interpretation Act 1901*.

127 Schedule

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

128 Schedule (definition of *spouse*)

Repeal the definition.

129 Transitional provision

The amendments of sections 211 and 212 of the *Life Insurance Act 1995* made by this Part apply in relation to a person who dies on or after the commencement of those amendments.

Part 3—Amendment of the Corporations Act 2001

Corporations Act 2001

130 Section 9

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

131 Section 9 (paragraph (a) of the definition of *close associate*)

Omit "or de facto spouse".

132 Section 9 (paragraph (b) of the definition of *close associate*)

Omit ", or of a de facto spouse,".

133 Section 9 (definition of *de facto spouse*)

Repeal the definition.

134 Section 9 (paragraph (a) of the definition of *immediate family member*)

Omit "or de facto spouse".

135 Section 9

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this section.

136 Section 9 (paragraph (b) of the definition of *related entity*)

Omit ", or de facto spouse,".

137 Section 9 (paragraph (c) of the definition of *related entity*)

Omit “, or of a de facto spouse,”.

138 Section 9 (paragraph (e) of the definition of *related entity*)

Omit “, or de facto spouse,”.

139 Section 9 (paragraph (f) of the definition of *related entity*)

Omit “, or of a de facto spouse,”.

140 Section 9 (paragraph (i) of the definition of *related entity*)

Omit “, or de facto spouse,”.

141 Section 9 (paragraph (j) of the definition of *related entity*)

Omit “, or of a de facto spouse,”.

142 Section 9 (definition of *relative*)

Omit “son, daughter”, substitute “child”.

143 Section 9

Insert:

> ***spouse*** of a person includes a de facto partner of the person within the meaning of the *Acts Interpretation Act 1901*.

144 After section 9

Insert:

9AA Certain family relationships

For the purposes of this Act, relationships (including the relationship of being family) are taken to include:

(a) relationships between de facto partners (within the meaning of the *Acts Interpretation Act 1901*); and

(b) relationships of child and parent that arise:

(i) if someone is an exnuptial or adoptive child of a person; or

(ii) if someone is the child of a person because of the definition of ***child*** in this Act; and

(c) relationships traced through relationships referred to in paragraphs (a) and (b).

145 Paragraph 228(2)(d)

Omit “and de facto spouses”.

146 Subparagraph 440J(1)(a)(ii)

Omit “, de facto spouse”.

147 Paragraph 440J(1)(b)

Omit “, de facto spouse”.

148 Subsection 556(2) (definition of *spouse*)

Repeal the definition.

149 Paragraph 601JA(2)(f)

Omit “or de facto spouse”.

150 Paragraph 601JB(2)(e)

Omit “or de facto spouse”.

Schedule 15—Veterans' Affairs

Defence Service Homes Act 1918

1 Subsection 4(1)

Insert:

> ***de facto partner*** of a person has the meaning given by the *Acts Interpretation Act 1901*.

2 Subsection 4(1) (subparagraph (a)(ii) of the definition of *dependent parent*)

After "married", insert "and did not have a de facto partner".

3 Subsection 4(1) (subparagraph (b)(ii) of the definition of *dependent parent*)

Omit "husband or wife", substitute "spouse or de facto partner".

4 Subsection 4(1) (subparagraph (a)(ii) of the definition of *further advance*)

After "spouse" (wherever occurring), insert "or de facto partner".

5 Subsection 4(1) (paragraph (b) of the definition of *initial advance*)

After "spouse" (wherever occurring), insert "or de facto partner".

6 Subsection 4(1)

Insert:

> ***parent***: without limiting who is a parent of anyone for the purposes of this Act, a person is the ***parent*** of another person if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

7 Subsection 4(1) (definition of *Widow*)

Repeal the definition.

8 Subsection 4(1)

Insert:

> ***widow*** of a person who has died includes a woman who was a de facto partner of the person immediately before the person died.

9 Application of amendment of definition of *widow*

The amendment of the definition of ***widow*** in subsection 4(1) of the *Defence Service Homes Act 1918* made by this Schedule applies in relation to someone whose de facto partner dies on or after the commencement of the amendment.

10 Subsection 4(1) (definition of *widower*)

Repeal the definition, substitute:

> ***widower*** of a person who has died includes a man who was a de facto partner of the person immediately before the person died.

11 Application of amendment of definition of *widower*

The amendment of the definition of ***widower*** in subsection 4(1) of the *Defence Service Homes Act 1918* made by this Schedule applies in relation to someone whose de facto partner dies on or after the commencement of the amendment.

12 Paragraphs 4(2AB)(a) and (b)

Omit "husband" (wherever occurring), substitute "spouse or de facto partner".

13 Paragraph 4(2AC)(d)

Omit "wife", substitute "spouse or de facto partner".

14 Paragraph 4(2AC)(d)

Omit "he and she", substitute "they".

15 Paragraph 4(2AC)(e)

Omit "wife" (wherever occurring), substitute "spouse or de facto partner".

16 Subsections 4(3A), (3B) and (3C)

Repeal the subsections.

17 Subsection 4(8)

After "spouse", insert "or de facto partner".

18 Paragraph 4(13)(b)

After "spouse" (wherever occurring), insert "or de facto partner".

19 Subsections 4A(1) and (3)

Omit "wife or husband" (wherever occurring), substitute "spouse or de facto partner".

Note: The heading to section 4A is altered by inserting "**or de facto partner**" after "**spouse**".

20 Paragraphs 17A(1)(a) and (b)

Omit "wife or husband", substitute "spouse or de facto partner".

21 Paragraphs 18(1)(a) and (e)

Omit "husband or wife" (wherever occurring), substitute "spouse or de facto partner".

22 Subparagraph 20(1)(a)(i)

Omit ", widowed mother or widowed father", substitute " or a widowed parent".

23 Subparagraph 20(1)(a)(ii)

Omit "the wife or husband", substitute "a spouse or de facto partner".

24 Subparagraph 23(1)(a)(ii)

Omit "the widowed mother or widowed father", substitute "a widowed parent".

25 Subparagraph 23(1)(a)(iii)

Omit "the wife or husband", substitute "a spouse or de facto partner".

26 Subsection 26(4)

Omit "the husband or wife", substitute "a spouse or de facto partner".

27 Paragraphs 27A(1)(c) and (2)(c)

Omit "wife or husband", substitute "spouse or de facto partner".

28 Subsection 27A(3)

Omit "a wife and husband", substitute "2 persons who are spouses or de facto partners of each other".

29 Paragraph 27A(3)(a)

Omit "the wife and husband", substitute "spouses or de facto partners".

30 Paragraph 27A(3)(b)

Omit "wife or the death of the husband, whichever is the later", substitute "spouse or de facto partner who died last".

31 Paragraph 38C(1)(gb)

Omit "wife or husband", substitute "spouse or de facto partner".

32 Subsection 45A(2)

Omit "a husband and wife", substitute "2 persons who are spouses or de facto partners of each other".

Military Rehabilitation and Compensation Act 2004

33 Section 5

Before "In this Act", insert "(1)".

34 Section 5

Insert:

> ***child***: without limiting who is a child of a person for the purposes of this Act, someone is the ***child*** of a person if he or she is a child of the person within the meaning of the *Family Law Act 1975*.

35 Section 5

Insert:

> ***parent***: without limiting who is a parent of a person for the purposes of this Act, someone is the ***parent*** of a person if the person is his or her child because of the definition of ***child*** in this subsection.

36 Section 5 (definition of *partner*)

Omit "of the opposite sex to the member".

37 Section 5 (after paragraph (b) of the definition of *partner*)

Insert:

(ba) a relationship between the person and the member (whether the person and the member are the same sex or different sexes) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

38 Section 5 (paragraph (c) of the definition of *partner*)

Repeal the paragraph, substitute:

(c) the person (whether of the same sex or a different sex to the member):

(i) is, in the Commission's opinion (see subsection (2)), in a de facto relationship with the member; and

(ii) is not an ancestor, descendant, brother, sister, half-brother or half-sister of the member (see subsection (3)).

39 Section 5

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a partner of the person is the ***stepchild*** of the person, if he or she would be the person's stepchild except that the person is not legally married to the partner.

40 Section 5

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a partner of a parent of the person is the ***step-parent*** of the person, if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

41 At the end of section 5

Add:

(2) For the purposes of subparagraph (c)(i) of the definition of ***partner*** in subsection (1), section 11A of the *Veterans' Entitlements Act 1986* applies to the forming of the Commission's opinion about whether a person and a member are in a de facto relationship.

(3) For the purposes of subparagraph (c)(ii) of the definition of ***partner*** in subsection (1), a child who is, or has ever been, an adopted child of a person is taken to be the natural child of that person and the person is taken to be the natural parent of the child.

42 Subparagraphs 15(2)(a)(ii) to (vii)

Repeal the subparagraphs, substitute:

(ii) a parent or step-parent of the member;

(iii) a parent or step-parent of the member's partner;

(iv) a grandparent of the member;

(v) a child or stepchild of the member;

(vi) a child or stepchild of the member's partner;

(vii) a grandchild of the member;

43 Section 16

Repeal the section, substitute:

16 Certain relationships

(1) For the purposes of paragraph 15(2)(a), if one person is the child of another person because of:

(a) adoption; or

(b) the definition of ***child*** in this Act;

relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

(2) For the purposes of paragraphs 215(f) and 218(g), the relatives of a person are taken to include the following (without limitation):

(a) a partner of the person;

(b) a stepchild or an adopted child of the person, or someone of whom the person is a stepchild or an adopted child;

(c) someone who is a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in this Act;

(d) anyone else who would be a relative of the person if someone mentioned in paragraph (a), (b) or (c) is taken to be a relative of the person.

44 Subsection 18(1)

Omit "son or daughter", substitute "child".

45 Subsection 80(3)

Omit "son or daughter", substitute "child".

46 At the end of section 433

Add:

(4) For the purposes of paragraph (3)(a), the members of a person's family are taken to include the following (without limitation):

(a) a partner of the person;

(b) a stepchild or an adopted child of the person, or someone of whom the person is a stepchild or an adopted child;

(c) someone who is a child of the person, or someone of whom the person is a child, because of the definition of ***child*** in this Act;

(d) anyone else who would be a relative of the person if someone mentioned in paragraph (a), (b) or (c) is taken to be a member of the person's family.

Veterans' Entitlements Act 1986

47 Section 5 (item relating to parent)

Repeal the item, substitute:

parent	5F(1), 10A

48 Section 5 (index of definitions)

Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

prohibited relationship	5E(6), (7)

49 Section 5 (index of definitions)

Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

step-child	5F(1)

50 Section 5 (index of definitions)

Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

step-parent	5F(1)

51 Subsection 5E(1)

Insert:

> ***prohibited relationship*** has the meaning given by subsections (6) and (7).

52 Subsection 5E(1) (paragraph (a) of the definition of *widow*)

Omit "a man immediately before he", substitute "a person immediately before the person".

53 Subsection 5E(1) (paragraph (a) of the definition of *widower*)

Omit "a woman immediately before she", substitute "a person immediately before the person".

54 After paragraph 5E(2)(a)

Insert:

(aa) both of the following conditions are met:

(i) a relationship between the person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the *Acts Interpretation Act 1901* as a kind of relationship prescribed for the purposes of that section;

(ii) the person is not living separately and apart from the other person on a permanent basis; or

55 Subparagraph 5E(2)(b)(i)

Omit "a person of the opposite sex", substitute "another person, whether of the same sex or a different sex".

56 Subparagraph 5E(2)(b)(iii)

Omit "marriage-like", substitute "de facto".

57 Subparagraph 5E(2)(b)(iv)

Omit "for the purposes of section 23B of the *Marriage Act 1961*".

58 Subsection 5E(2) (note 2)

Repeal the note.

59 At the end of section 5E

Add:

Prohibited relationship

(6) For the purposes of this Act, a person and his or her partner are within a ***prohibited relationship*** if the person is:

(a) an ancestor or a descendant of the partner; or

(b) a brother, sister, half-brother or half-sister of the partner.

(7) For the purposes of subsection (6), a child who is, or has ever been, an adopted child of a person is taken to be the natural child of that person and the person is taken to be the natural parent of the child.

60 Subsection 5F(1) (definition of *parent*)

Repeal the definition, substitute:

parent has a meaning affected by section 10A.

61 Subsection 5F(1)

Insert:

step-child: without limiting who is a step-child of a person for the purposes of this Act, someone who is a child of a partner of the person is the ***step-child*** of the person, if he or she would be the person's step-child except that the person is not legally married to the partner.

62 Subsection 5F(1)

Insert:

> ***step-parent***: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a partner of a parent of the person is the ***step-parent*** of the person, if he or she would be the person's step-parent except that he or she is not legally married to the person's parent.

63 After subsection 5G(1A)

Insert:

(1AB) For the purposes of paragraph (1A)(b), family relationships are taken to include (without limitation):

(a) relationships between partners; and

(b) relationships of child and parent that arise if someone is the parent of a person under section 10A; and

(c) any other relationship that would be a family relationship if a relationship mentioned in paragraph (a) or (b) is taken to be a family relationship.

64 Paragraph 5H(8)(zd)

Omit "the person's father, mother, son, daughter, brother or sister", substitute "a parent, child, brother or sister of the person".

65 Subsection 5L(1) (paragraph (a) of the definition of *family member*)

Omit ", father or mother", substitute "or a parent".

66 Subsection 5P(1) (paragraph (a) of the definition of *eligible descendant*)

Omit "step child", substitute "step-child".

67 Subsection 5Q(1) (after paragraph (a) of the definition of *immediate family member*)

Insert:

(ab) who is the person's parent because of subsection 10A(1); or

68 At the end of section 5Q

Add:

(5) For the purposes of this Act, if under a provision of this Act one person is the child of another person because the person is a child of the other person within the meaning of the *Family Law Act 1975*, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

Note: Paragraph 10(1)(b) and paragraph (b) of the definition of ***child*** in section 52ZO are examples of provisions under which one person may be the child of another person because the person is a child of the other person within the meaning of the *Family Law Act 1975*.

(6) Subsection (5) does not apply for the purposes of determining when a person and his or her partner are within a prohibited relationship under subsection 5E(6). However, this does not prevent expressions used in subsection 5E(6) from having their ordinary meaning.

69 Paragraph 5R(5)(b)

Omit "a matrimonial", substitute "their".

70 Subsections 10(1) and (2)

Repeal the subsections, substitute:

(1) In this Act, a reference to a child of a veteran or of a deceased veteran is a reference to:

(a) a child of the veteran or an adopted child of the veteran; or

(b) a child who is a child of the veteran within the meaning of the *Family Law Act 1975*; or

(c) any other child who is, or was immediately before the death of the veteran, wholly or substantially dependent on the veteran.

71 Subsection 10(3)

Omit "subsections (1) and (2)", substitute "subsection (1)".

72 Subsection 10(5)

Omit "or (2)".

73 After section 10

Insert:

10A Parent of a person

(1) Without limiting who is a parent of anyone for the purposes of this Act, a person is the ***parent*** of another person (other than an adopted child) if the other person is a child of the person within the meaning of the *Family Law Act 1975*.

(2) For the purposes of this Act, ***parent*** of a person who is an adopted child means an adoptive parent of the person.

74 Section 11A

Omit "marriage-like" (first occurring), substitute "de facto".

Note: The heading to section 11A is altered by omitting "**Marriage-like**" and substituting "**De facto**"

75 Subparagraph 11A(c)(i)

Omit "married to", substitute "being in a de facto relationship with".

76 Subparagraph 11A(e)(iv)

Omit "marriage-like", substitute "de facto".

77 Paragraph 30C(12)(b)

Omit "the spouse", substitute "a partner or non-illness separated spouse".

78 Paragraph 30D(8)(b)

Omit "the spouse", substitute "a partner or non-illness separated spouse".

79 Subparagraph 38(1)(d)(iii)

Before "spouse", insert "non-illness separated".

80 Subparagraph 38(1)(i)(iii)

Before "spouse", insert "non-illness separated".

81 Paragraph 38(2A)(a)

Omit "marriage-like", substitute "de facto".

82 Paragraph 38(2A)(a)

Omit "when this subsection commenced", substitute "on 1 July 2009".

83 Paragraph 38(2A)(b)

Omit "this subsection commenced", substitute "1 July 2009".

84 Paragraph 38(2A)(b)

Omit "was a marriage-like", substitute "is a de facto".

85 Subsection 38(2A) (note 2)

After "veteran", insert "non-illness separated".

86 Subparagraph 38(3A)(a)(i)

Omit "marriage-like", substitute "de facto".

87 Subparagraph 38(3A)(a)(ii)

Omit "marriage-like relationship when this subsection commenced", substitute "de facto relationship on 1 July 2009".

88 Subparagraph 38(3A)(b)(i)

Omit "this subsection commenced", substitute "1 July 2009".

89 Subparagraph 38(3A)(b)(i)

Omit "was a marriage-like", substitute "is a de facto".

Note: The headings to subsections 45UG(1) and (2) are altered by omitting "*marital*" and substituting "*couple*".

90 Section 52ZO (definition of *child*)

Repeal the definition, substitute:

> ***child***: without limiting who is a child of a person for the purposes of this Division, each of the following is the ***child*** of a person:
>
> (a) an adopted child, step-child or foster-child of the person;
>
> (b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

91 Subsection 52ZP(2)

Repeal the subsection, substitute:

(2) For the purposes of this section, if one person is the child of another person because of the definition of ***child*** in section 52ZO,

relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

92 Subsection 52ZZZWE(5) (definition of *child*)

Repeal the definition, substitute:

child, of a principal beneficiary, means the following (no matter how old the child is):

(a) a natural child, adopted child or step-child of the beneficiary;

(b) someone who is a child of the person within the meaning of the *Family Law Act 1975*.

93 Subsection 123(1) (paragraph (b) of the definition of *child*)

Repeal the paragraph, substitute:

(b) a person who was a natural child of the deceased; or

(ba) someone who was a child of the deceased within the meaning of the *Family Law Act 1975*; or

96 Saving

The amendments of subsections 38(2A) and (3A) of the *Veterans' Entitlements Act 1986* made by this Schedule do not affect the operation of those subsections as in force before 1 July 2009.

[*Minister's second reading speech made in—*
House of Representatives on 4 September 2008
Senate on 24 September 2008]

(161/08)