

2008

The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2008

(Attorney-General)

**A Bill for an Act to address discrimination against
same-sex couples and their children in
Commonwealth laws, and for other purposes**

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1 **A Bill for an Act to address discrimination against**
2 **same-sex couples and their children in**
3 **Commonwealth laws, and for other purposes**

4 The Parliament of Australia enacts:

5 **1 Short title**

6 This Act may be cited as the *Same-Sex Relationships (Equal*
7 *Treatment in Commonwealth Laws—General Law Reform) Act*
8 *2008*.

9 **2 Commencement**

10 (1) Each provision of this Act specified in column 1 of the table
11 commences, or is taken to have commenced, in accordance with
12 column 2 of the table. Any other statement in column 2 has effect
13 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.	
2. Schedule 1	The day after this Act receives the Royal Assent.	
3. Schedule 2, Part 1	The day after this Act receives the Royal Assent.	
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.	
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 <i>Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008</i> . 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.	
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 <i>Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008</i> . However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.	
9. Schedule 2,	The day after this Act receives the Royal	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
item 27	Assent.	
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 <i>Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008</i> . 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.	
12. Schedules 3, 4 and 5	The day after this Act receives the Royal Assent.	
13. Schedule 6, Part 1	The day after this Act receives the Royal Assent.	
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.	
16. Schedule 7, items 8 to 55	The day after this Act receives the Royal Assent.	
17. Schedule 7, Part 3	The day after this Act receives the Royal Assent. However, if Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> does not commence on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	
18. Schedule 7, item 58	The day after this Act receives the Royal Assent. However, if Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act</i>	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
	2008 commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	
19. Schedule 7, item 59	Immediately after the commencement of Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> . However, if Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	
20. Schedule 7, item 60	The day after this Act receives the Royal Assent. However, if Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	
21. Schedule 7, item 61	Immediately after the commencement of Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> . However, if Schedule 1 to the <i>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</i> commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.	
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.	
24. Schedule 9, Part 1	The day after this Act receives the Royal Assent.	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
25. Schedule 9, Part 2	1 January 2009.	1 January 2009
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 <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008</i> .	
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 <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008</i> 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	

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
	at all if Schedule 2 to the <i>Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008</i> 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.	
34. Schedule 12	The day after this Act receives the Royal Assent.	
35. Schedule 13	1 July 2009.	1 July 2009
36. Schedule 14	The day after this Act receives the Royal Assent.	
37. Schedule 15	1 July 2009.	1 July 2009

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

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

7 **3 Schedule(s)**

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

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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

1
2 **Schedule 2—Attorney-General**

3 **Part 1—Amendment of the Acts Interpretation Act**
4 **1901**

5 *Acts Interpretation Act 1901*

6 **1 After section 22**

7 Insert:

8 **22A References to de facto partners**

9 For the purposes of a provision of an Act that is a provision in
10 which de facto partner has the meaning given by this Act, a person
11 is the *de facto partner* of another person (whether of the same sex
12 or a different sex) if:

- 13 (a) the person is in a registered relationship with the other person
14 under section 22B; or
15 (b) the person is in a de facto relationship with the other person
16 under section 22C.

17 **22B Registered relationships**

18 For the purposes of paragraph 22A(a), a person is in a *registered*
19 *relationship* with another person if the relationship between the
20 persons is registered under a prescribed law of a State or Territory
21 as a prescribed kind of relationship.

22 **22C De facto relationships**

- 23 (1) For the purposes of paragraph 22A(b), a person is in a *de facto*
24 *relationship* with another person if the persons:
25 (a) are not legally married to each other; and
26 (b) are not related by family (see subsection (6)); and
27 (c) have a relationship as a couple living together on a genuine
28 domestic basis.
- 29 (2) In determining for the purposes of paragraph (1)(c) whether 2
30 persons have a relationship as a couple, all the circumstances of

- 1 their relationship are to be taken into account, including any or all
2 of the following circumstances:
- 3 (a) the duration of the relationship;
 - 4 (b) the nature and extent of their common residence;
 - 5 (c) whether a sexual relationship exists;
 - 6 (d) the degree of financial dependence or interdependence, and
7 any arrangements for financial support, between them;
 - 8 (e) the ownership, use and acquisition of their property;
 - 9 (f) the degree of mutual commitment to a shared life;
 - 10 (g) the care and support of children;
 - 11 (h) the reputation and public aspects of the relationship.
- 12 (3) No particular finding in relation to any circumstance mentioned in
13 subsection (2) is necessary in determining whether 2 persons have
14 a relationship as a couple for the purposes of paragraph (1)(c).
- 15 (4) For the purposes of paragraph (1)(c), the persons are taken to be
16 living together on a genuine domestic basis if the persons are not
17 living together on a genuine domestic basis only because of:
- 18 (a) a temporary absence from each other; or
 - 19 (b) illness or infirmity of either or both of them.
- 20 (5) For the purposes of subsection (1), a de facto relationship can exist
21 even if one of the persons is legally married to someone else or is
22 in a registered relationship (within the meaning of section 22B)
23 with someone else or is in another de facto relationship.
- 24 (6) For the purposes of paragraph (1)(b), 2 persons are ***related by***
25 ***family*** if:
- 26 (a) one is the child (including an adopted child) of the other; or
 - 27 (b) one is another descendant of the other (even if the
28 relationship between them is traced through an adoptive
29 parent); or
 - 30 (c) they have a parent in common (who may be an adoptive
31 parent of either or both of them).
- 32 For this purpose, disregard whether an adoption is declared void or
33 has ceased to have effect.
- 34 (7) For the purposes of subsection (6), ***adopted*** means adopted under
35 the law of any place (whether in or out of Australia) relating to the
36 adoption of children.
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2 **Part 2—Amendment of other Acts**

3 *Administrative Decisions (Judicial Review) Act 1977*

4 **2 Subparagraph (d)(iv) of Schedule 2**

5 Repeal the subparagraph, substitute:

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

15 **3 Application**

16 The amendment of the *Administrative Decisions (Judicial Review) Act*
17 *1977* made by this Part applies in relation to decisions to which
18 section 13 of that Act applies that are made on or after the
19 commencement of this item.

20 *Age Discrimination Act 2004*

21 **4 Subsection 29(4)**

22 Insert:

23 *child*: without limiting who is a child of a person for the purposes
24 of paragraph (a) of the definition of *near relative* in this
25 subsection, someone is the *child* of a person if he or she is the
26 product of a relationship the person has or had as a couple with
27 another person (whether of the same sex or a different sex). For
28 this purpose, someone cannot be the product of a relationship
29 unless he or she is the biological child of at least one of the persons
30 in the relationship or was born to a woman in the relationship.

31 **5 Subsection 29(4)**

32 Insert:

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

3 **6 Subsection 29(4) (paragraph (b) of the definition of *near***
4 ***relative*)**

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

6 **7 Subsection 29(4)**

7 Insert:

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

12 **8 At the end of section 29**

13 Add:

14 *Family relationships*

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

20 ***Australian Federal Police Act 1979***

21 **9 At the end of section 42F**

22 Add:

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

1 (4) In this section:

2 *child*: without limiting who is a child of a person for the purposes
3 of this Act, someone is the *child* of a person if he or she is the
4 product of a relationship the person has or had as a couple with
5 another person (whether of the same sex or a different sex). For
6 this purpose, someone cannot be the product of a relationship
7 unless he or she is the biological child of at least one of the persons
8 in the relationship or was born to a woman in the relationship.

9 **10 Application**

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

13 ***Bankruptcy Act 1966***

14 **11 Subsection 5(1) (definition of *child*)**

15 Repeal the definition, substitute:

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

- 18 (a) an adopted child, stepchild or exnuptial child of the person;
19 (b) someone who is the product of a relationship the person has
20 or had as a couple with another person (whether of the same
21 sex or a different sex).

22 For the purposes of paragraph (b), someone cannot be the product
23 of a relationship unless he or she is the biological child of at least
24 one of the persons in the relationship or was born to a woman in
25 the relationship.

26 **12 Subsection 5(1) (definition of *close relative*)**

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

28 **13 Subsection 5(1)**

29 Insert:

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

32 **14 Subsection 5(1) (definition of *de facto spouse*)**

1 Repeal the definition.

2 **15 Subsection 5(1) (definition of *parent*)**

3 Repeal the definition, substitute:

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

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

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

8 **17 Subsection 5(1) (definition of *relative*)**

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

10 **18 Subsection 5(1)**

11 Insert:

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

16 **19 At the end of section 5**

17 Add:

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

20 (a) a de facto partner of the person;

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

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

27 **20 Paragraphs 60(4)(a) and (b)**

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

29 **21 At the end of subsection 60(4)**

30 Add:

1 Note: See also subsection 5(6).

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

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

4 **23 At the end of paragraph 116(2)(g)**

5 Add:

6 Note: See also subsection 5(6).

7 **24 Paragraph 116(2)(r)**

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

9 **25 Paragraphs 120(5)(b) and (c)**

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

11 **26 Paragraph 120(5)(f)**

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

13 **27 Paragraphs 121(6)(b) and (c)**

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

15 **28 Paragraph 121(6)(f)**

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

17 **29 Paragraph 134(1)(ma)**

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

19 **30 At the end of paragraph 134(1)(ma)**

20 Add:

21 Note: See also subsection 5(6).

22 **31 Section 139K (definition of *spouse*)**

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

24 **32 At the end of subsection 265(2)**

25 Add:

26 Note: See also subsection 5(6).

1 **33 At the end of subsection 268(6)**

2 Add:

3 Note: See also subsection 5(6).

4 ***Crimes Act 1914***

5 **34 Subsection 3(1)**

6 Insert:

7 ***child***: without limiting who is a child of a person for the purposes
8 of this Act, someone is the ***child*** of a person if he or she is the
9 product of a relationship the person has or had as a couple with
10 another person (whether of the same sex or a different sex). For
11 this purpose, someone cannot be the product of a relationship
12 unless he or she is the biological child of at least one of the persons
13 in the relationship or was born to a woman in the relationship.

14 **35 Subsection 3(1)**

15 Insert:

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

18 **36 Subsection 3(1)**

19 Insert:

20 ***parent***: without limiting who is a parent of a person for the
21 purposes of this Act, someone (the ***adult***) is the ***parent*** of a person
22 if:
23 (a) the adult is legally entitled to, and has, custody of the person;
24 or
25 (b) the adult is legally responsible for the day-to-day care,
26 welfare and development of the person and has the person in
27 his or her care; or
28 (c) all of the following apply:
29 (i) the person is the adult's child because of the definition
30 of ***child*** in this section;
31 (ii) the person is not the adult's biological or adopted child;
32 (iii) there is no order of a court that stops the adult being
33 legally entitled to custody of the person;

- 1 (iv) the person is in the adult's custody; or
2 (d) all of the following apply:
3 (i) the person is the adult's child because of the definition
4 of *child* in this section;
5 (ii) the person is not the adult's biological or adopted child;
6 (iii) there is no order of a court that stops the adult being
7 legally responsible for the day-to-day care, welfare and
8 development of the person;
9 (iv) the adult has the person in his or her care.

10 **37 Subsection 3(1)**

11 Insert:

12 *relative* has a meaning affected by subsection (3).

13 **38 At the end of section 3**

14 Add:

- 15 (3) For the purposes of this Act, the relatives of a person are taken to
16 include the following (without limitation):
17 (a) a de facto partner of the person;
18 (b) someone who is the child of the person, or of whom the
19 person is the child, because of the definition of *child* in this
20 section;
21 (c) anyone else who would be a relative of the person if someone
22 mentioned in paragraph (a) or (b) is taken to be a relative of
23 the person.

24 **39 At the end of section 16A**

25 Add:

- 26 (4) For the purposes of a reference in this section to a family, the
27 members of a person's family are taken to include the following
28 (without limitation):
29 (a) a de facto partner of the person;
30 (b) someone who is the child of the person, or of whom the
31 person is the child, because of the definition of *child* in
32 section 3;

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

4 **40 Subsection 23WA(1) (definition of *parent*)**

5 Repeal the definition.

6 ***Crimes (Superannuation Benefits) Act 1989***

7 **41 At the end of section 10**

8 Add:

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

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

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

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

18 (4) In this section:

19 *child*: without limiting who is a child of a person for the purposes
20 of this section, someone is the *child* of a person if he or she is the
21 product of a relationship the person has or had as a couple with
22 another person (whether of the same sex or a different sex). For
23 this purpose, someone cannot be the product of a relationship
24 unless he or she is the biological child of at least one of the persons
25 in the relationship or was born to a woman in the relationship.

26 **42 Application**

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

31 ***Customs Act 1901***

32 **43 Subsection 4(1)**

1 Insert:

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

- 4 (a) an adopted child or exnuptial child of the person;
5 (b) someone who is the product of a relationship the person has
6 or had as a couple with another person (whether of the same
7 sex or a different sex).

8 For the purposes of paragraph (b), someone cannot be the product
9 of a relationship unless he or she is the biological child of at least
10 one of the persons in the relationship or was born to a woman in
11 the relationship.

12 **44 Subsection 4(1)**

13 Insert:

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

18 **45 After section 4**

19 Insert:

20 **4AAA Members of family**

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

- 23 (a) a de facto partner of the person (within the meaning of the
24 *Acts Interpretation Act 1901*);
25 (b) someone who is the child of the person, or of whom the
26 person is the child, because of the definition of **child** in
27 section 4;
28 (c) anyone else who would be a member of the person's family if
29 someone mentioned in paragraph (a) or (b) is taken to be a
30 member of the person's family.

31 **46 Subparagraph 154(3)(a)(i)**

32 Repeal the subparagraph, substitute:

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

1 **47 At the end of subsection 154(3)**

2 Add:

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

5 **48 At the end of sections 219ZJB and 219ZJC**

6 Add:

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

9 **49 At the end of section 243AB**

10 Add:

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

14 **50 Subparagraph 269TAA(4)(a)(i)**

15 Repeal the subparagraph, substitute:

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

17 **51 At the end of subsection 269TAA(4)**

18 Add:

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

21 **52 Application**

22 *Amendments of section 154*

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

26 *Amendments affecting Part XIII*

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

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

4 ***High Court Justices (Long Leave Payments) Act 1979***

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

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

8 **54 After subsection 5(2)**

9 Insert:

- 10 (2A) If an amount is payable under paragraph (2)(a) and the Justice
11 leaves more than one surviving spouse or de facto partner, the
12 Attorney-General may give a direction as to the distribution of the
13 amount between or among them.

14 **55 At the end of section 5**

15 Add:

- 16 (5) In this section:

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

21 **56 Application**

22 The amendments of the *High Court Justices (Long Leave Payments) Act*
23 *1979* made by this Part apply in respect of a Justice who dies on or after
24 the commencement of this item.

25 ***Judges (Long Leave Payments) Act 1979***

26 **57 Paragraphs 5(2)(a) and (b)**

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

29 **58 After subsection 5(2)**

1 Insert:

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

6 **59 At the end of section 5**

7 Add:

8 (5) In this section:

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

13 **60 Application**

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

17 ***Passenger Movement Charge Collection Act 1978***

18 **61 Section 3 (definition of *child*)**

19 Repeal the definition, substitute:

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

- 23 (a) an adopted child, stepchild or exnuptial child of the person;
24 (b) someone who is the product of a relationship the person has
25 or had as a couple with another person (whether of the same
26 sex or a different sex).

27 For the purposes of paragraph (b), someone cannot be the product
28 of a relationship unless he or she is the biological child of at least
29 one of the persons in the relationship or was born to a woman in
30 the relationship.

31 **62 Section 3**

32 Insert:

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

3 **63 Section 3 (definition of spouse)**

4 Repeal the definition, substitute:

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

6 **64 Section 3**

7 Insert:

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

12 ***Proceeds of Crime Act 2002***

13 **65 Paragraphs 180(1)(c) and 181(1)(c)**

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

15 **66 At the end of section 337**

16 Add:

- 17 (6) For the purposes of this section, family relationships are taken to
18 include the following (without limitation):
- 19 (a) relationships between *de facto partners;
 - 20 (b) relationships of child and parent that arise if someone is the
21 child of a person because of the definition of *child* in
22 section 338;
 - 23 (c) relationships traced through relationships mentioned in
24 paragraphs (a) and (b).

25 **67 Section 338**

26 Insert:

27 *child*: without limiting who is a child of a person for the purposes
28 of this Act, someone is the *child* of a person if he or she is the
29 product of a relationship the person has or had as a couple with
30 another person (whether of the same sex or a different sex). For
31 this purpose, someone cannot be the product of a relationship

1 unless he or she is the biological child of at least one of the persons
2 in the relationship or was born to a woman in the relationship.

3 **68 Section 338**

4 Insert:

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

7 **69 Section 338 (paragraph (a) of the definition of *dependant*)**

8 Omit “de facto partner”, substitute “*de facto partner”.

9 **70 Section 338 (paragraph (b) of the definition of *dependant*)**

10 Omit “child”, substitute “*child”.

11 **71 Section 338**

12 Insert:

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

17 **72 Application**

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

21 ***Service and Execution of Process Act 1992***

22 **73 Section 95**

23 Insert:

24 *child*: without limiting who is a child of a person for the purposes
25 of this Act, someone is the *child* of a person if he or she is the
26 product of a relationship the person has or had as a couple with
27 another person (whether of the same sex or a different sex). For
28 this purpose, someone cannot be the product of a relationship
29 unless he or she is the biological child of at least one of the persons
30 in the relationship or was born to a woman in the relationship.

1 **74 Section 95**

2 Insert:

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

7 **75 At the end of section 96**

8 Add:

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

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

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

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

19 ***Sex Discrimination Act 1984***

20 **76 Subsection 4A(2) (definition of *child*)**

21 Repeal the definition, substitute:

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

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

25 (b) someone who is the product of a relationship the person has
26 or had as a couple with another person (whether of the same
27 sex or a different sex).

28 For the purposes of paragraph (b), someone cannot be the product
29 of a relationship unless he or she is the biological child of at least
30 one of the persons in the relationship or was born to a woman in
31 the relationship.

32 **77 Subsection 4A(2)**

33 Insert:

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

3 **78 Subsection 4A(2)**

4 Insert:

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

9 **79 Subsection 4A(2) (definition of spouse)**

10 Repeal the definition, substitute:

11 *spouse* includes a former spouse, a de facto partner and a former
12 de facto partner.

13 **80 Subsection 4A(2)**

14 Insert:

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

19 **81 At the end of section 4A**

20 Add:

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

26 **82 After subsection 9(10)**

27 Insert:

28 (10A) Subsection 14(3A) has effect in relation to discrimination
29 involving dismissal of employees on the ground of family
30 responsibilities, to the extent that the subsection gives effect to any
31 of the following instruments:

- 1 (a) the International Covenant on Civil and Political Rights done
2 at New York on 16 December 1966 [1980] ATS 23 (a copy
3 of the English text of which is set out in Schedule 2 to the
4 *Human Rights and Equal Opportunity Commission Act*
5 *1986*);
6 (b) the International Covenant on Economic, Social and Cultural
7 Rights done at New York on 16 December 1966 [1976] ATS
8 5;
9 (c) ILO Convention (No. 111) concerning Discrimination in
10 respect of Employment and Occupation done at Geneva on
11 25 June 1958 [1974] ATS 12 (a copy of the English text of
12 which is set out in Schedule 1 to the *Human Rights and*
13 *Equal Opportunity Commission Act 1986*);
14 (d) the Convention on the Rights of the Child done at New York
15 on 20 November 1989 [1991] ATS 4.

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

19 **83 At the end of subsection 10(1)**

20 Add “or (10A)”.

21 **84 After section 11**

22 Insert:

23 **11A Operation of State and Territory laws that further objects of**
24 **other instruments**

- 25 (1) A reference in this section to this Act is a reference to this Act as it
26 has effect because of subsection 9(10A).
27 (2) A reference in this section to a law of a State or Territory is a
28 reference to a law of a State or Territory that deals with
29 discrimination involving dismissal of employees on the ground of
30 family responsibilities.
31 (3) This Act is not intended to exclude or limit the operation of a law
32 of a State or Territory that furthers the objects of a relevant
33 instrument and is capable of operating concurrently with this Act.
34 (4) If:

- 1 (a) a law of a State or Territory that furthers the objects of a
2 relevant instrument deals with a matter dealt with by this Act;
3 and
4 (b) a person has made a complaint, instituted a proceeding or
5 taken any other action under that law in respect of an act or
6 omission in respect of which the person would, but for this
7 subsection, have been entitled to make a complaint under the
8 *Human Rights and Equal Opportunity Commission Act 1986*
9 alleging that the act or omission is unlawful under subsection
10 14(3A) of this Act;
11 the person is not entitled to make a complaint or institute a
12 proceeding under the *Human Rights and Equal Opportunity*
13 *Commission Act 1986* alleging that the act or omission is unlawful
14 under that subsection.
- 15 (5) If:
16 (a) a law of a State or Territory that furthers the objects of a
17 relevant instrument deals with a matter dealt with by this Act;
18 and
19 (b) an act or omission by a person that constitutes an offence
20 against that law also constitutes an offence against this Act;
21 the person may be prosecuted and convicted either under that law
22 of the State or Territory or under this Act, but nothing in this
23 subsection renders a person liable to be punished more than once in
24 respect of the same act or omission.
- 25 (6) In this section:
26 *relevant instrument* means an instrument referred to in subsection
27 9(10A).

28 ***Witness Protection Act 1994***

29 **85 Section 3**

30 Insert:

31 *parent*: without limiting who is a parent of anyone for the purposes
32 of this Act, a person is the parent of another person if the other
33 person is the product of a relationship the person has or had as a
34 couple with a third person (whether of the same sex or a different
35 sex). For this purpose, the other person cannot be the product of the
36 relationship unless he or she is the biological child of at least one

Schedule 2 Attorney-General
Part 2 Amendment of other Acts

1 of the person and the third person or was born to a woman in the
2 relationship.

1

2 **Part 3—Regulations**

3 **86 Regulations may deal with transitional, saving or**
4 **application matters**

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

1
2 **Schedule 3—Broadband, Communications**
3 **and the Digital Economy**
4

5 *Australian Postal Corporation Act 1989*

6 **1 At the end of subsection 90K(2)**

7 Add:

8 Note: See also subsection (6).

9 **2 At the end of section 90K**

10 Add:

11 *Next of kin*

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

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

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

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

22 (7) For the purposes of paragraph (6)(b), someone is the *child* of a
23 person because of this subsection if he or she is the product of a
24 relationship the person has or had as a couple with another person
25 (whether of the same sex or a different sex). For this purpose,
26 someone cannot be the product of a relationship unless he or she is
27 the biological child of at least one of the persons in the relationship
28 or was born to a woman in the relationship.

29 *Broadcasting Services Act 1992*

30 **3 Subsection 6(1) (paragraph (a) of the definition of**
31 **associate)**

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

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

3 Omit “Note”, substitute “Note 1”.

4 **5 Subsection 6(1) (at the end of the definition of associate)**

5 Add:

6 Note 2: See also subsection (3).

7 **6 Subsection 6(1)**

8 Insert:

9 **child:** without limiting who is a child of a person for the purposes
10 of this Act, someone is the **child** of a person if he or she is the
11 product of a relationship the person has or had as a couple with
12 another person (whether of the same sex or a different sex). For
13 this purpose, someone cannot be the product of a relationship
14 unless he or she is the biological child of at least one of the persons
15 in the relationship or was born to a woman in the relationship.

16 **7 Subsection 6(1)**

17 Insert:

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

22 **8 Subsection 6(1)**

23 Insert:

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

26 **9 At the end of section 6**

27 Add:

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

1 **10 Transitional provision**

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

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

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

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

12 ***Telstra Corporation Act 1991***

13 **11 Clause 2 of the Schedule**

14 Before “In Part 2A”, insert “(1)”.

15 **12 Clause 2 of the Schedule**

16 Insert:

17 *child*: without limiting who is a child of a person for the purposes
18 of Part 2A and this Schedule, someone is the *child* of a person if he
19 or she is the product of a relationship the person has or had as a
20 couple with another person (whether of the same sex or a different
21 sex). For this purpose, someone cannot be the product of a
22 relationship unless he or she is the biological child of at least one
23 of the persons in the relationship or was born to a woman in the
24 relationship.

25 **13 Clause 2 of the Schedule**

26 Insert:

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

31 **14 Clause 2 of the Schedule (paragraph (b) of the definition
32 of *relative*)**

33 Repeal the paragraph, substitute:

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

3 **15 Clause 2 of the Schedule (paragraph (d) of the definition**
4 **of *relative*)**

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

6 **16 Clause 2 of the Schedule (at the end of the definition of**
7 ***relative*)**

8 Add:

9 Note: See also subclause (2).

10 **17 At the end of clause 2 of the Schedule**

11 Add:

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

17 **18 Transitional provision**

18 (1) For the purposes of sections 8BI and 8BJ of the *Telstra Corporation Act*
19 *1991*, if:

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

23 (b) the situation would exist only because of the amendments;
24 the situation is, during the period of 6 months starting on the day on
25 which the amendments commence, taken not to exist for so long as it
26 would otherwise have existed.

27 (2) If:

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

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

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

1
2
3

Schedule 4—Defence

4

Defence Force (Home Loans Assistance) Act 1990

5

1 Section 3

6 Before “In this Act”, insert “(1)”.

7

2 Section 3 (definition of *child*)

8 Repeal the definition, substitute:

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

11 (a) he or she is:

- 12 (i) a legally adopted child or a stepchild of the person; or
13 (ii) the product of a relationship the person has or had as a
14 couple with another person (whether of the same sex or
15 a different sex); and

16 (b) he or she is:

- 17 (i) under 16; or
18 (ii) a student.

19 Note: See also subsection 3(2).

20

3 Section 3

21 Insert:

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

24

4 Section 3

25 Insert:

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

30

5 Section 3 (definition of *spouse*)

31 Repeal the definition.

1 **6 Section 3**

2 Insert:

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

7 Note: See also section 8.

8 **7 Section 3 (definition of *widow*)**

9 Repeal the definition (including the note).

10 **8 Section 3 (definition of *widower*)**

11 Repeal the definition (including the note).

12 **9 At the end of section 3**

13 Add:

14 (2) For the purposes of subparagraph (a)(ii) of the definition of *child*
15 in subsection (1), someone cannot be the product of a relationship
16 unless he or she is the biological child of at least one of the persons
17 in the relationship or was born to a woman in the relationship.

18 **10 Paragraphs 5(1)(b) and (c)**

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

20 **11 Paragraphs 6(a), (b) and (c)**

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

22 **12 Section 8**

23 Repeal the section, substitute:

24 **8 Multiple surviving spouses or de facto partners**

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

-
- 1 (2) For the purposes of subsection (1), the person is taken to have been
2 living with a spouse or de facto partner immediately before the
3 death of the person if they were not living together at that time
4 only because of:
5 (a) a temporary absence from each other; or
6 (b) illness or infirmity of either or both of them.

7 **13 Subsection 10(3)**

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

10 **14 Subparagraph 12(1)(b)(ii)**

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

13 **15 Subsection 12(3)**

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

16 **16 Application provision**

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

21 **17 Subsection 14(4)**

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

24 **18 Paragraph 15(1)(b)**

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

26 **19 Paragraphs 17(1)(a) and (b)**

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

28 **20 Paragraph 17(1)(b)**

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

30 **21 Paragraph 18(1)(b)**

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

2 **22 Application provision**

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

7 **23 Paragraph 20(2)(d)**

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

9 **24 Application provision**

10 If:

- 11 (a) a person is an entitled person immediately before the
12 commencement of the amendment of paragraph 20(2)(d) of
13 the *Defence Force (Home Loans Assistance) Act 1990* made
14 by this Schedule; and
15 (b) apart from this item, subsidy would not become payable to
16 the person on a loan on or after that commencement; and
17 (c) subsidy would not become payable to the person on the loan
18 only because of the amendment;

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

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

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

22 **26 Subsections 24(1), (2) and (3)**

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

25 **27 Subsection 24(4)**

26 Insert:

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

29 **28 Subsection 24(4) (definition of widow or widower)**

30 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”.

1 **38 Paragraph 29(h)**

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

4 **39 Paragraph 30(1)(a)**

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

7 **40 Paragraph 30(1)(b)**

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

10 **41 Paragraph 30(2)(a)**

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

13 **42 Paragraph 30(3)(b)**

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

16 **43 Paragraph 30(4)(b)**

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

19 **44 Paragraph 30(4)(d)**

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

22 **45 Subsection 30(6)**

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

25 **46 Paragraph 36A(1)(d)**

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

28 ***Defence (Parliamentary Candidates) Act 1969***

29 **47 Subsection 16(3)**

1 Repeal the subsection, substitute:

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

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

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

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

13 (4) In this section:

14 *child*: without limiting who is a child of a person for the purposes
15 of subsection (3), someone is the child of a person if he or she is
16 the product of a relationship the person has or had as a couple with
17 another person (whether of the same sex or a different sex). For
18 this purpose, someone cannot be the product of a relationship
19 unless he or she is the biological child of at least one of the persons
20 in the relationship or was born to a woman in the relationship.

21 *dependent* means wholly or substantially dependent.

22 ***Royal Australian Air Force Veterans' Residences Act 1953***

23 **48 Section 2**

24 Insert:

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

27 **49 Section 2 (at the end of paragraphs (a), (b) and (c) of the** 28 **definition of *eligible person*)**

29 Add "or".

30 **50 Section 2 (paragraphs (d), (e) and (f) of the definition of** 31 ***eligible person*)**

32 Repeal the paragraphs, substitute:

- 1 (d) a surviving spouse or de facto partner of a person referred to
2 in paragraph (a), (b) or (c); or
3 (e) a parent of a former member referred to in paragraph (a), (b)
4 or (c), if:
5 (i) the former member is deceased and does not have a
6 surviving spouse or de facto partner; and
7 (ii) the parent is the surviving spouse or de facto partner of
8 another person who has died; and
9 (iii) the parent was, at the time of the former member's
10 appointment to, or enlistment in, the Force or Service
11 referred to in paragraph (a), (b) or (c), dependent on the
12 former member; or
13 (f) a parent of a former member referred to in paragraph (a), (b)
14 or (c), if:
15 (i) the former member is deceased and does not have a
16 surviving spouse or de facto partner; or
17 (ii) the parent has a spouse or de facto partner who is so
18 incapacitated as to be unable to contribute materially to
19 the support of the parent.

20 51 Section 2

21 Insert:

22 *parent*: without limiting who is a parent of anyone for the purposes
23 of this Act, a person is the *parent* of another person if the other
24 person is the product of a relationship the person has or had as a
25 couple with a third person (whether of the same sex or a different
26 sex). For this purpose, the other person cannot be the product of the
27 relationship unless he or she is the biological child of at least one
28 of the person or the third person or was born to a woman in the
29 relationship.

30 52 Section 2

31 Insert:

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

35 53 Application provision

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

1
2 **Schedule 5—Education, Employment and**
3 **Workplace Relations**
4

5 *Education Services for Overseas Students Act 2000*

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

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

9 **2 Subsection 6(7)**

10 Insert:

11 *child*: without limiting who is a child of a person for the purposes
12 of this section, someone is the *child* of a person if he or she is the
13 product of a relationship the person has or had as a couple with
14 another person (whether of the same sex or a different sex). For
15 this purpose, someone cannot be the product of a relationship
16 unless he or she is the biological child of at least one of the persons
17 in the relationship or was born to a woman in the relationship.

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

19 **3 Subsection 6(7)**

20 Insert:

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

23 **4 Subsection 6(7)**

24 Insert:

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

29 **5 At the end of section 6**

30 Add:

1 *Certain family relationships*

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

7 ***Higher Education Support Act 2003***

8 **6 Clause 1 of Schedule 1**

9 Before “In this Act”, insert “(1)”.

10 **7 Clause 1 of Schedule 1 (paragraph (e) of the definition of**
11 ***Overseas student*)**

12 After “spouse”, insert “, de facto partner (within the meaning of the *Acts*
13 *Interpretation Act 1901*)”.

14 **8 Clause 1 of Schedule 1 (at the end of the definition of**
15 ***Overseas student*)**

16 Add:

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

19 **9 At the end of Schedule 1**

20 Add:

- 21 (2) For the purposes of paragraph (e) of the definition of *Overseas*
22 *student* in subclause (1), a representative’s relatives include
23 (without limitation):
24 (a) an exnuptial or adoptive child of the representative, or
25 someone of whom the representative is an exnuptial or
26 adoptive child; and
27 (b) someone who is a child of the representative, or of whom the
28 representative is a child, because of subclause (3); and
29 (c) relatives traced through relationships referred to in
30 paragraphs (a) and (b).
31 (3) For the purposes of paragraph (2)(b), one person is the *child* of
32 another person because of this subclause if he or she is the product
33 of a relationship the other person has or had as a couple with a
-

1 third person (whether of the same sex or a different sex). For this
2 purpose, he or she cannot be the product of the relationship unless
3 he or she is the biological child of at least one of the persons or
4 was born to a woman in the relationship.

5 ***Judicial and Statutory Officers (Remuneration and***
6 ***Allowances) Act 1984***

7 **10 After subsections 4(4A) and 6(4A)**

8 Insert:

9 (4B) For the purposes of subsection (4A), *spouse* includes a de facto
10 partner of a person within the meaning of the *Acts Interpretation*
11 *Act 1901*.

12 ***Safety, Rehabilitation and Compensation Act 1988***

13 **11 Subsection 4(1)**

14 Insert:

15 ***child***: without limiting who is a child of a person for the purposes
16 of this Act, someone is the ***child*** of a person if he or she is the
17 product of a relationship the person has or had as a couple with
18 another person (whether of the same sex or a different sex). For
19 this purpose, someone cannot be the product of a relationship
20 unless he or she is the biological child of at least one of the persons
21 in the relationship or was born to a woman in the relationship.

22 **12 Subsection 4(1)**

23 Insert:

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

26 **13 Subsection 4(1) (paragraph (a) of the definition of**
27 ***dependant*)**

1 Omit “father, mother, step-father, step-mother, father-in-law,
2 mother-in-law, grandfather, grandmother, son, daughter, step-son,
3 step-daughter, grandson, grand-daughter, brother, sister, half-brother or
4 half-sister”, substitute “parent, step-parent, father-in-law,
5 mother-in-law, grandparent, child, stepchild, grandchild, sibling or
6 half-sibling”.

7 **14 Subsection 4(1) (at the end of the definition of *dependant*)**

8 Add:

9 Note: See also subsection 4(2).

10 **15 Subsection 4(1)**

11 Insert:

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

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

17 Repeal the paragraph, substitute:

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

21 **17 Subsection 4(1)**

22 Insert:

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

28 **18 Subsection 4(1)**

29 Insert:

30 *step-parent*: without limiting who is a step-parent of a person for
31 the purposes of this Act, someone who is a de facto partner of a
32 parent of the person is the *step-parent* of the person if he or she

1 would be the person's step-parent except that he or she is not
2 legally married to the person's parent.

3 **19 Subsection 4(2)**

4 Repeal the subsection, substitute:

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

8 (a) relationships between de facto partners; and

9 (b) relationships of child and parent that arise:

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

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

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

16 **20 Subsection 4(6)**

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

18 **21 Subparagraph 19(12)(b)(i)**

19 Omit "father, mother, step-father, step-mother, father-in-law,
20 mother-in-law, grandfather, grandmother, son, daughter, step-son,
21 step-daughter, grandson, granddaughter, brother, sister, half-brother or
22 half-sister", substitute "parent, step-parent, father-in-law,
23 mother-in-law, grandparent, child, stepchild, grandchild, sibling or
24 half-sibling".

25 **22 At the end of subsection 19(12)**

26 Add:

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

28 **23 Subsection 19(13)**

29 Repeal the subsection.

30 **24 At the end of subsection 29(2)**

31 Add:

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

1 **25 At the end of subsection 29(4)**

2 Add:

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

4 **26 Application of amendments of the *Safety, Rehabilitation***
5 ***and Compensation Act 1988***

6 (1) The amendments of the *Safety, Rehabilitation and Compensation Act*
7 *1988* made by this Schedule apply in relation to a payment made under
8 that Act on or after the commencement of the amendments, other than a
9 payment of a lump sum benefit to which subitem (2) applies.

10 (2) The amendments of the *Safety, Rehabilitation and Compensation Act*
11 *1988* made by this Schedule apply in relation to a lump sum benefit
12 payable in respect of the death of a person if the death occurs on or after
13 the commencement of the amendments.

14 ***Seafarers Rehabilitation and Compensation Act 1992***

15 **27 Section 3**

16 Insert:

17 ***child***: without limiting who is a child of a person for the purposes
18 of this Act, someone is the ***child*** of a person if he or she is the
19 product of a relationship the person has or had as a couple with
20 another person (whether of the same sex or a different sex). For
21 this purpose, someone cannot be the product of a relationship
22 unless he or she is the biological child of at least one of the persons
23 in the relationship or was born to a woman in the relationship.

24 **28 Section 3**

25 Insert:

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

28 **29 Section 3 (paragraph (b) of the definition of *dependant*)**

1 Omit “father, mother, step-father, step-mother, father-in-law,
2 mother-in-law, grandfather, grandmother, son, daughter, step-son,
3 step-daughter, grandson, grand-daughter, brother, sister, half-brother or
4 half-sister”, substitute “parent, step-parent, father-in-law,
5 mother-in-law, grandparent, child, stepchild, grandchild, sibling or
6 half-sibling”.

7 **30 Section 3**

8 Insert:

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

13 **31 Section 3 (subparagraph (b)(i) of the definition of**
14 ***prescribed person*)**

15 Omit “father, mother, step-father, step-mother, father-in-law,
16 mother-in-law, grandfather, grandmother, son, daughter, step-son,
17 step-daughter, grandson, grand-daughter, brother, sister, half-brother or
18 half-sister”, substitute “parent, step-parent, father-in-law,
19 mother-in-law, grandparent, child, stepchild, grandchild, sibling or
20 half-sibling”.

21 **32 Section 3 (paragraph (a) of the definition of *spouse*)**

22 Repeal the paragraph, substitute:

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

26 **33 Section 3**

27 Insert:

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

33 **34 Section 3**

34 Insert:

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

6 **35 Subsection 15(3)**

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

8 **36 Section 16**

9 Repeal the section, substitute:

10 **16 Certain family relationships**

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

- 14 (a) relationships between de facto partners; and
- 15 (b) relationships of child and parent that arise:
 - 16 (i) if someone is an exnuptial or adoptive child of a person;
 - 17 or
 - 18 (ii) because of the definitions of *child* and *parent* in
 - 19 section 3; and
- 20 (c) relationships traced through relationships referred to in
- 21 paragraphs (a) and (b).

22 **37 At the end of subsection 43(3)**

23 Add:

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

25 **38 At the end of subsection 43(5)**

26 Add:

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

28 **39 Application of amendments of the *Seafarers Rehabilitation***
29 ***and Compensation Act 1992***

- 30 (1) The amendments of the *Seafarers Rehabilitation and Compensation Act*
31 *1992* made by this Schedule apply in relation to a payment made under

1 that Act on or after the commencement of the amendments, other than a
2 payment of a lump sum benefit to which subitem (2) applies.

3 (2) The amendments of the *Seafarers Rehabilitation and Compensation Act*
4 *1992* made by this Schedule apply in relation to a lump sum benefit
5 payable in respect of the death of a person if the death occurs on or after
6 the commencement of the amendments.

7 ***Student Assistance Act 1973***

8 **40 Subsection 43B(5)**

9 Insert:

10 ***child***: without limiting who is a child of a person for the purposes
11 of this section, someone is the ***child*** of a person if he or she is the
12 product of a relationship the person has or had as a couple with
13 another person (whether of the same sex or a different sex). For
14 this purpose, someone cannot be the product of a relationship
15 unless he or she is the biological child of at least one of the persons
16 in the relationship or was born to a woman in the relationship.

17 **41 Subsection 43B(5) (paragraph (a) of the definition of**
18 ***parent*)**

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

1
2 **Schedule 6—Families, Housing, Community**
3 **Services and Indigenous Affairs**

4 **Part 1—Amendments commencing on the day after**
5 **Royal Assent**

6 *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*

7 **1 Subsection 37(1)**

8 Insert:

9 *child*: without limiting who is a child of a person for the purposes
10 of this Act, someone is the *child* of a person if he or she is the
11 product of a relationship the person has or had as a couple with
12 another person (whether of the same sex or a different sex). For
13 this purpose, someone cannot be the product of a relationship
14 unless he or she is the biological child of at least one of the persons
15 in the relationship or was born to a woman in the relationship.

16 **2 Subsection 37(1)**

17 Insert:

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

22 **3 Subsection 37(1) (definition of spouse)**

23 Repeal the definition, substitute:

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

26 **4 At the end of section 37**

27 Add:

- 28 (5) For the purposes of the definition of *relative* in subsection (1), if
29 one person is the child of another person because of the definition
30 of *child* in that subsection, relationships traced to or through the

1 person are to be determined on the basis that the person is the child
2 of the other person.

3 ***Corporations (Aboriginal and Torres Strait Islander) Act***
4 **2006**

5 **5 Paragraph 293-1(2)(d)**

6 Omit “and de facto spouses”.

7 **6 At the end of Division 694**

8 Add:

9 **694-115 Certain family relationships**

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

- 13 (a) relationships between de facto partners (within the meaning
14 of the *Acts Interpretation Act 1901*); and
15 (b) relationships of child and parent that arise:
16 (i) if someone is an exnuptial or adoptive child of a person;
17 or
18 (ii) if someone is the child of a person because of the
19 definition of *child* in this Act; and
20 (c) relationships traced through relationships referred to in
21 paragraphs (a) and (b).

22 **7 Section 700-1**

23 Insert:

24 *child*: without limiting who is a child of a person for the purposes
25 of this Act, someone is the *child* of a person if he or she is the
26 product of a relationship the person has or had as a couple with
27 another person (whether of the same sex or a different sex). For
28 this purpose, someone cannot be the product of a relationship
29 unless he or she is the biological child of at least one of the persons
30 in the relationship or was born to a woman in the relationship.

31 **8 Section 700-1 (definition of *de facto spouse*)**

32 Repeal the definition.

1 **9 Section 700-1**

2 Insert:

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

7 **10 Section 700-1**

8 Insert:

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

1

2 **Part 2—Amendments commencing on 1 July 2009**

3 *A New Tax System (Family Assistance) Act 1999*

4 **11 Subsection 3(1)**

5 Insert:

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

8 **12 Subsection 3(1)**

9 Insert:

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

12 **13 After subsection 22(2)**

13 Insert:

- 14 (2A) The individual is an *FTB child* of the adult if:
- 15 (a) the individual is aged under 18; and
 - 16 (b) the adult is the relationship parent of the individual; and
 - 17 (c) there is no order of a court that stops the adult from being
18 legally responsible for the day-to-day care, welfare and
19 development of the individual; and
 - 20 (d) the individual is in the adult’s care; and
 - 21 (e) the individual is an Australian resident, is a special category
22 visa holder residing in Australia or is living with the adult.

23 **14 Paragraph 23(1)(a)**

24 After “subsection 22(2)”, insert “, (2A)”.

25 **15 Subsection 23(2)**

26 After “subsection 22(2)”, insert “, (2A)”.

27 **16 Subsection 23(3)**

28 After “subsection 22(2)” (wherever occurring), insert “, (2A)”.

1 **17 Subsection 23(5)**

2 Insert:

3 *parent* includes a relationship parent.

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

5 **18 At the end of section 23**

6 Add:

7 *Parents of relationship children*

8 (6) If a child (other than an adopted child) is a relationship child of a
9 person because he or she is the product of a relationship the person
10 has or had as a couple with another person, the two persons in the
11 relationship are taken to be the child’s only parents for the
12 purposes of paragraph (c) of the definition of *qualifying period* in
13 subsection (5).

14 **19 Subparagraph 28(3)(c)(i)**

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

17 **20 At the end of section 36**

18 Add:

19 *Definition of parent*

20 (7) In this section:

21 *parent* includes a relationship parent.

22 ***A New Tax System (Family Assistance) (Administration) Act***
23 ***1999***

24 **21 At the end of subsection 50R(1)**

25 Add:

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

1 **22 Subsection 50R(2) (paragraphs (a) and (b) of the definition**
2 **of step-parent)**

3 Omit “biological or adoptive parent”, substitute “biological parent,
4 adoptive parent or relationship parent”.

5 *Social Security Act 1991*

6 **23 Subsection 4(1)**

7 Insert:

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

10 **24 After paragraph 4(2)(a)**

11 Insert:

12 (aa) both of the following conditions are met:

- 13 (i) a relationship between the person and another person
14 (whether of the same sex or a different sex) is registered
15 under a law of a State or Territory prescribed for the
16 purposes of section 22B of the *Acts Interpretation Act*
17 *1901* as a kind of relationship prescribed for the
18 purposes of that section;
19 (ii) the person is not, in the Secretary’s opinion (formed as
20 mentioned in subsection (3)), living separately and apart
21 from the other person on a permanent or indefinite
22 basis; or

23 **25 Subparagraph 4(2)(b)(i)**

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

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

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

28 **27 Subparagraph 4(2)(b)(v)**

29 Omit “for the purposes of section 23B of the *Marriage Act 1961*”.

30 **28 Subsection 4(2) (note)**

31 Repeal the note.

1 **29 Subsection 4(3)**

2 After “(2)(a)”, insert “, subparagraph (2)(aa)(ii)”.

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

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

5 **31 At the end of subparagraph 4(3)(e)(iv)**

6 Add “or a de facto relationship”.

7 **32 Subsection 4(3A)**

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

9 **33 Paragraph 4(7)(a)**

10 Omit “a matrimonial”, substitute “their”.

11 **34 At the end of section 4**

12 Add:

13 *Prohibited relationship*

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

- 16 (a) an ancestor or a descendant of the partner; or
17 (b) a brother, sister, half-brother or half-sister of the partner.

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

22 **35 Subsection 5(1)**

23 Insert:

24 *child*: without limiting who is a child of a person for the purposes
25 of this Act, someone is the *child* of a person if he or she is the
26 product of a relationship the person has or had as a couple with
27 another person (whether of the same sex or a different sex). For
28 this purpose, someone cannot be the product of a relationship
29 unless he or she is the biological child of at least one of the persons
30 in the relationship or was born to a woman in the relationship.

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

3 Repeal the subparagraph, substitute:

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

7 **37 Subsection 5(1) (subparagraph (a)(ii) of the definition of**
8 ***parent*)**

9 Omit “young person”, substitute “child”.

10 **38 Subsection 5(1) (subparagraph (b)(i) of the definition of**
11 ***parent*)**

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

14 **39 Subsection 5(1) (subparagraph (b)(iv) of the definition of**
15 ***parent*)**

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

18 **40 Subsection 5(1)**

19 Insert:

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

21 **41 Subsection 5(1)**

22 Insert:

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

24 **42 Subsection 5(1)**

25 Insert:

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

1 **43 Subsection 5(1)**

2 Insert:

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

8 **44 Subsection 5(1) (definition of *substitute care*)**

9 Repeal the definition.

10 **45 After paragraph 5(2)(a)**

11 Insert:

12 (aa) all of the following apply:

- 13 (i) the young person is not a dependent child of the adult
14 under paragraph (a);
15 (ii) the adult is a relationship parent of the young person;
16 (iii) there is no order of a court that stops the adult from
17 being legally responsible for the day-to-day care,
18 welfare and development of the young person;
19 (iv) the young person is in the adult's care; or

20 **46 Subparagraph 5(2)(b)(i)**

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

22 **47 At the end of section 5**

23 Add:

24 *Relationship child and relationship parent*

25 (25) If:

- 26 (a) someone is a child of a person because of:
27 (i) the definition of *child* in subsection (1); or
28 (ii) paragraph (b) of the definition of *child* in
29 section 1207A; or
30 (iii) paragraph (b) of the definition of *child* in subsection
31 1209R(5); and
32 (b) he or she is not a biological or adopted child of the person;
-

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

3 **48 Section 5E**

4 Before “A person”, insert “(1)”.

5 **49 Paragraph 5E(a)**

6 Omit “natural parent, adoptive parent”, substitute “parent”.

7 **50 At the end of section 5E**

8 Add:

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

13 **51 Paragraph 8(8)(z)**

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

16 **52 At the end of subsection 10B(3)**

17 Add:

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

20 **53 Paragraph 14A(3)(a)**

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

23 **54 Subsection 17A(1) (paragraph (a) of the definition of**
24 ***eligible descendant*)**

25 Omit “step child”, substitute “step-child”.

26 **55 Subsection 23(1) (paragraph (a) of the definition of**
27 ***immediate family member*)**

28 Omit “natural parent, adoptive parent”, substitute “parent”.

29 **56 Subsection 23(1)**

1 Insert:

2 ***prohibited relationship*** has the meaning given by subsections
3 4(12) and (13).

4 **57 Subsection 23(1)**

5 Insert:

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

7 **58 Subsection 23(1)**

8 Insert:

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

10 **59 Subsection 23(1) (definition of *widow*)**

11 Repeal the definition.

12 **60 Paragraph 23(14)(a)**

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

14 **61 At the end of subsection 23(14)**

15 Add:

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

18 **62 At the end of section 23**

19 Add:

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

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

27 **63 After subsection 24(1)**

28 Insert:

29 (1A) If:

- 1 (a) a relationship between a person and another person (whether
2 of the same sex or a different sex) is registered under a law of
3 a State or Territory prescribed for the purposes of
4 section 22B of the *Acts Interpretation Act 1901* as a kind of
5 relationship prescribed for the purposes of that section; and
6 (b) the person is not living separately and apart from the other
7 person on a permanent or indefinite basis; and
8 (c) the Secretary is satisfied that the person should, for a special
9 reason in the particular case, not be treated as a member of a
10 couple;
11 the Secretary may determine, in writing, that the person is not to be
12 treated as a member of a couple for the purposes of this Act.

13 **64 Paragraph 24(2)(a)**

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

16 **65 Paragraph 24(2)(c)**

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

18 **66 At the end of section 24**

19 Add:

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

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

24 **67 Subsection 553B(3) (note 2)**

25 Repeal the note, substitute:

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

28 **68 At the end of section 993**

29 Add:

- 30 (3) If a young person (other than an adopted child) is a relationship
31 child of a person because he or she is the product of a relationship
32 the person has or had as a couple with another person, the two

1 persons in the relationship are taken to be the young person's only
2 parents for the purposes of this section.

3 **69 Section 994**

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

5 **70 At the end of section 994**

6 Add:

7 (2) If a young person (other than an adopted child) is a relationship
8 child of a person because he or she is the product of a relationship
9 the person has or had as a couple with another person, the two
10 persons in the relationship are taken to be the young person's only
11 parents for the purposes of this section.

12 **71 At the end of section 995**

13 Add:

14 (3) If a young person (other than an adopted child) is a relationship
15 child of a person because he or she is the product of a relationship
16 the person has or had as a couple with another person, the two
17 persons in the relationship are taken to be the young person's only
18 parents for the purposes of this section.

19 **72 Paragraphs 1061PL(2)(a) and (b)**

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

22 **73 At the end of section 1061PL**

23 Add:

24 *Parents of relationship children*

25 (8) If a person (other than a person who is an adopted child) is a
26 relationship child of another person because he or she is the
27 product of a relationship the other person has or had as a couple
28 with a third person, the two persons in the relationship are taken to
29 be the person's only parents for the purposes of subsections (3),
30 (4), (5), (6) and (7).

31 **74 Paragraph 1064(4)(a)**

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

3 **75 Paragraph 1064(4)(b)**

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

5 **76 Paragraph 1065(3)(a)**

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

8 **77 Paragraph 1065(3)(b)**

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

10 **78 Paragraph 1066(3)(a)**

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

13 **79 Paragraph 1066(3)(b)**

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

15 **80 Paragraph 1066A(5)(a)**

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

18 **81 Paragraph 1066A(5)(b)**

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

20 **82 Paragraph 1066B(4)(a)**

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

23 **83 Paragraph 1066B(4)(b)**

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

25 **84 Paragraphs 1067A(3)(a) and (b)**

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

28 **85 At the end of section 1067A**

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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 the product of a relationship the other person has or had as a couple with a third person, the two persons in the relationship 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 the product of a relationship the other person has or had as a couple with a third person, the two persons in the relationship 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

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

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

4 **91 Subparagraphs 1067C(1)(b)(iv), (v) and (vi)**

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

6 **92 Subparagraph 1067C(1)(b)(vii)**

7 Omit “for the purposes of section 23B of the *Marriage Act 1961*”.

8 **93 After paragraph 1067C(2)(a)**

9 Insert:

10 (aa) both of the following conditions are met:

- 11 (i) a relationship between the person and another person
12 (whether of the same sex or a different sex) was
13 registered under a law of a State or Territory prescribed
14 for the purposes of section 22B of the *Acts*
15 *Interpretation Act 1901* as a kind of relationship
16 prescribed for the purposes of that section (whether or
17 not the relationship is still registered);
18 (ii) the person was not, in the Secretary’s opinion (formed
19 as mentioned in subsection (3)), living separately and
20 apart from the other person on a permanent or indefinite
21 basis at all times while the relationship was registered;
22 or

23 **94 Subparagraph 1067C(2)(b)(i)**

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

26 **95 Subparagraphs 1067C(2)(b)(iv), (v) and (vi)**

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

28 **96 Subparagraph 1067C(2)(b)(vii)**

29 Omit “for the purposes of section 23B of the *Marriage Act 1961*”.

30 **97 Subsection 1067C(3)**

31 After “(1)(a),”, insert “subparagraph (1)(aa)(ii),”.

1 **98 Subsection 1067C(3)**

2 After “(2)(a)”, insert “, subparagraph (2)(aa)(ii)”.

3 **99 Subsection 1067C(4)**

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

5 **100 Section 1067C (note)**

6 Repeal the note.

7 **101 At the end of section 1067D**

8 Add:

9 *Parents of relationship children*

- 10 (4) If a person (other than a person who is an adopted child) is a
11 relationship child of another person because he or she is the
12 product of a relationship the other person has or had as a couple
13 with a third person, the two persons in the relationship are taken to
14 be the person’s only parents for the purposes of paragraph (1)(b).

15 **102 Paragraph 1067G(2)(a)**

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

18 **103 Paragraph 1067G(2)(b)**

19 Repeal the paragraph.

20 **104 After subparagraph (b)(i) of point 1067G-B3AA**

21 Insert:

- 22 (ia) the person is a relationship parent of a child under 16
23 and there is no order of a court that stops the person
24 from being legally responsible for the day-to-day care,
25 welfare and development of the child; or

26 **105 Subparagraph (b)(i) of subpoint 1067G-G9(2)**

27 After “a child”, insert “(other than a relationship child)”.

28 **106 After subparagraph (b)(i) of subpoint 1067G-G9(2)**

29 Insert:

- 1 (ia) a relationship child of the person if there is an order of a
2 court that stops the person from being legally
3 responsible for the day-to-day care, welfare and
4 development of the child; or

5 **107 Point 1067G-H21**

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

7 **108 Point 1067G-H22**

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

10 **109 Section 1067J**

11 Before “A person”, insert “(1)”.

12 **110 At the end of section 1067J**

13 Add:

- 14 (2) If a person (other than a person who is an adopted child) is a
15 relationship child of another person because he or she is the
16 product of a relationship the other person has or had as a couple
17 with a third person, the two persons in the relationship are taken to
18 be the person’s only parents for the purposes of subsection (1).

19 **111 Paragraph 1067L(2)(a)**

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

22 **112 Paragraph 1067L(2)(b)**

23 Omit “of the opposite sex and”.

24 **113 Point 1067L-D17**

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

26 **114 Point 1067L-D18**

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

29 **115 Paragraph 1068(2)(a)**

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

3 **116 Paragraph 1068(2)(b)**

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

5 **117 Paragraph (b) of point 1068-B1A**

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

8 **118 After subparagraph (a)(i) of point 1068-B1B**

9 Insert:

- 10 (ia) the person is a relationship parent of a child under 16
11 and there is no order of a court that stops the person
12 from being legally responsible for the day-to-day care,
13 welfare and development of the child; or

14 **119 Point 1068-G5**

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

16 **120 Point 1068-G6**

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

19 **121 Paragraph 1068A(3)(a)**

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

22 **122 Paragraph 1068A(3)(b)**

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

24 **123 Point 1068B-D5**

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

26 **124 Point 1068B-D6**

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

29 **125 Section 1207A (definition of *child*)**

1 Repeal the definition, substitute:

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

- 4 (a) an adopted child, step-child or foster-child of the person;
5 (b) someone who is the product of a relationship the person has
6 or had as a couple with another person (whether of the same
7 sex or a different sex).

8 For the purposes of paragraph (b), someone cannot be the product
9 of a relationship unless he or she is the biological child of at least
10 one of the persons in the relationship or was born to a woman in
11 the relationship.

12 **126 Subsection 1207B(2)**

13 Repeal the subsection, substitute:

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

18 **127 Subsection 1209R(5) (definition of *child*)**

19 Repeal the definition, substitute:

20 **child** of a principal beneficiary means:

- 21 (a) a natural child, adopted child or step-child of the beneficiary;
22 or
23 (b) someone who is the product of a relationship the beneficiary
24 has or had as a couple with another person (whether of the
25 same sex or a different sex).

26 For the purposes of paragraph (b), someone cannot be the product
27 of a relationship unless he or she is the biological child of at least
28 one of the persons in the relationship or was born to a woman in
29 the relationship.

1
2 **Schedule 7—Finance and Deregulation**

3 **Part 1—General amendments**

4 *Commonwealth Electoral Act 1918*

5 **1 Subsection 4(1) (at the end of the definition of *child*)**

6 Add:

7 ; and (c) a child who is the product of a relationship the person has or
8 had as a couple with another person (whether the persons are
9 the same sex or different sexes).

10 For the purposes of paragraph (c), the child cannot be the product
11 of the relationship unless he or she is the biological child of at least
12 one of the persons or is born to a woman in the relationship.

13 **2 Subsection 4(1)**

14 Insert:

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

17 **3 Subsection 4(1)**

18 Insert:

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

20 **4 Subsection 4(1) (definition of *spouse*)**

21 Repeal the definition.

22 **5 At the end of section 4**

23 Add:

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

26 (a) a de facto partner of the person;

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

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

4 **6 Paragraph 95(1)(a)**

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

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

7 **7 At the end of section 104**

8 Add:

- 9 (11) For the purposes of this section, the members of a person’s family
10 are taken to include the following (without limitation):
11 (a) a de facto partner of the person;
12 (b) a child of the person, or someone of whom the person is a
13 child, because of the definition of *child* in section 4;
14 (c) anyone else who would be a member of the person’s family
15 because a person mentioned in paragraph (a) or (b) is taken to
16 be a member of the family.

17 ***Medibank Private Sale Act 2006***

18 **8 Clause 33 of Schedule 2**

19 Before “In this Part”, insert “(1)”.

20 **9 Clause 33 of Schedule 2**

21 Insert:

22 *child*: without limiting who is a child of a person for the purposes
23 of this Part, someone is the *child* of a person if he or she is the
24 product of a relationship the person has or had as a couple with
25 another person (whether of the same sex or a different sex). For
26 this purpose, someone cannot be the product of a relationship
27 unless he or she is the biological child of at least one of the persons
28 in the relationship or was born to a woman in the relationship.

29 **10 Clause 33 of Schedule 2**

30 Insert:

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

5 **11 Clause 33 of Schedule 2 (paragraph (b) of the definition of**
6 ***relative*)**

7 Repeal the paragraph, substitute:
8 (b) the person’s de facto partner within the meaning of the *Acts*
9 *Interpretation Act 1901*; or

10 **12 Clause 33 of Schedule 2 (paragraph (d) of the definition of**
11 ***relative*)**

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

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

15 Add:
16 Note: See also subclause (2).

17 **14 At the end of clause 33 of Schedule 2**

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

24 **15 Transitional provision**

25 (1) For the purposes of clauses 29 and 30 of Schedule 2 of the *Medibank*
26 *Private Sale Act 2006*, if:
27 (a) apart from this subitem, an unacceptable ownership situation
28 would exist in relation to a Medibank Private company on the
29 day on which the amendments of that Act made by this
30 Schedule commence; and
31 (b) that situation would exist only because of the amendments;

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

4 (2) If:

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

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

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

17 ***Members of Parliament (Life Gold Pass) Act 2002***

18 **16 Section 3**

19 Omit:

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|--|
| 20 (a) spouses of pass-holders; and |
| 21 (b) the widows and widowers of deceased |
| 22 pass-holders; and |
| 23 (c) the spouses of sitting members who have satisfied |
| 24 the qualifying period for the issue of a Life Gold |
| 25 Pass. |

26 substitute:

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|---|
| 27 (a) spouses or de facto partners of pass-holders; and |
| 28 (b) surviving spouses or de facto partners of deceased |
| 29 pass-holders; and |

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(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)

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

3 **23 Subsection 9(4)**

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

6 **24 At the end of Part 1**

7 Add:

8 **9A Entitlement of spouses and de facto partners**

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

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

15 **9B Nomination of spouse or de facto partner**

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

19 (2) The nomination must:

20 (a) be in writing; and

21 (b) name the spouse or de facto partner; and

22 (c) specify the day (the *start day*) from which the spouse or
23 de facto partner is to be entitled to domestic return trips under
24 this Act.

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

28 (4) The nomination is in force during the period:

29 (a) beginning on the start day; and

30 (b) ending on the earlier of:

31 (i) the day the person makes a written revocation of the
32 nomination; or

1 (ii) if the person makes a subsequent nomination naming
2 another spouse or de facto partner of the person—the
3 day before the start day for the subsequent nomination.

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

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

14 **25 Subsection 10(1) (column 1 of table item 2)**

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

16 **26 Subsection 10(1) (table item 3)**

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

19 **27 Subsection 10(3)**

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

21 **28 Subsection 11(2) (column 1 of table item 2)**

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

23 **29 Subsection 11(2) (table items 3, 4 and 5)**

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

26 **30 Part 4 (heading)**

27 Repeal the heading, substitute:

28 **Part 4—Spouses or de facto partners of sitting**
29 **members**

30 **31 Subsection 12(2) (column 1 of table items 1, 2 and 3)**

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

1 Note: The heading to section 12 is altered by inserting “**or de facto partners**” after
2 “**Spouses**”.

3 **32 Section 13**

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

5 **33 Subsection 14(1) (column 3 table heading)**

6 Omit “**using the pro-rating formula in**”, substitute “**under**”.

7 **34 Subsection 14(1) (column 1 of table item 2)**

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

9 **35 Subsection 14(1) (column 2 of table item 2)**

10 Omit “events”.

11 **36 Subsection 14(1) (column 2 of table item 2)**

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

15 **37 Subsection 14(1) (column 3 of table item 2)**

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

19 **38 Subsection 14(1) (column 1 of table item 3)**

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

21 **39 Subsection 14(1) (column 2 of table item 3)**

22 Omit “events”.

23 **40 Subsection 14(1) (column 2 of table item 3)**

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

27 **41 Subsection 14(1) (column 3 of table item 3)**

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

1 **42 Subsection 14(2)**

2 Repeal the subsection, substitute:

3 *Pro-rating of entitlement*

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

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

8 (b) the difference between:

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

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

15 (2A) For the purposes of paragraph (2)(a), the formula is:

16
$$\frac{\text{Number of domestic return trips specified in the item}}{\text{Number of days in the remaining period}} \times \frac{\text{Number of days in the remaining period}}{365}$$

17 where:

18 *remaining period* means the period:

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

20 (b) ending at the end of the year.

21 **43 Subsection 19(1) (table item 2)**

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

23 **44 Section 21**

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

26 **45 Sections 22, 23 and 24**

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

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

30 **46 Subsection 28(2)**

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

3 **47 Paragraph 29(1)(b)**

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

5 **48 Transitional and application provision for amendments of**
6 **the *Members of Parliament (Life Gold Pass) Act 2002***

7 *Spouses entitled before commencement*

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

13 (a) sections 9A and 9B;

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

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

18 *Spouses or de facto partners who become entitled on*
19 *commencement*

20 (3) If:

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

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

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

30 *Application of amendments to surviving spouses or de facto*
31 *partners*

32 (4) The amendments of the *Members of Parliament (Life Gold Pass) Act*
33 *2002* made by this Schedule apply in relation to entitlements to

1 domestic return trips for the surviving spouse or de facto partner of a
2 person if the person's death occurs on or after the commencement of the
3 amendments.

4 *Application of amendments to widows and widowers*

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

11 ***Parliamentary Entitlements Act 1990***

12 **49 Section 3**

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

14 **50 Section 3 (subparagraph (a)(ii) of the definition of**
15 ***dependent child*)**

16 Repeal the subparagraph, substitute:

- 17 (ii) is covered by subsection (2); or
18 (iii) is covered by subsection (3); or

19 **51 Section 3 (definition of *spouse*)**

20 Repeal the definition, substitute:

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

23 **52 At the end of section 3**

24 Add:

- 25 (2) For the purposes of subparagraph (a)(ii) of the definition of
26 *dependent child* in subsection (1), a person under 16 is covered by
27 this subsection if:
28 (a) the Officer does not have a legal right to custody, care and
29 control of the person, otherwise than because an order of a
30 court stops the Officer having that right; and

Schedule 7 Finance and Deregulation
Part 1 General amendments

- 1 (b) the person is the product of a relationship the Officer has or
2 had as a couple with another person (whether of the same sex
3 or a different sex); and
4 (c) the person is in the care and control of the Officer.
5 For the purposes of paragraph (b), the person under 16 cannot be
6 the product of the relationship unless he or she is the biological
7 child of at least one of the Officer or the other person or was born
8 to a woman in the relationship.
- 9 (3) For the purposes of subparagraph (a)(iii) of the definition of
10 ***dependent child*** in subsection (1), a person under 16 (the ***child***) is
11 covered by this subsection if:
12 (a) there is no person who has the custody, care and control of
13 the child; and
14 (b) there is no Officer in relation to whom the child is a
15 dependent child because of being covered by subsection (2);
16 and
17 (c) there is no other person in relation to whom, if the person
18 were an Officer, the child would be a dependent child
19 because of being covered by subsection (2); and
20 (d) the child is wholly or substantially in the care and control of
21 the Officer.

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2 **Part 2—Superannuation amendments (general)**

3 *Superannuation Act 1976*

4 **53 Paragraph 51(6)(a)**

5 After “spouse”, insert “, or de facto partner within the meaning of the
6 *Acts Interpretation Act 1901*,”.

7 **54 Subparagraph 51A(1)(b)(i)**

8 After “spouse”, insert “, or de facto partner within the meaning of the
9 *Acts Interpretation Act 1901*,”.

10 **55 Application of amendments of the *Superannuation Act***
11 **1976**

12 An amendment of the *Superannuation Act 1976* made by this Schedule
13 (whether Part 2, 3 or 4) applies in relation to leave commencing on or
14 after the amendment commences.

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2 **Part 3—Superannuation amendments if same-sex**
3 **superannuation amendments commence**
4 **earlier**

5 *Superannuation Act 1976*

6 **56 At the end of section 51**

7 Add:

- 8 (7) The reference in paragraph (6)(a) to the birth of a child of the
9 person includes a reference to the birth of a child who is the
10 product of a relationship the person has or had with a partner
11 (whether of the same sex or a different sex).

12 Note: Subsection 3(10) is relevant to working out if a child is the product of
13 the relationship for the purposes of subsection (7).

14 **57 At the end of section 51A**

15 Add:

- 16 (8) The reference in subparagraph (1)(b)(i) to the birth of a child of a
17 person includes a reference to the birth of a child who is the
18 product of a relationship the person has or had with a partner
19 (whether of the same sex or a different sex).

20 Note: Subsection 3(10) is relevant to working out if a child is the product of
21 the relationship for the purposes of subsection (8).

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2 **Part 4—Superannuation amendments if same-sex**
3 **superannuation amendments commence**
4 **later**

5 *Superannuation Act 1976*

6 **58 At the end of section 51**

7 Add:

- 8 (7) The reference in paragraph (6)(a) to the birth of a child of the
9 person includes a reference to the birth of a child who is the
10 product of a relationship the person has or had as a couple with
11 another person (whether of the same sex or a different sex). For
12 this purpose, the child cannot be the product of the relationship
13 unless he or she is the biological child of at least one of the persons
14 or was born to a woman in the relationship.

15 **59 Subsection 51(7)**

16 Repeal the subsection, substitute:

- 17 (7) The reference in paragraph (6)(a) to the birth of a child of the
18 person includes a reference to the birth of a child who is the
19 product of a relationship the person has or had with a partner
20 (whether of the same sex or a different sex).

21 Note: Subsection 3(10) is relevant to working out if a child is the product of
22 the relationship for the purposes of subsection (7).

23 **60 At the end of section 51A**

24 Add:

- 25 (8) The reference in subparagraph (1)(b)(i) to the birth of a child of a
26 person includes a reference to the birth of a child who is the
27 product of a relationship the person has or had as a couple with
28 another person (whether of the same sex or a different sex). For
29 this purpose, the child cannot be the product of the relationship
30 unless he or she is the biological child of at least one of the persons
31 or was born to a woman in the relationship.

32 **61 Subsection 51A(8)**

Schedule 7 Finance and Deregulation

Part 4 Superannuation amendments if same-sex superannuation amendments
commence later

1 Repeal the subsection, substitute:

2 (8) The reference in subparagraph (1)(b)(i) to the birth of a child of a
3 person includes a reference to the birth of a child who is the
4 product of a relationship the person has or had with a partner
5 (whether of the same sex or a different sex).

6 Note: Subsection 3(10) is relevant to working out if a child is the product of
7 the relationship for the purposes of subsection (8).

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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

1

2 **Part 2—Amendments commencing on the day after**
3 **Royal Assent**

4 ***Export Market Development Grants Act 1997***

5 **2 List of terms defined in Part 9**

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

8 child

9 **3 List of terms defined in Part 9**

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

12 de facto partner

13 **4 List of terms defined in Part 9**

14 Omit “de facto spouse”.

15 **5 List of terms defined in Part 9**

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

18 parent

19 **6 Section 107**

20 Before “In”, insert “(1)”.

21 **7 Section 107**

22 Insert:

23 ***child***: without limiting who is a child of an individual for the
24 purposes of this Act, someone is the ***child*** of an individual if he or
25 she is the product of a relationship the individual has or had as a
26 couple with another individual (whether of the same sex or a
27 different sex). For this purpose, someone cannot be the product of
28 a relationship unless he or she is the biological child of at least one
29 of the individuals in the relationship or was born to a woman in the
30 relationship.

1 **8 Section 107**

2 Insert:

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

5 **9 Section 107 (definition of *de facto spouse*)**

6 Repeal the definition.

7 **10 Section 107**

8 Insert:

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

13 **11 Section 107 (definition of *spouse*)**

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

15 **12 At the end of section 107**

16 Add:

- 17 (2) For the purposes of paragraph (b) of the definition of *relative* in
18 subsection (1), relationships to an individual may also be traced to
19 or through another individual who is:
20 (a) a de facto partner of the first individual; or
21 (b) an exnuptial or adoptive child of the first individual; or
22 (c) related to the first individual because of the definitions of
23 *child* and *parent* in this section.

24 **13 Application**

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

28 ***Trade Representatives Act 1933***

29 **14 Subsection 11(11)**

30 Repeal the subsection, substitute:

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

11 (12) In this section:

12 *child*: without limiting who is a child of a person for the purposes
13 of this Act, someone is the *child* of a person if he or she is the
14 product of a relationship the person has or had as a couple with
15 another person (whether of the same sex or a different sex). For
16 this purpose, someone cannot be the product of a relationship
17 unless he or she is the biological child of at least one of the persons
18 in the relationship or was born to a woman in the relationship.

19 *relevant person* means:

- 20 (a) a Trade Representative; or
21 (b) an officer appointed under section 10.

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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*”.

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2 **Part 2—Amendments commencing on 1 January**
3 **2009**

4 ***Health Insurance Act 1973***

5 **3 Subsection 3(1) (sub-subparagraph (f)(v)(A) of the**
6 **definition of *Australian resident*)**

7 After “child”, insert “(each having the same meaning as in the
8 *Migration Act 1958*)”.

9 **4 At the end of section 3**

10 Add:

- 11 (18) Someone cannot be the product of the relationship between 2
12 persons (whether the persons are the same sex or different sexes)
13 for the purposes of this Act unless he or she is the biological child
14 of at least one of the persons or was born to a woman in the
15 relationship.

16 **5 Paragraph 10AA(6)(b)**

17 Repeal the paragraph, substitute:

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

20 **6 Subsection 10AA(7) (definition of *dependent child*)**

21 Repeal the definition, substitute:

22 ***dependent child***, in relation to a person, means:

- 23 (a) a child under 16 who is in the custody, care and control of the
24 person; or
25 (b) a child under 16:
26 (i) in relation to whom the person does not have a legal
27 right to custody, care and control, otherwise than
28 because an order of a court stops the person having that
29 right; and
30 (ii) who is the product of a relationship the person has or
31 had as a couple with another person (whether of the
32 same sex or a different sex); and
-

- 1 (iii) who is in the care and control of the person; or
2 (c) a child under 16 who is not the dependent child of a person
3 under paragraph (a) or (b) and who is wholly or substantially
4 in the care and control of the person;
5 (d) a student child who is wholly or substantially dependent on
6 the person.

7 Note: Subsection 3(18) is relevant to working out if a child is the product of
8 the relationship for the purposes of subparagraph (b)(ii) of the
9 definition of *dependent child*.

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

12 Repeal the paragraph, substitute:

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

15 **8 Subsection 23DZZID(1) (definition of *child*)**

16 Repeal the definition, substitute:

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

- 19 (a) an adopted child or stepchild of the person;
20 (b) someone who is the product of a relationship the person has
21 or had as a couple with another person (whether of the same
22 sex or a different sex).

23 Note: Subsection 3(18) is relevant to working out if someone is the product
24 of the relationship for the purposes of paragraph (b) of the definition
25 of *child*.

26 **9 Subsection 23DZZID(1) (definition of *parent*)**

27 Repeal the definition, substitute:

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

29 **10 Subsection 23DZZID(1) (at the end of the definition of**
30 ***relative*)**

31 Add:

32 Note: See also subsection (3).

33 **11 Subsection 23DZZID(1) (definition of *spouse*)**

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

2 **12 Subsection 23DZZID(1)**

3 Insert:

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

8 **13 At the end of section 23DZZID**

9 Add:

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

14 **14 Section 46A**

15 Insert:

16 *parent*: without limiting who is a parent of a child for the purposes
17 of this Part, a person is the *parent* of a child if the child is the
18 product of a relationship the person has or had as a couple with
19 another person (whether of the same sex or a different sex).

20 Note: Subsection 3(18) is relevant to working out if someone is the product
21 of the relationship for the purposes of the definition of *parent*.

22 ***National Health Act 1953***

23 **15 Subsection 4(1)**

24 Insert:

25 *de facto partner* of a person means:

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

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

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

5 Repeal the definition.

6 **17 Subsection 4(1) (definition of *spouse*)**

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

8 **18 At the end of section 4**

9 Add:

- 10 (6) Someone cannot be the product of the relationship between 2
11 persons (whether the persons are the same sex or different sexes)
12 for the purposes of this Act unless he or she is the biological child
13 of at least one of the persons or was born to a woman in the
14 relationship.

15 **19 Subsection 9BA(7)**

16 Insert:

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

- 19 (a) the child is the person’s adoptive child or stepchild; or
20 (b) the child would be the person’s stepchild except that the
21 person is not legally married to the person’s de facto partner;
22 or
23 (c) the child is the product of a relationship the person has or had
24 as a couple with another person (whether of the same sex or a
25 different sex).

26 Note: Subsection 4(6) is relevant to working out if someone is the product of
27 the relationship for the purposes of paragraph (c) of the definition of
28 *parent*.

29 **20 Subsection 84(1) (at the end of the definition of *child*)**

30 Add:

31 Note: See also subsection (3B).

32 **21 After subsection 84(3A)**

1 Insert:

2 (3B) A reference in the definition of *child* in subsection (1) to a child of
3 a member includes a reference to:

- 4 (a) an adoptive child or a stepchild of the person; and
5 (b) someone who would be the stepchild of the person except
6 that the person is not legally married to the person's de facto
7 partner; and
8 (c) someone who is the product of a relationship the member has
9 or had as a couple with another person (whether of the same
10 sex or a different sex).

11 Note: Subsection 4(6) is relevant to working out if someone is the product of
12 the relationship for the purposes of paragraph (c) of subsection (3B).

13 **22 Paragraph 84(4)(b)**

14 Omit “of the spouse”, substitute “or the spouse”.

15 **23 After paragraph 84(4)(b)**

16 Insert:

- 17 (ba) a child under the age of 16 years:
18 (i) in relation to whom the person does not have a legal
19 right to custody, care and control, otherwise than
20 because an order of a court stops the person having that
21 right; and
22 (ii) who is the product of a relationship the person has or
23 had as a couple with another person (whether of the
24 same sex or a different sex); and
25 (iii) who is in the care and control of the person or the
26 person's spouse; or
27 (bb) a child under the age of 16 years who is not the dependent
28 child of a person under paragraph (b) or (ba) and who is
29 wholly or substantially in the care and control of the person;
30 or

31 **24 At the end of subsection 84(4)**

32 Add:

33 Note: Subsection 4(6) is relevant to working out if a child is the product of
34 the relationship for the purposes of subparagraph (4)(ba)(ii).

35 **25 At the end of paragraph 84B(1)(b)**

1 Add “or the person’s spouse”.

2 **26 Subsection 84B(4) (definition of *dependent child*)**

3 Repeal the definition, substitute:

4 ***dependent child***, in relation to a person, means:

- 5 (a) a child under 16 who is in the custody, care and control of the
6 person; or
7 (b) a child under 16:
8 (i) in relation to whom the person does not have a legal
9 right to custody, care and control, otherwise than
10 because an order of a court stops the person having that
11 right; and
12 (ii) who is the product of a relationship the person has or
13 had as a couple with another person (whether of the
14 same sex or a different sex); and
15 (iii) who is in the care and control of the person; or
16 (c) a child under 16 who is not the dependent child of a person
17 under paragraph (a) or (b) and who is wholly or substantially
18 in the care and control of the person; or
19 (d) a student child who is wholly or substantially dependent on
20 the person.

21 Note: Subsection 4(6) is relevant to working out if a child is the product of
22 the relationship for the purposes of subparagraph (b)(ii) of the
23 definition of *dependent child*.

24 **27 Subsection 84B(4) (paragraph (b) of the definition of**
25 ***spouse*)**

26 Repeal the paragraph, substitute:

- 27 (b) a de facto partner of the person within the meaning of
28 paragraph (a) of the definition of *de facto partner* in
29 subsection 4(1), who is not living, on a permanent basis,
30 separately and apart from the person;
31 (c) a de facto partner of the person within the meaning of
32 paragraph (b) of the definition of *de facto partner* in
33 subsection 4(1).

34 **28 Paragraph 84B(5)(a)**

1 Omit “a person who is legally married to another person (the *person’s*
2 *partner*”, substitute “a person who is the spouse of another person (the
3 *person’s partner*) under paragraph (a) or (b) of the definition”.

4 **29 Paragraph 84B(5)(b)**

5 Omit “a person is not taken to have ceased to live with another person
6 (the *person’s partner*”, substitute “a person who is the spouse of
7 another person (the *person’s partner*) under paragraph (c) of the
8 definition is not taken to have ceased to live with the person’s partner”.

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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 the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex);
- (d) someone included in a class of persons specified for the purposes of this paragraph in the Residential Care Subsidy Principles.

For the purposes of paragraph (c), someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

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:

1 (aa) a person whose relationship with another person (whether of
2 the same sex or a different sex) is registered under a law of a
3 State or Territory prescribed for the purposes of section 22B
4 of the *Acts Interpretation Act 1901* as a kind of relationship
5 prescribed for the purposes of that section, and who is not
6 living separately and apart from the other person on a
7 permanent basis; or

8 **34 Subsection 44-11(1) (paragraph (b) of the definition of**
9 ***member of a couple*)**

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

12 **35 Subsection 44-11(1)**

13 Insert:

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

18 **36 After subparagraph 44-11(2)(a)(i)**

19 Insert:

20 (ia) is covered by subsection (2A) in relation to the young
21 person; or

22 **37 After subsection 44-11(2)**

23 Insert:

24 (2A) For the purposes of subparagraph (2)(a)(ia), an adult is covered by
25 this subsection in relation to a young person if:
26 (a) the young person is the child of the adult because of
27 paragraph (c) of the definition of *child* in this section; and
28 (b) the adult is not the biological or adoptive parent of the young
29 person; and
30 (c) there is no order of a court that stops the adult from being
31 legally responsible for the day-to-day care, welfare and
32 development of the young person.

33 **38 At the end of section 44-11**

1 Add:

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

7 **39 Subparagraph 67A-4(2)(a)(ii)**

8 Omit “a next of kin of such a care recipient, or”.

1
2 **Schedule 10—Immigration and Citizenship**

3 **Part 1—Australian Citizenship Act 2007**

4 **1 Section 3 (definition of *child*)**

5 Repeal the definition, substitute:

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

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

9 (b) someone who is the product of a relationship the person has
10 or had as a couple with another person (whether of the same
11 sex or a different sex).

12 For the purposes of paragraph (b), someone cannot be the product
13 of a relationship unless he or she is the biological child of at least
14 one of the persons in the relationship or was born to a woman in
15 the relationship.

16 **2 Section 3 (definition of *commencement day*)**

17 After “54”, insert “(as originally enacted)”.

18 **3 Section 3**

19 Insert:

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

22 **4 Section 3**

23 Insert:

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

28 **5 After subsection 6(1)**

29 Insert:

30 (1A) In paragraph (1)(a):

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

3 **6 Subsection 6(2)**

4 Omit “(1)(a), (b)”, substitute “(1)(b)”.

5 **7 Section 8**

6 Repeal the section, substitute:

7 **8 Children born as a result of artificial conception procedures**

8 (1) This section applies if:

9 (a) a child is born to a woman as a result of the carrying out of
10 an artificial conception procedure while the woman:

11 (i) was married to a man (the *husband*); or

12 (ii) had a de facto partner; and

13 (b) the procedure was carried out with the consent of the
14 husband or de facto partner.

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

16 (a) to be the child of the woman and the husband or de facto
17 partner; and

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

19 **8 Application of amendments affecting sections 3, 6 and 8**

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

25 **9 Subsection 22(9)**

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

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

30 **10 Paragraph 22(9)(a)**

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

1 **11 Subsection 22(10)**

2 Repeal the subsection, substitute:

3 (10) In subsection (9):

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

8 **12 Application of amendments of section 22**

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

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

13 (b) that:

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

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

1

2 **Part 2—Migration Act 1958**

3 **Division 1—Main amendments**

4 ***Migration Act 1958***

5 **13 Subsection 5(1)**

6 Insert:

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

8 **14 Subsection 5(1)**

9 Insert:

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

11 **15 Subsection 5(1) (paragraph (a) of the definition of *health***
12 ***criterion*)**

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

14 **16 Subsection 5(1)**

15 Insert:

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

18 **17 Subsection 5(1)**

19 Insert:

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

24 **18 Subsection 5(1)**

25 Insert:

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

1 person is his or her child because of the definition of *child* in
2 section 5CA.

3 **19 Subsection 5(1)**

4 Insert:

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

6 **20 After section 5C**

7 Insert:

8 **5CA Child of a person**

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

11 (a) an adopted child of the person;

12 (b) someone who is the product of a relationship the person has
13 or had as a couple with another person (whether of the same
14 sex or a different sex).

15 For the purposes of paragraph (b), someone cannot be the product
16 of a relationship unless he or she is the biological child of at least
17 one of the persons in the relationship or was born to a woman in
18 the relationship.

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

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

29 **5CB De facto partner**

30 *De facto partners*

31 (1) For the purposes of this Act, a person is the *de facto partner* of
32 another person (whether of the same sex or a different sex) if,

1 under subsection (2), the person is in a de facto relationship with
2 the other person.

3 *De facto relationship*

- 4 (2) For the purposes of subsection (1), a person is in a ***de facto***
5 ***relationship*** with another person if they are not in a married
6 relationship (for the purposes of section 5F) with each other but:
7 (a) they have a mutual commitment to a shared life to the
8 exclusion of all others; and
9 (b) the relationship between them is genuine and continuing; and
10 (c) they:
11 (i) live together; or
12 (ii) do not live separately and apart on a permanent basis;
13 and
14 (d) they are not related by family (see subsection (4)).
- 15 (3) The regulations may make provision in relation to the
16 determination of whether one or more of the conditions in
17 paragraphs (2)(a), (b), (c) and (d) exist. The regulations may make
18 different provision in relation to the determination for different
19 purposes whether one or more of those conditions exist.

20 *Definition*

- 21 (4) For the purposes of paragraph (2)(d), 2 persons are ***related by***
22 ***family*** if:
23 (a) one is the child (including an adopted child) of the other; or
24 (b) one is another descendant of the other (even if the
25 relationship between them is traced through an adoptive
26 parent); or
27 (c) they have a parent in common (who may be an adoptive
28 parent of either or both of them).
29 For this purpose, disregard whether an adoption is declared void or
30 has ceased to have effect.

31 **21 After section 5E**

32 Insert:

1 **5F Spouse**

- 2 (1) For the purposes of this Act, a person is the *spouse* of another
3 person if, under subsection (2), the 2 persons are in a married
4 relationship.
- 5 (2) For the purposes of subsection (1), persons are in a *married*
6 *relationship* if:
- 7 (a) they are married to each other under a marriage that is valid
8 for the purposes of this Act; and
- 9 (b) they have a mutual commitment to a shared life as husband
10 and wife to the exclusion of all others; and
- 11 (c) the relationship between them is genuine and continuing; and
- 12 (d) they:
- 13 (i) live together; or
- 14 (ii) do not live separately and apart on a permanent basis.
- 15 (3) The regulations may make provision in relation to the
16 determination of whether one or more of the conditions in
17 paragraphs (2)(a), (b), (c) and (d) exist. The regulations may make
18 different provision in relation to the determination for different
19 purposes whether one or more of those conditions exist.
- 20 Note: Section 12 also affects the determination of whether the condition in
21 paragraph (2)(a) of this section exists.

22 **5G Relationships and family members**

- 23 (1) For the purposes of this Act, if one person is the child of another
24 person because of the definition of *child* in section 5CA,
25 relationships traced to or through that person are to be determined
26 on the basis that the person is the child of the other person.
- 27 (2) For the purposes of this Act, the members of a person's family and
28 relatives of a person are taken to include the following:
- 29 (a) a de facto partner of the person;
- 30 (b) someone who is the child of the person, or of whom the
31 person is the child, because of the definition of *child* in
32 section 5CA;
- 33 (c) anyone else who would be a member of the person's family
34 or a relative of the person if someone mentioned in
35 paragraph (a) or (b) is taken to be a member of the person's
36 family or a relative of the person.
-

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

3 **22 Paragraph 36(2)(b)**

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

6 **23 Subsection 48A(2) (paragraph (ab) of the definition of**
7 **application for a protection visa)**

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

10 **24 Application of amendments of sections 36 and 48A**

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

- 13 (a) applications for visas made on or after the commencement of
14 this Part; and
15 (b) applications for visas made before that commencement and
16 not decided before that commencement.

17 **25 Subsection 83(1)**

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

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

20 **26 At the end of subsection 83(1)**

21 Add:

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

28 **27 At the end of subsection 83(2)**

29 Add:

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

34 **28 Application of amendments affecting section 83**

1 *Amendments of subsection 83(1)*

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

5 *Other amendments affecting subsection 83(1)*

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

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

12 *Amendments affecting subsection 83(2)*

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

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

19 **29 Subsection 84(3)**

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

21 **30 Paragraph 84(5)(a)**

22 Repeal the paragraph, substitute:

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

24 **31 Subsection 87(1)**

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

26 **32 Paragraph 87(2)(a)**

27 Repeal the paragraph, substitute:

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

29 **33 Application of amendments affecting sections 84 and 87**

- 1 (1) The definition of *child* in subsection 5(1) of the *Migration Act 1958* (as
2 amended by this Part) applies for the purposes of the operation of
3 sections 84 and 87 of that Act in relation to:
4 (a) applications for visas that are made on or after the
5 commencement of this Part; and
6 (b) applications for visas that were made before the
7 commencement of this Part and were not finally determined
8 before that commencement.
- 9 (2) Subitem (1) does not limit the operation of that definition in relation to
10 other provisions of that Act.
- 11 (3) The amendments of sections 84 and 87 of the *Migration Act 1958* made
12 by this Part apply in relation to:
13 (a) applications for visas that are made on or after the
14 commencement of this Part; and
15 (b) applications for visas that were made before the
16 commencement of this Part and were not finally determined
17 before that commencement.

18 **34 At the end of section 91S**

19 Add:

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

22 **35 Subsection 134(10) (definition of *member of the family***
23 ***unit*)**

24 Repeal the definition.

25 **36 Subsection 137T(3)**

26 Repeal the subsection.

27 **37 Subsection 140(1)**

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

29 **38 At the end of subsection 192(7)**

30 Add:

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

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

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

3 **40 Paragraphs 211(1)(a) and (2)(a)**

4 Omit “the spouses of each other within the meaning of the regulations”,
5 substitute “spouses or de facto partners of each other”.

6 Note: The heading to section 211 is altered by inserting “, **de facto partners**” after “**spouses**”.

7 **41 Subparagraph 211(3)(b)(i)**

8 Omit “spouse within the meaning of the regulations”, substitute “spouse
9 or de facto partner”.

10 **42 Subparagraph 211(3)(b)(ii)**

11 Omit “such a spouse”, substitute “a spouse, or a de facto partner,”.

12 **43 Application of amendments of section 211**

13 The amendments of section 211 of the *Migration Act 1958* made by this
14 Part apply in relation to detention starting on or after the
15 commencement of this Part.

16 **44 Paragraphs 212(1)(a) and (2)(a)**

17 Omit “the spouses of each other within the meaning of the regulations”,
18 substitute “spouses or de facto partners of each other”.

19 Note: The heading to section 212 is altered by inserting “, **de facto partners**” after “**spouses**”.

20 **45 Subparagraph 212(3)(b)(i)**

21 Omit “spouse within the meaning of the regulations”, substitute “spouse
22 or de facto partner”.

23 **46 Subparagraph 212(3)(b)(ii)**

24 Omit “such a spouse”, substitute “a spouse, or a de facto partner,”.

25 **47 Application of amendments of section 212**

26 The amendments of section 212 of the *Migration Act 1958* made by this
27 Part apply in relation to removal and deportation on or after the
28 commencement of this Part.

29 **48 Paragraph 237(a)**

1 Omit “married to, or is the de facto spouse of, and has a genuine and
2 continuing marital relationship”, substitute “the spouse or de facto
3 partner of, and has a genuine and continuing relationship, involving a
4 shared life to the exclusion of all others”.

5 **49 Paragraph 237(b)**

6 Repeal the paragraph.

7 **50 Subparagraphs 237(c)(i), (ii) and (iii)**

8 Repeal the subparagraphs, substitute:

- 9 (i) entering into a married relationship that is not intended
10 to be a genuine and continuing relationship involving a
11 shared life to the exclusion of all others; or
12 (ii) pretending to be a de facto partner of another person.

13 **51 Section 238 (definition of *interdependency relationship*)**

14 Repeal the definition.

15 **52 Subsection 241(1)**

16 Omit “de facto spouses of each other for the purposes of the
17 regulations”, substitute “de facto partners of each other”.

18 **53 Subsection 241(1)**

19 Omit “such spouses” (wherever occurring), substitute “such de facto
20 partners”.

21 **54 Section 242**

22 Repeal the section.

23 **55 Subsection 243(1)**

24 Omit “married to, or being, for the purposes of the regulations, the
25 de facto spouse of,”, substitute “the spouse or de facto partner of”.

26 **56 Subsection 243(1)**

27 Omit “genuine and continuing marital relationship”, substitute “married
28 relationship (within the meaning of subsection 5F(2)) or de facto
29 relationship (within the meaning of subsection 5CB(2)), as appropriate”.

30 **57 Subsection 243(3)**

1 Omit “married to, or being, for the purposes of the regulations, the
2 de facto spouse of”, substitute “the spouse or de facto partner of”.

3 **58 Subsection 243(3)**

4 Omit “genuine and continuing marital relationship”, substitute “married
5 relationship (within the meaning of subsection 5F(2)) or de facto
6 relationship (within the meaning of subsection 5CB(2)), as appropriate”.

7 **59 Section 244**

8 Repeal the section.

9 **60 Paragraph 245(1)(a)**

10 Omit “have a genuine and continuing marital relationship between
11 them”, substitute “are in a married relationship (within the meaning of
12 subsection 5F(2))”.

13 **61 Paragraphs 245(1)(b) and (c)**

14 Repeal the paragraphs, substitute:

15 (b) whether or not other persons are in a de facto relationship
16 (within the meaning of subsection 5CB(2)) with one another;

17 **62 Paragraph 245(3)(a)**

18 Omit “have a genuine and continuing marital relationship between
19 them”, substitute “are in a married relationship (within the meaning of
20 subsection 5F(2))”.

21 **63 Paragraphs 245(3)(b) and (c)**

22 Repeal the paragraphs, substitute:

23 (b) whether or not other persons are in a de facto relationship
24 (within the meaning of subsection 5CB(2)) with one another;

25 **64 Application of amendments of Subdivision B of
26 Division 12 of Part 2**

27 The amendments of Subdivision B of Division 12 of Part 2 of the
28 *Migration Act 1958* made by this Part apply in relation to visas applied
29 for on or after the commencement of this Part.

30 **65 Paragraph 338(6)(c)**

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

1 **66 At the end of subsection 338(6)**

2 Add:

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

5 **67 Paragraph 338(7)(b)**

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

7 **68 At the end of subsection 338(7)**

8 Add:

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

11 **69 Application of amendments of section 338**

12 The amendments of section 338 of the *Migration Act 1958* made by this
13 Part apply to decisions made on or after the commencement of this Part.

14 **70 At the end of subsection 347(2)**

15 Add:

16 Note: Section 5G may be relevant for determining family relationships for
17 the purposes of paragraph (2)(c).

18 **71 At the end of subsection 431(2)**

19 Add:

20 Note: Section 5G may be relevant for determining relationships for the
21 purposes of this subsection.

22 **72 Subsection 492(2)**

23 Omit “, 243 or 244”, substitute “or 243”.

24 **73 At the end of subsection 501K(2)**

25 Add:

26 Note: Section 5G may be relevant for determining relationships for the
27 purposes of this subsection.

28 **74 Subsection 507(1)**

29 Omit “married or being the de facto spouse”, substitute “the spouse or
30 de facto partner”.

1 **75 Paragraph 507(1)(a)**

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

3 **Division 2—Consequential amendment**

4 ***Australian Citizenship Act 2007***

5 **76 Subparagraph 34(6)(a)(i)**

6 Omit “, 243 or 244”, substitute “or 243, or former section 244 (as in
7 force before its repeal by the *Same-Sex Relationships (Equal Treatment*
8 *in Commonwealth Laws—General Law Reform) Act 2008*),”.

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2 **Part 3—Immigration (Education) Act 1971**

3 **77 Section 3**

4 Insert:

5 *child* of a person has the same meaning as in the Migration Act.

6 **78 Section 3**

7 Insert:

8 *parent* of a person has the same meaning as in the Migration Act.

1

2 **Part 4—Immigration (Guardianship of Children) Act**
3 **1946**

4 **79 Section 4**

5 Insert:

6 *parent*: without limiting who is a parent of anyone for the purposes
7 of this Act, a person is the *parent* of another person if the other
8 person is the product of a relationship the person has or had as a
9 couple with a third person (whether of the same sex or a different
10 sex). For this purpose, the other person cannot be the product of the
11 relationship unless he or she is the biological child of at least one
12 of the person and the third person or was born to a woman in the
13 relationship.

14 **80 Section 4**

15 Insert:

16 *relative* of a person includes:

- 17 (a) a parent of the person; and
18 (b) anyone who is a step-parent of the person or would be except
19 that he or she is not legally married to his or her de facto
20 partner (within the meaning of the *Acts Interpretation Act*
21 *1901*); and
22 (c) anyone else who would be a relative of the person if someone
23 mentioned in paragraph (a) or (b) were a relative of the
24 person.

25 **81 Section 6**

26 Omit “father and mother”, substitute “parents”.

27 **82 Application**

28 The amendments made by this Part apply in relation to persons under 18
29 who enter Australia on or after commencement.

1
2 **Schedule 11—Infrastructure, Transport,**
3 **Regional Development and Local**
4 **Government**

5 **Part 1—Carriers' liability amendments (general)**

6 *Civil Aviation (Carriers' Liability) Act 1959*

7 **1 Paragraph 5(2)(a)**

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

9 **2 Paragraph 5(3)(c)**

10 Repeal the paragraph, substitute:

11 (c) relationships of child and parent that arise because of the
12 definitions of *child* and *parent* in this section; and

13 (d) relationships traced through relationships referred to in
14 paragraphs (a), (b) and (c).

1
2 **Part 2—Carriers' liability amendments if Montreal**
3 **Convention amendments commence earlier**

4 *Civil Aviation (Carriers' Liability) Act 1959*

5 **3 Subsection 5(1)**

6 Insert:

7 *child*: without limiting who is a child of a person for the purposes
8 of this Act, someone is the *child* of a person if he or she is the
9 product of a relationship the person has or had as a couple with
10 another person (whether of the same sex or a different sex). For
11 this purpose, someone cannot be the product of a relationship
12 unless he or she is the biological child of at least one of the persons
13 in the relationship or was born to a woman in the relationship.

14 **4 Subsection 5(1)**

15 Insert:

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

18 **5 Subsection 5(1)**

19 Insert:

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

24 **6 Subsection 5(1)**

25 Insert:

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

1 **7 Subsection 5(1)**

2 Insert:

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

1
2 **Part 3—Carriers' liability amendments if Montreal**
3 **Convention amendments commence later**

4 *Civil Aviation (Carriers' Liability) Act 1959*

5 **8 Section 5**

6 Insert:

7 *child*: without limiting who is a child of a person for the purposes
8 of this Act, someone is the *child* of a person if he or she is the
9 product of a relationship the person has or had as a couple with
10 another person (whether of the same sex or a different sex). For
11 this purpose, someone cannot be the product of a relationship
12 unless he or she is the biological child of at least one of the persons
13 in the relationship or was born to a woman in the relationship.

14 **9 Section 5**

15 Insert:

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

18 **10 Section 5**

19 Insert:

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

24 **11 Section 5**

25 Insert:

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

1 **12 Section 5**

2 Insert:

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

8 **13 Subsection 12(5)**

9 Repeal the subsection, substitute:

- 10 (5) A reference in subsection (3) to the members of the passenger's
11 family is taken to be a reference to the wife or husband, de facto
12 partner, parents, step-parents, grandparents, brothers, sisters,
13 half-brothers, half-sisters, children, step-children and grandchildren
14 of the passenger. For this purpose, relationships are taken to
15 include:
- 16 (a) ex-nuptial relationships;
 - 17 (b) relationships by adoption;
 - 18 (c) relationships of child and parent that arise because of the
19 definitions of *child* and *parent* in section 5;
 - 20 (d) relationships traced through relationships referred to in
21 paragraphs (a), (b) and (c).

22 **14 Subsection 35(5)**

23 Repeal the subsection, substitute:

- 24 (5) A reference in subsection (3) to the members of the passenger's
25 family is taken to be a reference to the wife or husband, de facto
26 partner, parents, step-parents, grandparents, brothers, sisters,
27 half-brothers, half-sisters, children, step-children and grandchildren
28 of the passenger. For this purpose, relationships are taken to
29 include:
- 30 (a) ex-nuptial relationships;
 - 31 (b) relationships by adoption;
 - 32 (c) relationships of child and parent that arise because of the
33 definitions of *child* and *parent* in section 5;
 - 34 (d) relationships traced through relationships referred to in
35 paragraphs (a), (b) and (c).

1

2 **Part 4—Other amendments**

3 *Airports Act 1996*

4 **15 Clause 2 of the Schedule**

5 Before “In Part 3”, insert “(1)”.

6 **16 Clause 2 of the Schedule**

7 Insert:

8 *child*: without limiting who is a child of a person for the purposes
9 of Part 3 and this Schedule, someone is the *child* of a person if he
10 or she is the product of a relationship the person has or had as a
11 couple with another person (whether of the same sex or a different
12 sex). For this purpose, someone cannot be the product of a
13 relationship unless he or she is the biological child of at least one
14 of the persons in the relationship or was born to a woman in the
15 relationship.

16 **17 Clause 2 of the Schedule**

17 Insert:

18 *parent*: without limiting who is a parent of a person for the
19 purposes of Part 3 and this Schedule, someone is the *parent* of a
20 person if the person is his or her child because of the definition of
21 *child* in this clause.

22 **18 Clause 2 of the Schedule (paragraph (b) of the definition
23 of relative)**

24 Repeal the paragraph, substitute:

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

27 **19 Clause 2 of the Schedule (paragraph (d) of the definition
28 of relative)**

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

1 **20 Clause 2 of the Schedule (at the end of the definition of**
2 ***relative*)**

3 Add:

4 Note: See also subclause (2).

5 **21 At the end of clause 2 of the Schedule**

6 Add:

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

12 **22 Transitional provision**

13 ***Unacceptable foreign-ownership situation***

- 14 (1) For the purposes of sections 42 and 43 of the *Airports Act 1996*, if:
15 (a) apart from this subitem, an unacceptable foreign-ownership
16 situation would exist in relation to an airport-operator
17 company on the day on which the amendments of that Act
18 made by this Schedule commence; and
19 (b) the situation would exist only because of the amendments;
20 the situation is, during the period of 6 months starting on the day on
21 which the amendments commence, taken not to exist for so long as it
22 would otherwise have existed.

23 ***Unacceptable airline-ownership situation***

- 24 (2) For the purposes of sections 46 and 47 of the *Airports Act 1996*, if:
25 (a) apart from this subitem, an unacceptable airline-ownership
26 situation would exist in relation to an airport-operator
27 company on the day on which the amendments of that Act
28 made by this Schedule commence; and
29 (b) the situation would exist only because of the amendments;
30 the situation is, during the period of 6 months starting on the day on
31 which the amendments commence, taken not to exist for so long as it
32 would otherwise have existed.

1 *Unacceptable cross-ownership situation*

- 2 (3) For the purposes of sections 52 and 53 of the *Airports Act 1996*, if:
3 (a) apart from this subitem, an unacceptable cross-ownership
4 situation would exist in relation to a pair of airport-operator
5 companies on the day on which the amendments of that Act
6 made by this Schedule commence; and
7 (b) the situation would exist only because of the amendments;
8 the situation is, during the period of 6 months starting on the day on
9 which the amendments commence, taken not to exist for so long as it
10 would otherwise have existed.

11 *Practical control of an airport-operator company*

- 12 (4) If:
13 (a) the Minister administering the *Airports Act 1996* is satisfied,
14 for the purposes of subparagraph 55(1)(a)(ii) of that Act, that
15 a person was in a position to exercise control over an
16 airport-operator company on the day on which the
17 amendments of that Act made by this Schedule commenced;
18 and
19 (b) the person was in that position on that day only because of
20 the amendments;
21 the Minister must not make a declaration under section 55 of that Act in
22 relation to that person and that company during the period of 6 months
23 starting on the day on which the amendments commence.

24 *Record-keeping*

- 25 (5) If:
26 (a) on the day on which the amendments of the *Airports Act*
27 *1996* made by this Schedule commence, a person would,
28 apart from this subitem, be required by regulations made for
29 the purposes of section 60 of that Act to do something in
30 relation to an ownership matter; and
31 (b) the person would not have been required to do that thing if
32 the amendments had not been made;
33 the person is, during the period of 6 months starting on the day on
34 which the amendments commence, taken not to be required to do that
35 thing for so long as the person would otherwise have been required to
36 do that thing.
-

1 ***Navigation Act 1912***

2 **23 Subsection 6(1)**

3 Insert:

4 ***child***: without limiting who is a child of a person for the purposes
5 of this Act, someone is the ***child*** of a person if he or she is the
6 product of a relationship the person has or had as a couple with
7 another person (whether of the same sex or a different sex). For
8 this purpose, someone cannot be the product of a relationship
9 unless he or she is the biological child of at least one of the persons
10 in the relationship or was born to a woman in the relationship.

11 **24 Subsection 6(1)**

12 Insert:

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

15 **25 Subsection 6(1)**

16 Insert:

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

21 **26 Subsection 6(1)**

22 Insert:

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

28 **27 At the end of section 6**

29 Add:

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

- 1 (a) a de facto partner of the person;
2 (b) someone who is the child of the person, or of whom the
3 person is the child, because of the definition of *child* in this
4 section;
5 (c) anyone else who would be a member of the person’s family
6 because someone mentioned in paragraph (a) or (b) is taken
7 to be a member of the person’s family.

8 **28 At the end of subsection 7(1)**

9 Add:

10 Note: In relation to subparagraph (1)(d)(i), see also subsection 6(8).

11 **29 Subparagraph 70(1)(a)(i)**

12 After “husband,”, insert “de facto partner.”.

13 **30 At the end of section 70**

14 Add:

15 (5) For the purposes of subparagraph (1)(a)(i), if one person is the
16 child of another person because of the definition of *child* in this
17 Act, relationships traced to or through the person are to be
18 determined on the basis that the person is the child of the other
19 person.

20 **31 At the end of subsection 127(1)**

21 Add:

22 Note: In relation to paragraph (1)(f), see also subsection 6(8).

23 **32 Subparagraph 156(1)(b)(i)**

24 Omit “be the widow, the widower or”, substitute “to have been the
25 deceased’s spouse or de facto partner immediately before the
26 deceased’s death, to be”.

27 **33 Application of amendment of section 156**

28 The amendment of section 156 of the *Navigation Act 1912* made by this
29 Schedule applies in relation to a seaman who dies on or after the
30 commencement of the amendment.

31 **34 Paragraph 157(1)(b)**

1 Omit “related to the testator by blood or marriage”, substitute “a relative
2 of the testator”.

3 **35 At the end of section 157**

4 Add:

5 (3) The reference in paragraph (1)(b) to a relative of the testator
6 includes a reference to the following (without limitation):

7 (a) a de facto partner of the testator;

8 (b) someone who is the child of the testator, or of whom the
9 testator is the child, because of the definition of *child* in
10 section 6;

11 (c) anyone else who would be a relative of the testator because
12 someone mentioned in paragraph (a) or (b) is taken to be a
13 relative of the testator.

14 **36 Application of amendments of section 157**

15 The amendments of section 157 of the *Navigation Act 1912* made by
16 this Schedule apply in relation to wills made on or after the
17 commencement of the amendments.

18 **37 Subsection 158(6)**

19 Omit “as widow, widower,” substitute “who was the deceased’s spouse
20 or de facto partner immediately before the deceased’s death, or who is
21 the deceased’s”.

22 **38 Subsection 158(7)**

23 Omit “, as widow, widower,” substitute “who was the deceased’s
24 spouse or de facto partner immediately before the deceased’s death, or
25 who is the deceased’s”.

26 **39 At the end of section 158**

27 Add:

28 (8) In determining for the purposes of subsections (6) and (7) whether
29 a person is next-of-kin of another person, the following persons are
30 also to be taken into account:

31 (a) someone who is the child of the person, or of whom the
32 person is the child, because of the definition of *child* in this
33 Act;

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

3 **40 Application of amendments of section 158**

4 The amendments of section 158 of the *Navigation Act 1912* made by
5 this Schedule apply in relation to a seaman who dies on or after the
6 commencement of the amendments.

7 **41 Subsection 161(1)**

8 After “husband,” insert “de facto partner.”

1
2 **Schedule 12—Innovation, Industry, Science**
3 **and Research**
4

5 *Pooled Development Funds Act 1992*

6 **1 Subsection 4(1) (definition of *de facto spouse*)**

7 Repeal the definition.

8 **2 Subsection 31(2) (paragraph (a) of the definition of**
9 ***associate*)**

10 Omit “(including a person who is such a relation by adoption)”.

11 **3 Subsection 31(2) (paragraph (b) of the definition of**
12 ***associate*)**

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

14 **4 Subsection 31(2)**

15 Insert:

16 *child*: without limiting who is a child of a person for the purposes
17 of this section, someone is the *child* of a person if he or she is the
18 product of a relationship the person has or had as a couple with
19 another person (whether of the same sex or a different sex). For
20 this purpose, someone cannot be the product of a relationship
21 unless he or she is the biological child of at least one of the persons
22 in the relationship or was born to a woman in the relationship.

23 **5 Subsection 31(2)**

24 Insert:

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

27 **6 Subsection 31(2)**

28 Insert:

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

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

3 **7 After subsection 31(2A)**

4 Insert:

5 (2AA) For the purposes of paragraph (a) of the definition of *associate* in
6 subsection (2), if one person is the child of another person because
7 of adoption or because of the definition of *child* in this section,
8 relationships traced to or through the person are to be determined
9 on the basis that the person is the child of the other person.

10 **8 Transitional**

- 11 (1) This item applies if:
- 12 (a) on the commencement of the amendments made by this
13 Schedule, a person holds shares in a PDF (the *initial shares*);
14 and
15 (b) the person would, but for this item, contravene section 31 of
16 the *Pooled Development Funds Act 1992* only because of one
17 or more of those amendments.
- 18 (2) Subject to subitem (4), disregard the person's continued holding of the
19 initial shares in the PDF on and after that commencement when
20 applying that section as then in force to the person and the person's
21 associates.
- 22 (3) If, after that commencement, any bonus shares in the PDF are issued to
23 the person because the person is the holder of the initial shares, then,
24 subject to subitem (4), disregard the person's holding of those bonus
25 shares when applying that section as then in force to the person and the
26 person's associates.
- 27 (4) If, after that commencement, the person, or any of the person's
28 associates, acquires additional shares (other than bonus shares) in the
29 PDF, the initial shares and the bonus shares are to be taken into account
30 in determining whether the acquisition of those additional shares
31 complies with that section as then in force.

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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 the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex). For this purpose, someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

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:

- 1 (a) an adopted child, stepchild, exnuptial child or foster child of
2 the individual; and
3 (b) someone who is the product of a relationship the individual
4 has or had as a couple with another individual (whether of the
5 same sex or a different sex).
6 For the purposes of paragraph (b), someone cannot be the product
7 of a relationship unless he or she is the biological child of at least
8 one of the individuals in the relationship or was born to a woman
9 in the relationship.

10 **4 Subclause 2.6 of Schedule 3**

11 Insert:

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

14 **5 Subclause 2.6 of Schedule 3 (definition of *parent*)**

15 Repeal the definition, substitute:

16 *parent*: without limiting who is a parent of an individual for the
17 purposes of this clause, someone is the *parent* of an individual if
18 the individual is his or her child because of the definition of *child*
19 in this subclause.

20 **6 Subclause 2.6 of Schedule 3**

21 Insert:

22 *stepchild*: without limiting who is a stepchild of an individual for
23 the purposes of this clause, someone is the *stepchild* of an
24 individual if he or she would be the individual's stepchild except
25 that the individual is not legally married to the individual's *de facto*
26 partner.

27 **7 At the end of clause 2 of Schedule 3**

28 Add:

- 29 2.7 For the purposes of the definition of *relative* in subclause 2.6,
30 relationships to an individual may also be traced to or through
31 another individual who is:
32 (a) a *de facto* partner of the first individual; or

1 (b) the child of the first individual because of the definition of
2 ***child*** in that subclause.

3 2.8 For the purposes of the definition of ***sibling*** in subclause 2.6, an
4 individual is also a sibling of another individual if a relationship
5 referred to in that definition can be traced through a parent of either
6 or both of them.

1
2 **Schedule 14—Treasury**

3 **Part 1—Amendment of tax laws**

4 ***A New Tax System (Medicare Levy Surcharge—Fringe***
5 ***Benefits) Act 1999***

6 **1 Subsection 7(1)**

7 Repeal the subsection, substitute:

8 *De facto couples treated as if married*

9 (1) This Act applies to 2 persons (whether of the same sex or different
10 sexes) as if they were married to each other for a period if:

11 (a) their relationship is registered for the period under a law of a
12 State or Territory prescribed for the purposes of section 22B
13 of the *Acts Interpretation Act 1901* as a kind of relationship
14 prescribed for the purposes of that section; or

15 (b) they lived together in a relationship as a couple on a genuine
16 domestic basis for the period, although not legally married to
17 each other.

18 (1A) If, during the period, either or both of the persons was legally
19 married to another person, or in a relationship mentioned in
20 paragraph (1)(a) with another person, this Act applies as if the
21 person or persons were not legally married to, or in a relationship
22 mentioned in paragraph (1)(a) with, the other person.

23 **2 Application of amendment of the *A New Tax System***
24 ***(Medicare Levy Surcharge—Fringe Benefits) Act 1999***

25 The amendment of the *A New Tax System (Medicare Levy Surcharge—*
26 *Fringe Benefits) Act 1999* made by this Schedule applies to the
27 2009-2010 year of income and later years of income.

28 ***Fringe Benefits Tax Assessment Act 1986***

29 **3 At the end of section 58V**

30 Add:

1 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
2 relevant to determining who a person's relatives are for the purposes
3 of paragraphs (b) and (c).

4 **4 Subsection 136(1) (at the end of paragraph (h) of the**
5 **definition of *fringe benefit*)**

6 Add:

7 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
8 relevant to determining who a person's relatives are for the
9 purposes of paragraph (h).

10 **5 Subsection 136(1)**

11 Insert:

12 *parent* has the meaning given by subsection 995-1(1) of the
13 *Income Tax Assessment Act 1997*.

14 **6 Application of amendments of the *Fringe Benefits Tax***
15 ***Assessment Act 1986***

16 The amendments of the *Fringe Benefits Tax Assessment Act 1986* made
17 by this Schedule apply in relation to the FBT year starting on 1 April
18 2009 and later FBT years.

19 ***Income Tax Assessment Act 1936***

20 **7 Subsection 6(1)**

21 Insert:

22 *parent* has the meaning given by subsection 995-1(1) of the
23 *Income Tax Assessment Act 1997*.

24 **8 At the end of subsection 24D(7)**

25 Add:

26 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
27 relevant to determining family relationships for the purposes of
28 subsection (7).

29 **9 At the end of subsection 24F(4)**

30 Add:

1 Territory prescribed for the purposes of section 22B of the
2 *Acts Interpretation Act 1901* as a kind of relationship
3 prescribed for the purposes of that section; or
4 (b) a relationship between 2 persons (whether of the same sex or
5 different sexes) who, although not legally married to each
6 other, live with each other on a genuine domestic basis in a
7 relationship as a couple.

8 **17 Subparagraph 102AAH(1)(a)(i)**

9 After “post-marital”, insert “or post-relationship”.

10 **18 Subsection 102AAH(2)**

11 After “post-marital”, insert “or post-relationship”.

12 **19 Subparagraph 102AAH(2)(a)(ii)**

13 Omit “*de facto* marriage”, substitute “de facto relationship”.

14 **20 At the end of subsection 102AAH(3)**

15 Add:

16 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
17 relevant to determining relationships for the purposes of
18 subparagraph (3)(a)(iii).

19 **21 Paragraph 102AGA(2)(a)**

20 Omit “on a genuine domestic basis (whether or not legally married to
21 that person)”.

22 **22 Subparagraph 102AGA(2)(b)(i)**

23 Omit “natural”.

24 **23 Subparagraphs 102AGA(2)(b)(ii) and (iii)**

25 Repeal the subparagraphs.

26 **24 Paragraph 102AGA(2)(c)**

27 Omit “on a genuine domestic basis”.

28 **25 Paragraph 102AGA(3)(a)**

29 Omit “natural”.

1 **26 Paragraph 102AGA(3)(a)**

2 Omit “on a genuine domestic basis (whether or not legally married)”.

3 **27 Paragraph 102AGA(3)(b)**

4 Omit “natural”.

5 **28 Paragraph 102AGA(3)(c)**

6 Omit “natural” (wherever occurring).

7 **29 Section 109ZD (definition of *family law obligation*)**

8 Omit “(c),”.

9 **30 Subsection 124PA(1) (table item 3)**

10 After “Marriage”, insert “or relationship”.

11 **31 Subsection 159J(6) (at the end of the definition of *invalid***
12 ***relative*)**

13 Add:

14 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
15 relevant to determining relationships for the purposes of the definition
16 of *invalid relative*.

17 **32 At the end of section 177D**

18 Add:

19 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
20 relevant to determining family relationships for the purposes of
21 subparagraphs (b)(vi) and (viii).

22 **33 Subsection 251R(2)**

23 Repeal the subsection, substitute:

24 (2) If, during any period, 2 persons (whether of the same sex or
25 different sexes):

26 (a) had a relationship that was registered under a law of a State
27 or Territory prescribed for the purposes of section 22B of the
28 *Acts Interpretation Act 1901* as a kind of relationship
29 prescribed for the purposes of that section; or

30 (b) lived together in a relationship as a couple on a genuine
31 domestic basis, although not legally married to each other;

1 this Part and any Act imposing levy has effect in relation to the
2 period as if the persons were married to each other.

3 (2A) If, during the period, either or both of the persons was legally
4 married to another person, or in a relationship mentioned in
5 paragraph (2)(a) with another person, this Part and any Act
6 imposing levy has effect as if the person or persons were not
7 legally married to, or in a relationship mentioned in
8 paragraph (2)(a) with, the other person or persons.

9 **34 At the end of subsection 251U(1)**

10 Add:

11 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
12 relevant to determining family relationships for the purposes of
13 subparagraph (1)(e)(iii).

14 **35 Subsection 317(1) (definition of *de facto marriage*)**

15 Repeal the definition.

16 **36 Subsection 317(1)**

17 Insert:

18 *de facto relationship* means:

- 19 (a) a relationship between 2 persons (whether of the same sex or
20 different sexes) that is registered under a law of a State or
21 Territory prescribed for the purposes of section 22B of the
22 *Acts Interpretation Act 1901* as a kind of relationship
23 prescribed for the purposes of that section; or
24 (b) a relationship between 2 persons (whether of the same sex or
25 different sexes) who, although not legally married to each
26 other, live with each other on a genuine domestic basis in a
27 relationship as a couple.

28 **37 Subsection 318(7)**

29 Repeal the subsection, substitute:

30 (7) In this section and any other provision of this Act that has effect
31 for the purposes of this section, a reference to the spouse of a
32 person does not include:

- 33 (a) a spouse who is legally married to the person but living
34 separately and apart from the person on a permanent basis; or

1 (b) a spouse within the meaning of paragraph (a) of the
2 definition of *spouse* in subsection 995-1(1) of the *Income Tax*
3 *Assessment Act 1997* who is living separately and apart from
4 the person on a permanent basis.

5 **38 Subparagraph 328(1)(a)(i)**

6 After “post-marital”, insert “or post-relationship”.

7 **39 Subsection 328(2)**

8 After “post-marital”, insert “or post-relationship”.

9 **40 Subparagraph 328(2)(a)(ii)**

10 Omit “*de facto* marriage”, substitute “de facto relationship”.

11 **41 At the end of subsection 328(3)**

12 Add:

13 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
14 relevant to determining relationships for the purposes of
15 subparagraph (3)(a)(iii).

16 **42 After subparagraph 491(2)(a)(i)**

17 Insert:

18 (ia) a spouse of the person, other than a spouse within the
19 meaning of paragraph (a) of the definition of *spouse* in
20 subsection 995-1(1) of the *Income Tax Assessment Act*
21 *1997* who is living separately and apart from the person
22 and has been so living for at least 12 months; or

23 **43 At the end of subsection 491(2)**

24 Add:

25 Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be
26 relevant to determining relationships for the purposes of
27 subparagraph (2)(a)(iii).

28 **44 Subparagraph 491(2)(b)(i)**

29 Repeal the subparagraph, substitute:

30 (i) a child of the person (other than a child excluded under
31 subsection (3)); or

32 **45 At the end of section 491**

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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

1 **53 Paragraph 272-90(2A)(c) in Schedule 2F**

2 Omit “step-child”, substitute “child of the spouse”.

3 **54 Paragraph 272-90(2A)(c) in Schedule 2F**

4 After “marriage”, insert “or relationship”.

5 **55 Subsection 272-95(1) in Schedule 2F (note)**

6 Repeal the note, substitute:

7 Note 1: *Child, parent* and *spouse* are defined in subsection 6(1).

8 Note 2: Section 960-255 may be relevant to determining relationships for the
9 purposes of paragraph (1)(a).

10 **56 Subsection 272-140(1) in Schedule 2F (definition of**
11 ***breakdown in the marriage*)**

12 Repeal the definition.

13 **57 Subsection 272-140(1) in Schedule 2F**

14 Insert:

15 *breakdown in the marriage or relationship* of an individual: this
16 occurs if the individual is living with another individual on a
17 genuine domestic basis in a relationship as a couple (whether the
18 individuals are the same sex or different sexes and whether legally
19 married or not) and ceases to do so.

20 **58 Application of amendments of the *Income Tax***
21 ***Assessment Act 1936***

22 The amendments of the *Income Tax Assessment Act 1936* made by this
23 Schedule apply in relation to the 2009-2010 year of income and later
24 years of income.

25 ***Income Tax Assessment Act 1997***

26 **59 Subsection 40-340(1) (table item 3)**

27 After “Marriage”, insert “or relationship”.

28 **60 Paragraph 52-105(1)(a)**

29 Omit “parent”, substitute “*parent”.

1 **61 At the end of subsection 70-100(10)**

2 Add:

3 Note: Section 960-255 may be relevant to determining family relationships
4 for the purposes of paragraph (10)(a).

5 **62 Subsection 100-10(3)**

6 After “marriage”, insert “or relationship”.

7 **63 Subsection 100-33(1)**

8 After “marriage”, insert “or relationship”.

9 **64 Section 112-150 (table items 1, 2 and 7)**

10 After “marriage”, insert “or relationship”.

11 **65 Section 118-75 (heading)**

12 Repeal the heading, substitute:

13 **118-75 Marriage or relationship breakdown settlements**

14 **66 Paragraph 118-75(1)(a)**

15 Omit “marriage or de facto marriage”, substitute “relationship between
16 *spouses”.

17 **67 Subparagraph 118-75(1)(b)(i)**

18 Omit “*spouse”, substitute “spouse”.

19 **68 Paragraph 118-178(1)(c)**

20 After “marriage”, insert “or relationship”.

21 **69 Section 118-180 (heading)**

22 Repeal the heading, substitute:

23 **118-180 Acquisition of dwelling from company or trust on marriage**
24 **or relationship breakdown—roll-over provision applying**

25 **70 Subdivision 126-A (heading)**

26 Repeal the heading, substitute:

1 **Subdivision 126-A—Marriage or relationship breakdowns**

2 **71 Paragraph 126-5(1)(a)**

3 Repeal the paragraph, substitute:

- 4 (a) a court order under the *Family Law Act 1975* or under a
5 *State law, *Territory law or *foreign law relating to
6 breakdowns of relationships between spouses; or

7 **72 Paragraph 126-5(1)(b)**

8 Omit “of that Act”, substitute “of the *Family Law Act 1975*”.

9 **73 Paragraph 126-5(1)(c)**

10 Repeal the paragraph.

11 **74 Subparagraph 126-5(1)(f)(i)**

12 Omit “de facto marriage breakdowns”, substitute “breakdowns of
13 relationships between spouses”.

14 **75 Paragraph 126-15(1)(a)**

15 Repeal the paragraph, substitute:

- 16 (a) a court order under the *Family Law Act 1975* or under a
17 *State law, *Territory law or *foreign law relating to
18 breakdowns of relationships between spouses; or

19 **76 Paragraph 126-15(1)(b)**

20 Omit “of that Act”, substitute “of the *Family Law Act 1975*”.

21 **77 Paragraph 126-15(1)(c)**

22 Repeal the paragraph.

23 **78 Subparagraph 126-15(1)(f)(i)**

24 Omit “de facto marriage breakdowns”, substitute “breakdowns of
25 relationships between spouses”.

26 **79 Paragraph 126-25(1)(b)**

27 Omit “marriage or de facto marriage”, substitute “relationship between
28 the spouses or former spouses”.

29 **80 Paragraph 126-140(2B)(b)**

1 Omit “or a corresponding foreign law”.

2 **81 Paragraph 126-140(2B)(c)**

3 Omit “de facto marriage breakdowns”, substitute “breakdowns of
4 relationships between *spouses”.

5 **82 Subparagraph 126-140(2B)(e)(i)**

6 Omit “de facto marriage breakdowns”, substitute “breakdowns of
7 relationships between spouses”.

8 **83 Paragraph 126-140(2C)(b)**

9 Omit “marriage or de facto marriage”, substitute “relationship between
10 the spouses or former spouses”.

11 **84 Subsections 149-30(3) and 149-60(4) (table item 1)**

12 Omit “marriage break-downs”, substitute “marriage or relationship
13 breakdowns”.

14 **85 Subsection 152-45(2) (heading)**

15 Repeal the heading, substitute:

16 *Marriage or relationship breakdowns*

17 **86 Subsection 152-45(2) (note 2)**

18 After “marriage”, insert “or relationship”.

19 **87 Section 152-100**

20 After “marriage”, insert “or relationship”.

21 **88 Subsection 152-115(2) (heading)**

22 Repeal the heading, substitute:

23 *Marriage or relationship breakdowns*

24 **89 Subsection 152-115(2) (note)**

25 After “marriage”, insert “or relationship”.

26 **90 After Subdivision 960-H of Division 960**

27 Insert:

1 **Subdivision 960-J—Family relationships**

2 **Guide to Subdivision 960-J**

3 **960-250 What this Subdivision is about**

4 This Subdivision has 2 principles for defining family relationships.

5 The first principle is to treat an unmarried couple (whether of the
6 same sex or different sexes) in the same way as a married couple
7 if:

- 8 (a) their relationship is registered under particular
9 State or Territory laws; or
- 10 (b) they live together on a genuine domestic basis.

11 The second principle is to treat anyone who is defined to be an
12 individual's child in the same way as the individual's natural child
13 would be treated.

14 Both principles extend to tracing other family relationships,
15 including beyond couples and children and their parents.

16 **Table of sections**

17 **Operative provisions**

18	960-252	Object of this Subdivision
19	960-255	Family relationships

20 **Operative provisions**

21 **960-252 Object of this Subdivision**

- 22 (1) The first object of this Subdivision is to ensure that the same
23 consequences flow under this Act and the other Acts to which this
24 Subdivision applies from the relationship between 2 people who
25 are an unmarried couple (whether of the same sex or different
26 sexes) as from a marriage, if:

- 1 (a) the relationship is registered under a *State law or *Territory
2 law (as mentioned in paragraph (a) of the definition of
3 *spouse* in subsection 995-1(1)); or
4 (b) they live together on a genuine domestic basis.
- 5 (2) The second object of this Subdivision is to ensure that under this
6 Act and the other Acts to which this Subdivision applies, anyone
7 who is defined to be an individual's *child is treated in the same
8 way as if he or she were the individual's natural child.

9 **960-255 Family relationships**

10 *Relationships between couples*

- 11 (1) If one individual is the *spouse of another individual because of the
12 definition of *spouse* in subsection 995-1(1), relationships traced to,
13 from or through the individual, and family groups of which either
14 individual is a member, are to be determined in the same way as if
15 the individual were legally married to the other individual.
- 16 Example: George and Angelika are not legally married but live together on a
17 genuine domestic basis in a relationship as a couple. This Act treats
18 them as part of each other's family.

19 *Relationships involving children*

- 20 (2) If one individual is the *child of another individual because of the
21 definition of *child* in subsection 995-1(1), relationships traced to,
22 from or through the individual, and family groups of which either
23 individual is a member, are to be determined in the same way as if
24 the individual were the natural child of the other individual.
- 25 Example: Clare's stepfather Frank has a sister Angela. This Act applies as if
26 Angela were Clare's aunt because Clare is defined to be Frank's child.
27 That is, Clare's relationship to Angela is determined on the basis that
28 Clare is Frank's natural child.

29 *Application*

- 30 (3) Subsections (1) and (2) apply for the purposes of this Act. They
31 also apply for the purposes of a provision of another Act if one or
32 more of the following applies for the purposes of that provision (or
33 would apply if it were used in the provision):
34 (a) the definition of *child* in subsection 995-1(1);
35 (b) the definition of *parent* in subsection 995-1(1);
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- 1 (c) the definition of *relative* in subsection 995-1(1);
2 (d) the definition of *spouse* in subsection 995-1(1).

3 **91 Subsection 995-1(1) (definition of *child*)**

4 Repeal the definition, substitute:

5 *child*: without limiting who is a child of an individual, each of the
6 following is the *child* of an individual:

- 7 (a) the individual's *adopted child, stepchild or exnuptial child;
8 (b) a child of the individual's *spouse;
9 (c) someone who is the product of a relationship the individual
10 has or had as a couple with another individual (whether of the
11 same sex or a different sex).

12 For the purposes of paragraph (c), someone cannot be the product
13 of a relationship unless he or she is the biological child of at least
14 one of the individuals in the relationship or was born to a woman
15 in the relationship.

16 **92 Subsection 995-1(1)**

17 Insert:

18 *parent*: an individual is the *parent* of anyone who is the
19 individual's *child.

20 **93 Subsection 995-1(1) (paragraph (b) of the definition of**
21 ***relative*)**

22 Omit "parent", substitute "*parent".

23 **94 Subsection 995-1(1) (at the end of the definition of**
24 ***relative*)**

25 Add:

26 Note: Section 960-255 may be relevant to determining relationships for the
27 purposes of paragraph (b) of the definition of *relative*.

28 **95 Subsection 995-1(1) (definition of *spouse*)**

29 Repeal the definition, substitute:

30 *spouse* of an individual includes:

- 31 (a) another individual (whether of the same sex or a different
32 sex) with whom the individual is in a relationship that is

1 registered under a *State law or *Territory law prescribed for
2 the purposes of section 22B of the *Acts Interpretation Act*
3 *1901* as a kind of relationship prescribed for the purposes of
4 that section; and

5 (b) another individual who, although not legally married to the
6 individual, lives with the individual on a genuine domestic
7 basis in a relationship as a couple.

8 **96 Application of amendments of the *Income Tax***
9 ***Assessment Act 1997***

10 The amendments of the *Income Tax Assessment Act 1997* made by this
11 Schedule apply:

12 (a) in relation to the 2009-2010 income year and later income
13 years; and

14 (b) to the extent to which the amendments affect the *Fringe*
15 *Benefits Tax Assessment Act 1986*—in relation to the FBT
16 year starting on 1 April 2009 and later FBT years.

1

2 **Part 2—Amendment of market regulation laws**

3 ***Financial Sector (Shareholdings) Act 1998***

4 **97 Clause 2 of Schedule 1**

5 Before “In Part 2”, insert “(1)”.

6 **98 Clause 2 of Schedule 1**

7 Insert:

8 ***child***: without limiting who is a child of a person for the purposes
9 of this Act, someone is the ***child*** of a person if he or she is the
10 product of a relationship the person has or had as a couple with
11 another person (whether of the same sex or a different sex). For
12 this purpose, someone cannot be the product of a relationship
13 unless he or she is the biological child of at least one of the persons
14 in the relationship or was born to a woman in the relationship.

15 **99 Clause 2 of Schedule 1**

16 Insert:

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

21 **100 Clause 2 of Schedule 1 (paragraph (b) of the definition of**
22 ***relative*)**

23 Repeal the paragraph, substitute:

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

26 **101 Clause 2 of Schedule 1 (paragraph (d) of the definition of**
27 ***relative*)**

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

29 **102 Clause 2 of Schedule 1 (at the end of the definition of**
30 ***relative*)**

1 Add:

2 Note: See also subclause (2).

3 **103 At the end of clause 2 of Schedule 1**

4 Add:

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

10 **104 Transitional provisions**

11 *Unacceptable ownership situation*

12 (1) For the purposes of section 12 of the *Financial Sector (Shareholdings)*
13 *Act 1998*, if:

14 (a) apart from this subitem, an unacceptable ownership situation
15 would exist in relation to a financial sector company on the
16 commencement day; and

17 (b) the situation would exist only because of the amendments of
18 that Act made by this Part;

19 then, the situation is, during the period of 6 months starting on the
20 commencement day, taken not to exist for so long as it would otherwise
21 have existed.

22 *Practical control of a financial sector company*

23 (2) If:

24 (a) the Treasurer is satisfied, for the purposes of subparagraph
25 23(1)(a)(ii) of the *Financial Sector (Shareholdings) Act*
26 *1998*, that a person was in a position to exercise control over
27 a financial sector company on the commencement day; and

28 (b) the person was in that position on that day only because of
29 the amendments of that Act made by this Part;

30 then, the Treasurer may not make a declaration under section 23 of that
31 Act in relation to that person and that company during the period of 6
32 months starting on the commencement day.

1 *Record-keeping*

2 (3) If:

3 (a) apart from this subitem, a person would be required by
4 regulations made for the purposes of section 26 of the
5 *Financial Sector (Shareholdings) Act 1998* to do something
6 on the commencement day in relation to an ownership
7 matter; and

8 (b) the person would not be required to do that thing if the
9 amendments of that Act made by this Part had not been
10 made;

11 then, the person is, during the period of 6 months starting on the
12 commencement day, taken not to be required to do that thing for so long
13 as the person would otherwise have been required to do that thing.

14 *Commencement day*

15 (4) In this item:

16 *commencement day* means the day on which the amendments of the
17 *Financial Sector (Shareholdings) Act 1998* made by this Part
18 commence.

19 ***Foreign Acquisitions and Takeovers Act 1975***

20 **105 Subsection 5(1)**

21 Insert:

22 *child* has the meaning given by subsection 6(2).

23 **106 Subsection 5(1)**

24 Insert:

25 *parent* has the meaning given by subsection 6(2).

26 **107 Section 6**

27 Before “For the purposes”, insert “(1)”.

28 **108 Paragraph 6(a)**

29 After “spouse”, insert “or de facto partner (within the meaning of the
30 *Acts Interpretation Act 1901)*”.

1 **109 Paragraph 6(a)**

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

3 **110 At the end of section 6**

4 Add:

5 (2) In this Act:

6 *child*: without limiting who is a child of a person for the purposes
7 of this Act, someone is the *child* of a person if he or she is the
8 product of a relationship the person has or had as a couple with
9 another person (whether of the same sex or a different sex). For
10 this purpose, someone cannot be the product of a relationship
11 unless he or she is the biological child of at least one of the persons
12 in the relationship or was born to a woman in the relationship.

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

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

21 **111 Transitional provisions**

22 (1) If:

- 23 (a) apart from this subitem, a person would be an associate of
24 another person for the purposes of paragraph 9(1)(a) or (b) or
25 paragraph 9A(1)(a) or (b) of the *Foreign Acquisitions and*
26 *Takeovers Act 1975* on the commencement day; and
27 (b) the persons would be associates only because of the
28 amendments of that Act made by this Part;

29 then, during the period of 6 months starting on the commencement day,
30 the provision does not apply to them as associates of each other for so
31 long as the persons would otherwise have been associates of each other.

32 (2) If:

- 33 (a) apart from this subitem, a person would be an associate of
34 another person on the commencement day; and
-

- 1 (b) the persons would be associates only because of the
2 amendments of the *Foreign Acquisitions and Takeovers Act*
3 *1975* made by this Part;
4 then, the Treasurer may not make an order under Part II of that Act in
5 relation to them as associates of each other during the period of 6
6 months starting on the commencement day.
- 7 (3) In this item:
8 **commencement day** means the day on which the amendments of the
9 *Foreign Acquisitions and Takeovers Act 1975* made by this Part
10 commence.

11 *Insurance Acquisitions and Takeovers Act 1991*

12 **112 Section 4**

13 Before “In this Act”, insert “(1)”.

14 **113 Section 4**

15 Insert:

16 **child:** without limiting who is a child of a person for the purposes
17 of this Act, someone is the **child** of a person if he or she is the
18 product of a relationship the person has or had as a couple with
19 another person (whether of the same sex or a different sex). For
20 this purpose, someone cannot be the product of a relationship
21 unless he or she is the biological child of at least one of the persons
22 in the relationship or was born to a woman in the relationship.

23 **114 Section 4**

24 Insert:

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

29 **115 Section 4 (paragraph (b) of the definition of *relative*)**

30 Repeal the paragraph, substitute:

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

1 **116 Section 4 (paragraph (d) of the definition of *relative*)**

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

3 **117 Section 4 (at the end of the definition of *relative*)**

4 Add:

5 Note: See also subsection (2).

6 **118 At the end of section 4**

7 Add:

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

13 **119 Transitional provision**

14 If:

- 15 (a) apart from this item, a person would be an associate of
16 another person for the purposes of a provision of the
17 *Insurance Acquisitions and Takeovers Act 1991* on the day
18 on which the amendments made by this Part commence; and
19 (b) the persons would be associates only because of those
20 amendments;

21 then, during the period of 6 months starting on that day, the provision
22 does not apply to them as associates of each other for so long as the
23 persons would otherwise have been associates of each other.

24 ***Life Insurance Act 1995***

25 **120 Paragraph 204(1)(b)**

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

27 **121 Paragraph 211(1)(c)**

28 Omit “father, mother”, substitute “de facto partner, parent”.

29 **122 After subsection 211(1)**

30 Insert:

1 (1A) For the purposes of paragraph (1)(c), if one person is the child of
2 another person because of the definition of *child* in this Act,
3 relationships traced to or through the person are to be determined
4 on the basis that the person is the child of the other person.

5 **123 Paragraph 212(1)(c)**

6 Omit “father, mother”, substitute “de facto partner, parent”.

7 **124 After subsection 212(1)**

8 Insert:

9 (1A) For the purposes of paragraph (1)(c), if one person is the child of
10 another person because of the definition of *child* in this Act,
11 relationships traced to or through the person are to be determined
12 on the basis that the person is the child of the other person.

13 **125 Schedule**

14 Insert:

15 *child*: without limiting who is a child of a person for the purposes
16 of this Act, someone is the *child* of a person if he or she is the
17 product of a relationship the person has or had as a couple with
18 another person (whether of the same sex or a different sex). For
19 this purpose, someone cannot be the product of a relationship
20 unless he or she is the biological child of at least one of the persons
21 in the relationship or was born to a woman in the relationship.

22 **126 Schedule**

23 Insert:

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

26 **127 Schedule**

27 Insert:

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

32 **128 Schedule (definition of spouse)**

1 Repeal the definition.

2 **129 Transitional provision**

3 The amendments of sections 211 and 212 of the *Life Insurance Act*
4 *1995* made by this Part apply in relation to a person who dies on or after
5 the commencement of those amendments.

1

2 **Part 3—Amendment of the Corporations Act 2001**

3 ***Corporations Act 2001***

4 **130 Section 9**

5 Insert:

6 *child*: without limiting who is a child of a person for the purposes
7 of this Act, someone is the *child* of a person if he or she is the
8 product of a relationship the person has or had as a couple with
9 another person (whether of the same sex or a different sex). For
10 this purpose, someone cannot be the product of a relationship
11 unless he or she is the biological child of at least one of the persons
12 in the relationship or was born to a woman in the relationship.

13 **131 Section 9 (paragraph (a) of the definition of *close***
14 ***associate*)**

15 Omit “or de facto spouse”.

16 **132 Section 9 (paragraph (b) of the definition of *close***
17 ***associate*)**

18 Omit “, or of a de facto spouse,”.

19 **133 Section 9 (definition of *de facto spouse*)**

20 Repeal the definition.

21 **134 Section 9 (paragraph (a) of the definition of *immediate***
22 ***family member*)**

23 Omit “or de facto spouse”.

24 **135 Section 9**

25 Insert:

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

1 **136 Section 9 (paragraph (b) of the definition of *related***
2 ***entity*)**

3 Omit “, or de facto spouse,”.

4 **137 Section 9 (paragraph (c) of the definition of *related entity*)**

5 Omit “, or of a de facto spouse,”.

6 **138 Section 9 (paragraph (e) of the definition of *related entity*)**

7 Omit “, or de facto spouse,”.

8 **139 Section 9 (paragraph (f) of the definition of *related entity*)**

9 Omit “, or of a de facto spouse,”.

10 **140 Section 9 (paragraph (i) of the definition of *related entity*)**

11 Omit “, or de facto spouse,”.

12 **141 Section 9 (paragraph (j) of the definition of *related entity*)**

13 Omit “, or of a de facto spouse,”.

14 **142 Section 9 (definition of *relative*)**

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

16 **143 Section 9**

17 Insert:

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

20 **144 After section 9**

21 Insert:

22 **9AA Certain family relationships**

23 For the purposes of this Act, relationships (including the
24 relationship of being family) are taken to include:

- 25 (a) relationships between de facto partners (within the meaning
26 of the *Acts Interpretation Act 1901*); and
27 (b) relationships of child and parent that arise:

- 1 (i) if someone is an exnuptial or adoptive child of a person;
2 or
3 (ii) if someone is the child of a person because of the
4 definition of *child* in this Act; and
5 (c) relationships traced through relationships referred to in
6 paragraphs (a) and (b).

7 **145 Paragraph 228(2)(d)**

8 Omit “and de facto spouses”.

9 **146 Subparagraph 440J(1)(a)(ii)**

10 Omit “, de facto spouse”.

11 **147 Paragraph 440J(1)(b)**

12 Omit “, de facto spouse”.

13 **148 Subsection 556(2) (definition of *spouse*)**

14 Repeal the definition.

15 **149 Paragraph 601JA(2)(f)**

16 Omit “or de facto spouse”.

17 **150 Paragraph 601JB(2)(e)**

18 Omit “or de facto spouse”.

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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 the product of a relationship the person has or had as a couple with a third person (whether of the same sex or a different sex). For this purpose, the other person cannot be the product of the relationship unless he or she is the biological child of at least one of the person or the third person or was born to a woman in the relationship.

7 Subsection 4(1) (definition of *Widow*)

1 Repeal the definition.

2 **8 Subsection 4(1)**

3 Insert:

4 *widow* of a person who has died includes a woman who was a
5 de facto partner of the person immediately before the person died.

6 **9 Application of amendment of definition of *widow***

7 The amendment of the definition of *widow* in subsection 4(1) of the
8 *Defence Service Homes Act 1918* made by this Schedule applies in
9 relation to someone whose de facto partner dies on or after the
10 commencement of the amendment.

11 **10 Subsection 4(1) (definition of *widower*)**

12 Repeal the definition, substitute:

13 *widower* of a person who has died includes a man who was a
14 de facto partner of the person immediately before the person died.

15 **11 Application of amendment of definition of *widower***

16 The amendment of the definition of *widower* in subsection 4(1) of the
17 *Defence Service Homes Act 1918* made by this Schedule applies in
18 relation to someone whose de facto partner dies on or after the
19 commencement of the amendment.

20 **12 Paragraphs 4(2AB)(a) and (b)**

21 Omit “husband” (wherever occurring), substitute “spouse or de facto
22 partner”.

23 **13 Paragraph 4(2AC)(d)**

24 Omit “wife”, substitute “spouse or de facto partner”.

25 **14 Paragraph 4(2AC)(d)**

26 Omit “he and she”, substitute “they”.

27 **15 Paragraph 4(2AC)(e)**

28 Omit “wife” (wherever occurring), substitute “spouse or de facto
29 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”.

1 **27 Paragraphs 27A(1)(c) and (2)(c)**

2 Omit “wife or husband”, substitute “spouse or de facto partner”.

3 **28 Subsection 27A(3)**

4 Omit “a wife and husband”, substitute “2 persons who are spouses or
5 de facto partners of each other”.

6 **29 Paragraph 27A(3)(a)**

7 Omit “the wife and husband”, substitute “spouses or de facto partners”.

8 **30 Paragraph 27A(3)(b)**

9 Omit “wife or the death of the husband, whichever is the later”,
10 substitute “spouse or de facto partner who died last”.

11 **31 Paragraph 38C(1)(gb)**

12 Omit “wife or husband”, substitute “spouse or de facto partner”.

13 **32 Subsection 45A(2)**

14 Omit “a husband and wife”, substitute “2 persons who are spouses or
15 de facto partners of each other”.

16 ***Military Rehabilitation and Compensation Act 2004***

17 **33 Section 5**

18 Before “In this Act”, insert “(1)”.

19 **34 Section 5**

20 Insert:

21 *child*: without limiting who is a child of a person for the purposes
22 of this Act, someone is the *child* of a person if he or she is the
23 product of a relationship the person has or had as a couple with
24 another person (whether of the same sex or a different sex). For
25 this purpose, someone cannot be the product of a relationship
26 unless he or she is the biological child of at least one of the persons
27 in the relationship or was born to a woman in the relationship.

28 **35 Section 5**

29 Insert:

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

5 **36 Section 5 (definition of *partner*)**

6 Omit “of the opposite sex to the member”.

7 **37 Section 5 (after paragraph (b) of the definition of *partner*)**

8 Insert:

9 (ba) a relationship between the person and the member (whether
10 the person and the member are the same sex or different
11 sexes) is registered under a law of a State or Territory
12 prescribed for the purposes of section 22B of the *Acts*
13 *Interpretation Act 1901* as a kind of relationship prescribed
14 for the purposes of that section;

15 **38 Section 5 (paragraph (c) of the definition of *partner*)**

16 Repeal the paragraph, substitute:

17 (c) the person (whether of the same sex or a different sex to the
18 member):

19 (i) is, in the Commission’s opinion (see subsection (2)), in
20 a de facto relationship with the member; and

21 (ii) is not an ancestor, descendant, brother, sister,
22 half-brother or half-sister of the member (see
23 subsection (3)).

24 **39 Section 5**

25 Insert:

26 *stepchild*: without limiting who is a stepchild of a person for the
27 purposes of this Act, someone who is a child of a partner of the
28 person is the *stepchild* of the person, if he or she would be the
29 person’s stepchild except that the person is not legally married to
30 the partner.

31 **40 Section 5**

32 Insert:

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

6 **41 At the end of section 5**

7 Add:

8 (2) For the purposes of subparagraph (c)(i) of the definition of *partner*
9 in subsection (1), section 11A of the *Veterans' Entitlements Act*
10 1986 applies to the forming of the Commission's opinion about
11 whether a person and a member are in a de facto relationship.

12 (3) For the purposes of subparagraph (c)(ii) of the definition of *partner*
13 in subsection (1), a child who is, or has ever been, an adopted child
14 of a person is taken to be the natural child of that person and the
15 person is taken to be the natural parent of the child.

16 **42 Subparagraphs 15(2)(a)(ii) to (vii)**

17 Repeal the subparagraphs, substitute:

- 18 (ii) a parent or step-parent of the member;
- 19 (iii) a parent or step-parent of the member's partner;
- 20 (iv) a grandparent of the member;
- 21 (v) a child or stepchild of the member;
- 22 (vi) a child or stepchild of the member's partner;
- 23 (vii) a grandchild of the member;

24 **43 Section 16**

25 Repeal the section, substitute:

26 **16 Certain relationships**

- 27 (1) For the purposes of paragraph 15(2)(a), if one person is the child of
28 another person because of:
- 29 (a) adoption; or
 - 30 (b) the definition of *child* in this Act;
- 31 relationships traced to or through the person are to be determined
32 on the basis that the person is the child of the other person.

-
- 1 (2) For the purposes of paragraphs 215(f) and 218(g), the relatives of a
2 person are taken to include the following (without limitation):
3 (a) a partner of the person;
4 (b) a stepchild or an adopted child of the person, or someone of
5 whom the person is a stepchild or an adopted child;
6 (c) someone who is a child of the person, or someone of whom
7 the person is a child, because of the definition of *child* in this
8 Act;
9 (d) anyone else who would be a relative of the person if someone
10 mentioned in paragraph (a), (b) or (c) is taken to be a relative
11 of the person.

12 **44 Subsection 18(1)**

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

14 **45 Subsection 80(3)**

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

16 **46 At the end of section 433**

17 Add:

- 18 (4) For the purposes of paragraph (3)(a), the members of a person’s
19 family are taken to include the following (without limitation):
20 (a) a partner of the person;
21 (b) a stepchild or an adopted child of the person, or someone of
22 whom the person is a stepchild or an adopted child;
23 (c) someone who is a child of the person, or someone of whom
24 the person is a child, because of the definition of *child* in this
25 Act;
26 (d) anyone else who would be a relative of the person if someone
27 mentioned in paragraph (a), (b) or (c) is taken to be a member
28 of the person’s family.

29 ***Veterans’ Entitlements Act 1986***

30 **47 Section 5 (item relating to parent)**

31 Repeal the item, substitute:

parent

5F(1), 10A

1 **48 Section 5 (index of definitions)**

2 Insert the following entry in its appropriate alphabetical position, as
3 determined on a letter-by-letter basis:

prohibited relationship 5E(6), (7)

4 **49 Section 5 (index of definitions)**

5 Insert the following entry in its appropriate alphabetical position, as
6 determined on a letter-by-letter basis:

step-child 5F(1)

7 **50 Section 5 (index of definitions)**

8 Insert the following entry in its appropriate alphabetical position, as
9 determined on a letter-by-letter basis:

step-parent 5F(1)

10 **51 Subsection 5E(1)**

11 Insert:

12 *prohibited relationship* has the meaning given by subsections (6)
13 and (7).

14 **52 Subsection 5E(1) (paragraph (a) of the definition of widow)**

15 Omit “a man immediately before he”, substitute “a person immediately
16 before the person”.

17 **53 Subsection 5E(1) (paragraph (a) of the definition of
18 widower)**

19 Omit “a woman immediately before she”, substitute “a person
20 immediately before the person”.

21 **54 After paragraph 5E(2)(a)**

22 Insert:

23 (aa) both of the following conditions are met:

24 (i) a relationship between the person and another person
25 (whether of the same sex or a different sex) is registered
26 under a law of a State or Territory prescribed for the
27 purposes of section 22B of the *Acts Interpretation Act*
28 *1901* as a kind of relationship prescribed for the
29 purposes of that section;

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- 1 (ii) the person is not living separately and apart from the
2 other person on a permanent basis; or

3 **55 Subparagraph 5E(2)(b)(i)**

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

6 **56 Subparagraph 5E(2)(b)(iii)**

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

8 **57 Subparagraph 5E(2)(b)(iv)**

9 Omit “for the purposes of section 23B of the *Marriage Act 1961*”.

10 **58 Subsection 5E(2) (note 2)**

11 Repeal the note.

12 **59 At the end of section 5E**

13 Add:

14 *Prohibited relationship*

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

- 17 (a) an ancestor or a descendant of the partner; or
18 (b) a brother, sister, half-brother or half-sister of the partner.

- 19 (7) For the purposes of subsection (6), a child who is, or has ever been,
20 an adopted child of a person is taken to be the natural child of that
21 person and the person is taken to be the natural parent of the child.

22 **60 Subsection 5F(1) (definition of *parent*)**

23 Repeal the definition, substitute:

24 *parent* has a meaning affected by section 10A.

25 **61 Subsection 5F(1)**

26 Insert:

27 *step-child*: without limiting who is a step-child of a person for the
28 purposes of this Act, someone who is a child of a partner of the
29 person is the *step-child* of the person, if he or she would be the

1 person's step-child except that the person is not legally married to
2 the partner.

3 **62 Subsection 5F(1)**

4 Insert:

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

10 **63 After subsection 5G(1A)**

11 Insert:

12 (1AB) For the purposes of paragraph (1A)(b), family relationships are
13 taken to include (without limitation):
14 (a) relationships between partners; and
15 (b) relationships of child and parent that arise if someone is the
16 parent of a person under section 10A; and
17 (c) any other relationship that would be a family relationship if a
18 relationship mentioned in paragraph (a) or (b) is taken to be a
19 family relationship.

20 **64 Paragraph 5H(8)(zd)**

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

23 **65 Subsection 5L(1) (paragraph (a) of the definition of *family***
24 ***member*)**

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

26 **66 Subsection 5P(1) (paragraph (a) of the definition of *eligible***
27 ***descendant*)**

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

29 **67 Subsection 5Q(1) (after paragraph (a) of the definition of**
30 ***immediate family member*)**

31 Insert:

32 (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 the product of a relationship the other person has or had as a couple with a third 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.

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 the product of a relationship the other person has or had as a couple with a third person.

- (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 the product of a relationship the veteran has or had as a couple with another person (whether of the same sex or a different sex); or
 - (c) any other child who is, or was immediately before the death of the veteran, wholly or substantially dependent on the veteran.
- (2) For the purposes of paragraph (1)(b), a child cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

1 **71 Subsection 10(3)**

2 Omit “subsections (1) and (2)”, substitute “subsection (1)”.

3 **72 Subsection 10(5)**

4 Omit “or (2)”.

5 **73 After section 10**

6 Insert:

7 **10A Parent of a person**

8 (1) Without limiting who is a parent of anyone for the purposes of this
9 Act, a person is the *parent* of another person (other than an
10 adopted child) if the other person is the product of a relationship
11 the person has or had as a couple with a third person (whether of
12 the same sex or a different sex). For this purpose, the other person
13 cannot be the product of the relationship unless he or she is the
14 biological child of at least one of the person or the third person or
15 was born to a woman in the relationship.

16 (2) For the purposes of this Act, *parent* of a person who is an adopted
17 child means an adoptive parent of the person.

18 **74 Section 11A**

19 Omit “marriage-like” (first occurring), substitute “de facto”.

20 Note: The heading to section 11A is altered by omitting “**Marriage-like**” and substituting
21 “**De facto**”

22 **75 Subparagraph 11A(c)(i)**

23 Omit “married to”, substitute “being in a de facto relationship with”.

24 **76 Subparagraph 11A(e)(iv)**

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

26 **77 Paragraph 30C(12)(b)**

27 Omit “the spouse”, substitute “a partner or non-illness separated
28 spouse”.

29 **78 Paragraph 30D(8)(b)**

1 Omit “the spouse”, substitute “a partner or non-illness separated
2 spouse”.

3 **79 Subparagraph 38(1)(d)(iii)**

4 Before “spouse”, insert “non-illness separated”.

5 **80 Subparagraph 38(1)(i)(iii)**

6 Before “spouse”, insert “non-illness separated”.

7 **81 Paragraph 38(2A)(a)**

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

9 **82 Paragraph 38(2A)(a)**

10 Omit “when this subsection commenced”, substitute “on 1 July 2009”.

11 **83 Paragraph 38(2A)(b)**

12 Omit “this subsection commenced”, substitute “1 July 2009”.

13 **84 Paragraph 38(2A)(b)**

14 Omit “was a marriage-like”, substitute “is a de facto”.

15 **85 Subsection 38(2A) (note 2)**

16 After “veteran”, insert “non-illness separated”.

17 **86 Subparagraph 38(3A)(a)(i)**

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

19 **87 Subparagraph 38(3A)(a)(ii)**

20 Omit “marriage-like relationship when this subsection commenced”,
21 substitute “de facto relationship on 1 July 2009”.

22 **88 Subparagraph 38(3A)(b)(i)**

23 Omit “this subsection commenced”, substitute “1 July 2009”.

24 **89 Subparagraph 38(3A)(b)(i)**

25 Omit “was a marriage-like”, substitute “is a de facto”.

26 Note: The headings to subsections 45UG(1) and (2) are altered by omitting “marital” and
27 substituting “couple”.

1 **90 Section 52ZO (definition of *child*)**

2 Repeal the definition, substitute:

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

- 5 (a) an adopted child, step-child or foster-child of the person;
6 (b) someone who is the product of a relationship the person has
7 or had as a couple with another person (whether of the same
8 sex or a different sex).

9 For the purposes of paragraph (b), someone cannot be the product
10 of a relationship unless he or she is the biological child of at least
11 one of the persons in the relationship or was born to a woman in
12 the relationship.

13 **91 Subsection 52ZP(2)**

14 Repeal the subsection, substitute:

- 15 (2) For the purposes of this section, if one person is the child of
16 another person because of the definition of ***child*** in section 52ZO,
17 relationships traced to or through the person are to be determined
18 on the basis that the person is the child of the other person.

19 **92 Subsection 52ZZZWE(5) (definition of *child*)**

20 Repeal the definition, substitute:

21 ***child***, of a principal beneficiary, means the following (no matter
22 how old the child is):

- 23 (a) a natural child, adopted child or step-child of the beneficiary;
24 (b) someone who is the product of a relationship the beneficiary
25 has or had as a couple with another person (whether of the
26 same sex or a different sex).

27 For the purposes of paragraph (b), someone cannot be the product
28 of a relationship unless he or she is the biological child of at least
29 one of the persons in the relationship or was born to a woman in
30 the relationship.

31 **93 Subsection 123(1) (paragraph (b) of the definition of *child*)**

32 Repeal the paragraph, substitute:

- 33 (b) a person who was a natural child of the deceased; or
-

1 (ba) someone who is the product of a relationship the deceased
2 had as a couple with another person (whether of the same sex
3 or a different sex); or

4 **94 Subsection 123(1) (at the end of the definition of *child*)**

5 Add:

6 Note: Subsection (2A) is relevant to working out if someone is the product
7 of a relationship for the purposes of paragraph (ba) of the definition of
8 *child*.

9 **95 After subsection 123(2)**

10 Insert:

11 (2A) For the purposes of paragraph (ba) of the definition of *child* in
12 subsection (1), someone cannot be the product of a relationship
13 unless he or she is the biological child of at least one of the persons
14 in the relationship or was born to a woman in the relationship.

15 **96 Saving**

16 The amendments of subsections 38(2A) and (3A) of the *Veterans'*
17 *Entitlements Act 1986* made by this Schedule do not affect the operation
18 of those subsections as in force before 1 July 2009.