

NORTHERN TERRITORY OF AUSTRALIA  
LAW REFORM (GENDER, SEXUALITY AND DE FACTO  
RELATIONSHIPS) ACT 2003

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Act No. 1 of 2004

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# **NORTHERN TERRITORY OF AUSTRALIA**

Act No. 1 of 2004

## **AN ACT**

to reform the law of the Territory by amending certain Acts and subordinate legislation to remove or modify legal distinctions based on a person's gender, sexuality or de facto relationship with another person, and for related purposes

*[Assented to 7 January 2004]*

*[Second reading 15 October 2003]*

**The Legislative Assembly of the Northern Territory enacts as follows:**

### **PART 1 – PRELIMINARY**

#### **1. Short title**

This Act may be cited as the *Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*.

#### **2. Commencement**

The provisions of this Act come into operation on the date, or respective dates, fixed by the Administrator by notice in the *Gazette*.

### **PART 2 – AMENDMENTS RELATING TO GENDER**

#### ***Division 1 – Amendments of Criminal Code***

#### **3. Principal Act**

The Criminal Code is in this Division referred to as the Principal Act.

**4. Definitions**

Section 126 of the Principal Act is amended –

- (a) by omitting "Division" and substituting "Subdivision";
- (b) by omitting the definitions of "in private" and "in public" and substituting the following:

" 'in public' means with more than one other person present or within the view of a person not a party to the act;"; and

- (c) by omitting the definitions of "unlawful" and "unlawfully".

**5. Repeal and substitution**

Sections 127, 128 and 129 of the Principal Act are repealed and the following substituted:

**"127. Sexual intercourse or gross indecency involving child under 16 years**

"(1) Any person who –

- (a) has sexual intercourse with; or
- (b) commits any act of gross indecency upon,

a child who is under the age of 16 years is guilty of a crime and is liable to imprisonment for 16 years.

"(2) If the child is of or over the age of 10 years and under the age of 16 years and the crime is committed in any of the following circumstances, the offender is liable to imprisonment for 20 years:

- (a) the offender is in the company of another person;
- (b) the child is (whether generally or at the time of the commission of the offence) under the care of the offender;
- (c) the child has a serious physical disability;
- (d) the child has a serious intellectual disability;
- (e) the offender took advantage of the child being under the influence of alcohol or a drug in order to commit the offence.

"(3) If the child is under the age of 10 years, the offender is liable to imprisonment for 25 years.

"(4) It is a defence to a charge of a crime defined by this section to prove –

- (a) the child was of or above the age of 14 years; and
- (b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years.

"(5) Section 12 does not apply to the child with respect to whom an offence against this section is committed.

**"128. Sexual intercourse or gross indecency involving child over 16 years under special care**

"(1) Any adult who –

- (a) has sexual intercourse with; or
- (b) commits any act of gross indecency upon,

a child who is –

- (c) of or over the age of 16 years; and
- (d) under the person's special care,

is guilty of a crime and is liable to imprisonment for 4 years.

"(2) If the child is of or over the age of 16 years and under the age of 17 years, the offender is liable to imprisonment for 8 years.

"(3) For this section, a person ('the victim') is under the special care of another person ('the offender') if the offender –

- (a) is the step-parent, guardian or foster parent of the victim;
- (b) is a school teacher and the victim is a pupil of the offender;
- (c) has established a personal relationship with the victim in connection with the care, instruction (for example, religious, sporting or musical instruction) or supervision (for example, supervision in the course of employment or training) of the victim;
- (d) is a correctional services officer at a correctional institution at which the victim is detained; or
- (e) is a health professional or other provider of health care or treatment and the victim is a patient or client of the offender.

"(4) It is a defence to a charge of a crime defined by this section to prove that the accused person was, at the time of the alleged offence, the husband, wife or de facto partner of the child."

**6. Sexual intercourse or gross indecency by provider of services to mentally ill or handicapped person**

Section 130 of the Principal Act is amended –

- (a) by omitting from subsection (1) the definition of "de facto spouse";
- (b) by omitting from subsection (2) "7 years" and substituting "8 years";
- (c) by omitting from subsection (3) "this section" and substituting "subsection (2)";
- (d) by omitting from subsection (3)(a) "de facto spouse" and substituting "de facto partner"; and
- (e) by omitting subsection (4) and substituting the following:

"(3A) Any person who, being a provider of disability support services to a mentally ill or handicapped child who is under the age of 16 years –

- (a) has sexual intercourse with; or
- (b) commits any act of gross indecency upon,

the child is guilty of a crime and is liable to imprisonment for 20 years.

"(3B) If the child is under the age of 10 years, the offender is liable to imprisonment for 25 years.

"(3C) It is a defence to a charge of a crime defined by subsection (3A) to prove –

- (a) the child was of or above the age of 14 years;
- (b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years; and
- (c) the accused person did not know the child was mentally ill or handicapped.

"(4) Section 12 does not apply to the person with respect to whom an offence against this section is committed."



**7. Attempts to procure child under 16 years**

Section 131 of the Principal Act is amended –

- (a) by omitting from subsection (1)(a) "unlawful";
- (b) by omitting from subsection (1)(b) "unlawfully"; and
- (c) by omitting subsection (3) and substituting the following:

"(3) It is a defence to a charge of a crime defined by this section to prove –

- (a) the child was of or above the age of 14 years; and
- (b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years."

**8. Sexual relationship with child**

Section 131A of the Principal Act is amended –

- (a) by omitting from subsection (1) "128, 129, 132, 134, 135," and substituting "127, 128, 130, 132, 134,";
- (b) by omitting from subsection (2) "an unlawful relationship" and substituting "a relationship";
- (c) by omitting subsections (4), (5) and (6) and substituting the following:

"(4) If in the course of the relationship of a sexual nature the offender committed an offence of a sexual nature for which the offender is liable to imprisonment for at least 7 years but not more than 20 years, other than an offence against section 192(8) or 192B, the offender is liable in respect of maintaining the relationship to imprisonment for 20 years.

"(5) If in the course of the relationship of a sexual nature the offender committed –

- (a) an offence against section 192(8) or 192B; or
- (b) an offence of a sexual nature for which the offender is liable to imprisonment for more than 20 years,

the offender is liable in respect of maintaining the relationship to imprisonment for life.

"(6) It is a defence to a charge of a crime defined by this section to prove –

- (a) the child was of or above the age of 14 years; and
- (b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years."; and
- (d) by omitting subsection (10) and substituting the following:

"(10) Section 12 does not apply to the child with respect to whom an offence against this section is committed."

**9. Indecent dealing with child under 16 years**

Section 132 of the Principal Act is amended –

- (a) by omitting from subsection (2)(a) "unlawfully and";
- (b) by omitting from subsection (2)(b), (c) and (d) "unlawfully";
- (c) by omitting from subsection (2)(e) and (f) "and unlawfully";
- (d) by omitting from subsection (2) "5 years" and substituting "10 years"; and
- (e) by omitting subsections (3), (4) and (5) and substituting the following:

"(4) If the child is under the age of 10 years, the offender is liable to imprisonment for 14 years.

"(5) It is a defence to a charge of a crime defined by this section to prove –

- (a) the child was of or above the age of 14 years; and
- (b) the accused person believed on reasonable grounds that the child was of or above the age of 16 years."

**10. Repeal and substitution**

Sections 134 and 135 of the Principal Act are repealed and the following substituted:

**"134. Incest**

"(1) Any person who has sexual intercourse with another person who is a close family member is guilty of a crime and is liable to imprisonment for 14 years.

"(2) If the close family member is a child of or over the age of 10 years and under the age of 16 years, the offender is liable to imprisonment for 20 years.

"(3) If the close family member is a child under the age of 10 years, the offender is liable to imprisonment for 25 years.

"(4) It is a defence to a charge of the crime defined by this section to prove that the accused person was acting under the coercion of the close family member.

"(5) Section 12 does not apply to the close family member with respect to whom an offence against this section is committed if that member is a child under the age of 16 years.

"(6) In this section –

'close family member', of a person, means any of the following persons who are members of the person's family from birth:

- (a) a parent or grandparent;
- (b) a child or other lineal descendant;
- (c) a brother, sister, half-brother or half-sister."

**11. Abduction, enticement or detention of child under 16 years for immoral purpose**

Section 201 of the Principal Act is amended by omitting all the words from and including "to whom" to and including "charge of the child" and substituting "who is under the age of 16 years".

**12. Abduction of child under 16 years**

Section 202 of the Principal Act is amended by omitting from subsection (1) "to whom he is not married and".

**13. Charge of offence against morality, sexual intercourse or gross indecency without consent**

Section 319 of the Principal Act is amended –

- (a) by omitting from subsection (1) "129, 130, 131 or 136" and substituting "130, 131, 132 or 134"; and
- (b) by omitting from subsection (2)(b) "129, 130 or 132(2)(a)" and substituting "130, 132(2)(a) or 134".

**14. Repeal and substitution**

Section 377 of the Principal Act is repealed and the following substituted:

**"377. Evidence of relationship on charge of incest**

"(1) On the trial of a person charged with a crime defined by section 134 ('the offender'), the following applies:

- (a) it is sufficient to prove that the person with respect to whom the crime is alleged to have been committed ('the victim') is reputed to be a close family member of the offender;
- (b) it is not necessary to prove that the parents of the victim, or of any other person, were married at the time of birth of the victim or other person;
- (c) until the contrary is proved, the offender is presumed to have known of the relationship between himself or herself and the victim at the time of the alleged crime.

"(2) In subsection (1) –

'close family member' has the same meaning as in section 134."

***Division 2 – Amendments of Sentencing Act***

**15. Principal Act**

The *Sentencing Act* is in this Division referred to as the Principal Act.

**16. Fixed non-parole periods for offences against persons under 16 years**

Section 55A of the Principal Act is amended by omitting from subsection (1)(a) "128, 129,".

**17. Indefinite sentence – imposition**

Section 65 of the Principal Act is amended –

- (a) by omitting from subsection (1)(a)(ii) "life;" and substituting "life; or";
- (b) by omitting subsection (1)(b); and
- (c) by omitting from subsection (1)(c) "129" and substituting "127, 128".

**18. Schedule 3**

Schedule 3 to the Principal Act is amended –

- (a) by omitting item 2;
- (b) by omitting from item 3 "129" and substituting "127, 128"; and
- (c) by omitting from item 3 ", 135".

**PART 3 – AMENDMENTS RELATING TO SEXUALITY**

***Division 1 – Amendments of Anti-Discrimination Act***

**19. Principal Act**

The *Anti-Discrimination Act* is in this Division referred to as the Principal Act.

**20. Interpretation**

Section 4 of the Principal Act is amended by omitting from subsection (1) the definition of "de facto partner".

**21. Repeal and substitution**

Section 30 of the Principal Act is repealed and the following substituted:

**"30. Exemptions**

"(1) An educational authority that operates, or proposes to operate, an educational institution wholly or mainly for students of a particular sex may exclude applicants who are not of that sex.

"(2) An educational authority that operates, or proposes to operate, an educational institution in accordance with the doctrine of a particular religion may exclude applicants who are not of that religion.

"(3) An educational authority that operates, or proposes to operate, an educational institution wholly or mainly for students who have a general or specific impairment may exclude applicants who do not have that impairment."

**22. Repeal and substitution**

Section 37 of the Principal Act is repealed and the following substituted:

**"37. Exemption – irrelevant criminal record**

"(1) A person may discriminate against another person on the grounds of irrelevant criminal record in the area of work if –

- (a) the work principally involves the care, instruction or supervision of vulnerable persons; and
- (b) the discrimination is reasonably necessary to protect the physical, psychological or emotional well-being of those vulnerable persons, having regard to all of the relevant circumstances of the case including the person's actions.

"(2) In subsection (1) –

'vulnerable persons' includes children, aged persons and persons with a physical or intellectual disability or mental illness.

**"37A. Exemption – religious educational institutions**

"An educational authority that operates or proposes to operate an educational institution in accordance with the doctrine of a particular religion may discriminate against a person in the area of work in the institution if the discrimination –

- (a) is on the grounds of –
  - (i) religious belief or activity; or
  - (ii) sexuality; and
- (b) is in good faith to avoid offending the religious sensitivities of people of the particular religion."

**23. Exemptions**

Section 40 of the Principal Act is amended by omitting subsection (2) and substituting the following:

"(2) An educational authority that operates, or proposes to operate, an educational institution wholly or mainly for students of a particular sex may provide accommodation wholly or mainly for students of that sex.

"(2A) An educational authority that operates, or proposes to operate, an educational institution in accordance with the doctrine of a particular religion may provide accommodation wholly or mainly for students of that religion.

"(2B) An educational authority that operates, or proposes to operate, an educational institution wholly or mainly for students who have a general or specific impairment may provide accommodation wholly or mainly for students with that impairment."

**24. Religious bodies**

Section 51 of the Principal Act is amended by omitting paragraph (d) and substituting the following:

- "(d) an act by a body established for religious purposes if the act is done as part of any religious observance or practice."

***Division 2 – Amendments of Criminal Records (Spent Convictions) Act***

**25. Principal Act**

The *Criminal Records (Spent Convictions) Act* is in this Division referred to as the Principal Act.

**26. Spent records not to be taken into account for unauthorised purpose**

Section 13 of the Principal Act is amended by omitting "this Act" and substituting "an Act".

**27. Exclusions in relation to spent convictions**

Section 15 of the Principal Act is amended –

- (a) by omitting from paragraph (a) "juvenile justice officer, juvenile detention centre worker,"; and
- (b) by omitting paragraph (b).

**28. New section**

The Principal Act is amended by inserting after section 15 in Part 3, Division 2 the following:

**"15A. Exclusion in relation to spent records**

"(1) Sections 11 and 13 do not apply in respect of a spent record in relation to an application for appointment or employment to do work principally involving the care, instruction or supervision of vulnerable persons.

"(2) In subsection (1) –

'spent record' includes –

- (a) a finding that an offence has not been proved; and
- (b) a charge that is pending;

'vulnerable persons' includes children, aged persons and persons with a physical or intellectual disability or mental illness."

**PART 4 – AMENDMENTS RELATING TO DE FACTO  
RELATIONSHIPS**

***Division 1 – Amendments of De Facto Relationships Act***

**29. Principal Act**

The *De Facto Relationships Act* is in this Division referred to as the Principal Act.

**30. Definitions**

Section 3 of the Principal Act is amended –

- (a) by omitting "In" and substituting "(1) In";
- (b) by omitting paragraph (b) of the definition of "child" and substituting the following:

"(b) if one of the partners is a woman – a child of the woman if her de facto partner is presumed to be a parent of the child under section 5D or 5DA of the *Status of Children Act*; or";

- (c) by omitting "an agreement between a man and a woman" from the definition of "cohabitation agreement" and substituting "an agreement (whenever entered into) between 2 adults";
- (d) by omitting the definitions of "de facto partner" and "de facto relationship" and substituting the following:

" 'de facto partner', of a person, means a person who is in a de facto relationship with the person;

'de facto relationship' has the meaning in section 3A;";

- (e) by inserting after the definition of "financial resources" the following:

" 'married' means validly married under the *Marriage Act 1961* of the Commonwealth;";

- (f) by omitting "an agreement between a man and a woman" from the definition of "separation agreement" and substituting "an agreement (whenever entered into) between 2 adults"; and
- (g) by adding at the end the following:

"(2) In this Act –

- (a) a reference to a de facto partner of an Aboriginal or Torres Strait Islander includes a reference to an Aboriginal or Torres Strait



Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies; and

- (b) a reference to a de facto relationship includes a reference to the relationship between 2 persons who are de facto partners by virtue of paragraph (a)."

### **31. New section**

The Principal Act is amended by inserting after section 3 in Part 1 the following:

#### **"3A. De facto relationships**

"(1) For this Act, 2 persons are in a de facto relationship if they are not married but have a marriage-like relationship.

"(2) To determine whether 2 persons are in a de facto relationship, all the circumstances of their relationship must be taken into account, including such of the following matters as are relevant in the circumstances of the particular case:

- (a) the duration of the relationship;
- (b) the nature and extent of common residence;
- (c) whether or not a sexual relationship exists;
- (d) the degree of financial dependence or interdependence, and any arrangements for financial support, between them;
- (e) the ownership, use and acquisition of property;
- (f) the degree of mutual commitment to a shared life;
- (g) the care and support of children;
- (h) the performance of household duties;
- (i) the reputation and public aspects of their relationship.

"(3) For subsection (2), the following matters are irrelevant:

- (a) the persons are different sexes or the same sex;
- (b) either of the persons is married to another person;
- (c) either of the persons is in another de facto relationship."

**32. Discharge, suspension, revival or variation of periodic maintenance orders**

Section 33 of the Principal Act is amended –

- (a) by omitting from subsection (1) "a court may" and substituting "a court may by order";
- (b) by omitting from subsection (2) "A court shall not make an order discharging, increasing or decreasing an amount directed by an order under this Division to be paid" and substituting "Subject to subsection (2A), a court must not make an order under subsection (1)"; and
- (c) by inserting after subsection (2) the following:

"(2A) A court must discharge an order if satisfied –

- (a) the de facto relationship has ended; and
- (b) the de facto partner in whose favour the order was made has entered into another de facto relationship."

**33. Validity of agreements**

Section 44 of the Principal Act is amended by omitting from subsection (1) "A man and a woman" and substituting "Two adults".

**34. Repeal**

Section 51 of the Principal Act is repealed.

**35. Application**

- (1) The amended Act applies in relation to a de facto relationship –

- (a) in existence immediately before the commencement day; or
- (b) that comes into existence on or after the commencement day.

(2) A declaration or order made under the former Act in respect of a de facto relationship referred to in subsection (1)(a) and in force immediately before the commencement day is taken to be a declaration or order made under the amended Act.

(3) An application made under the former Act in respect of a de facto relationship referred to in subsection (1)(a) and pending immediately before the commencement day is taken to be an application made under the amended Act.

(4) The former Act continues to apply, subject to section 51 of that Act, to a de facto relationship within the meaning of that Act that had ceased to exist before the commencement day.

(5) In this section –

"amended Act" means the *De Facto Relationships Act* as amended by this Act;

"commencement day" means the day on which this Division commences;

"former Act" means the *De Facto Relationships Act* as in force immediately before the commencement day.

### ***Division 2 – Amendments of Interpretation Act***

#### **36. Principal Act**

The *Interpretation Act* is in this Division referred to as the Principal Act.

#### **37. Definitions generally**

Section 19 of the Principal Act is amended by omitting the definition of "de facto partner".

#### **38. New section**

The Principal Act is amended by inserting after section 19 the following:

##### **"19A. Definitions of certain domestic relationships**

"(1) In any Act –

'spouse', of a person, means –

- (a) a person to whom the person is validly married under the *Marriage Act 1961* of the Commonwealth; or
- (b) if the person is an Aboriginal or Torres Strait Islander – an Aboriginal or Torres Strait Islander to whom the person is married according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which either person identifies.

"(2) In any Act, 'marriage', 'husband', 'wife', 'widow' and 'widower' have the meanings that correspond with the meaning of 'spouse'.

"(3) In any Act, 'de facto partner' and 'de facto relationship' have the meanings in section 3(1) of the *De Facto Relationships Act*.

"(4) In any Act –

'stepchild', of a person, means a child who is –

- (a) if the person is married – a child of the person's spouse but not a child of the person; or
- (b) if the person is in a de facto relationship – a child of the person's de facto partner but not a child of the person.

"(5) In any Act, a reference to a step-relative of a person is read as having the meaning that corresponds with the meaning of 'stepchild'."

### **39. Application**

(1) The amended Interpretation Act applies to another Act or subordinate legislation amended by this Act after the commencement of the amendments of the other Act or subordinate legislation.

(2) The amended Interpretation Act applies to the Crimes (Victims Assistance) Rules to the extent those Rules apply in relation to an injury occurring after the commencement of Schedule 1, Part 12.

(3) The amended Interpretation Act applies to the *Sentencing Act* to the extent that Act applies in relation to a sentence imposed after the commencement of this Division regardless of when the offence was committed.

(4) The amendments of the Principal Act effected by this Act apply in relation to a fossicking permit under the *Mining Act* whenever granted.

(5) In this section –

"amended Interpretation Act" means the Principal Act as amended by this Act.

### ***Division 3 – Amendments of Status of Children Act***

#### **40. Principal Act**

The *Status of Children Act* is in this Division referred to as the Principal Act.

#### **41. New section**

The Principal Act is amended by inserting after section 5D the following:

#### **"5DA. Rule relating to parentage – female de facto partners**

"(1) Where a woman who is the de facto partner of another woman undergoes, with the consent of the other woman, a fertilization procedure as a

result of which she becomes pregnant, the other woman is, for all purposes of the law of the Northern Territory, to be presumed to be a parent of –

- (a) the unborn child; and
- (b) a child born as a result of the pregnancy.

"(2) A presumption of law that arises by virtue of subsection (1) is irrebuttable.

"(3) In a proceeding in which the operation of subsection (1) is relevant, a woman's consent to the carrying out of a fertilization procedure in respect of her de facto partner is to be presumed, but that presumption is rebuttable."

***Division 4 – Amendments of Administrators Pensions Act***

**42. Principal Act**

The *Administrators Pensions Act* is in this Division referred to as the Principal Act.

**43. Commutation to pay deferred superannuation contributions surcharge**

Section 3E of the Principal Act is amended by omitting from subsection (1)(a) "spouse" and substituting "spouse or de facto partner".

**44. Pension of spouse or de facto partner**

Section 5 of the Principal Act is amended –

- (a) by omitting "Subject" and substituting "(1) Subject";
- (b) by omitting ", there shall be payable to that spouse for life or until he or she remarries" and substituting "or de facto partner ('the surviving partner'), there is payable to the surviving partner for life or until the surviving partner marries or enters a de facto relationship"; and
- (c) by adding at the end the following:

"(2) If the Administrator or former Administrator ('the deceased') is survived by both a spouse and a de facto partner, the two-thirds pension is payable under subsection (1) to –

- (a) the de facto partner if –
  - (i) the de facto partner was the de facto partner of the deceased for a continuous period of at least 2 years immediately preceding the deceased's death; and

(ii) the spouse had not lived with the deceased at any time during that period; or

(b) the spouse if paragraph (a) does not apply."

**45. Application**

The amendments of the Principal Act effected by this Act do not apply in relation to a pension that –

- (a) became payable before the commencement of this Division; or
- (b) becomes payable after that commencement if the pension relates to a former Administrator who ceased to be the Administrator before that commencement.

*Division 5 – Amendments of Stamp Duty Act*

**46. Principal Act**

The *Stamp Duty Act* is in this Division referred to as the Principal Act.

**47. Concession for first home owners**

Section 8B of the Principal Act is amended –

- (a) by omitting from subsection (1) the definition of "spouse"; and
- (b) by inserting after subsection (1) the following:

"(1A) For this section, if the Commissioner is satisfied that, at the time the instruments effecting a conveyance are executed, a conveyee –

- (a) is married but not cohabiting with the person to whom the conveyee is married; and
- (b) has no intention of resuming cohabitation,

the person to whom the conveyee is married is not to be regarded as the conveyee's spouse."

**48. Conveyance of property used for farming purposes to family member exempt from duty**

Section 8E of the Principal Act is amended by omitting from paragraph (c) of the definition of "family member" in subsection (1) "step child" and substituting "stepchild".

**49. Schedule 2**

Schedule 2 to the Principal Act is amended by omitting from item 9B "married to each other or living in a de facto relationship, within the meaning of the *De Facto Relationships Act*," and substituting "the spouses or de facto partners of one another".

**50. Application**

The amendments of the Principal Act effected by this Act do not apply in relation to instruments executed before the commencement of this Division.

***Division 6 – Amendments of Supreme Court (Judges Pensions) Act***

**51. Principal Act**

The *Supreme Court (Judges Pensions) Act* is in this Division referred to as the Principal Act.

**52. Interpretation**

Section 3 of the Principal Act is amended –

- (a) by inserting after the definition of "Family Law Act" in subsection (1) the following:

" 'further relationship' has the meaning in section 3AB;";

- (b) by adding at the end of subsection (1) the following:

" 'surviving partner' has the meaning in section 3AA."; and

- (c) by omitting subsections (3) and (4).

**53. New sections**

The Principal Act is amended by inserting after section 3 the following:

**"3AA. Surviving partners**

"(1) For this Act, the surviving partner of a Judge or retired Judge who dies is the surviving spouse or de facto partner of the Judge.

"(2) If a Judge or retired Judge is survived by both a spouse and a de facto partner, the surviving partner is –

- (a) the de facto partner if –

- (i) the de facto partner was the de facto partner of the Judge for a continuous period of at least 2 years immediately preceding the Judge's death; and
  - (ii) the spouse had not lived with the Judge at any time during that period; or
- (b) the spouse if paragraph (a) does not apply.

**"3AB. Further relationships**

"(1) For this Act, a surviving partner enters a further relationship if the surviving partner marries or enters a de facto relationship.

"(2) For this Act, if a surviving partner enters a further relationship and the parties to the relationship adopt a child who is not a child of the surviving partner, the child is taken to be a child of the further relationship."

**54. Pension to surviving partner on death of Judge**

Section 5 of the Principal Act is amended –

- (a) by omitting from subsection (1) "widow" (all references) and substituting "surviving partner"; and
- (b) by omitting subsection (2) and substituting the following:

"(2) If a surviving partner in receipt of a pension under this section enters a further relationship, the pension ceases."

**55. Pension to surviving partner on death of retired Judge**

Section 6 of the Principal Act is amended –

- (a) by omitting from subsection (1) "widow whose marriage to the retired Judge occurred" and substituting "surviving partner who married, or entered a de facto relationship with, the retired Judge";
- (b) by omitting from subsection (1) "the widow" and substituting "the surviving partner"; and
- (c) by omitting subsection (2) and substituting the following:

"(2) If a surviving partner in receipt of a pension under this section enters a further relationship, the pension ceases."



**56. Pension in respect of children on death of Judge**

Section 7 of the Principal Act is amended –

- (a) by omitting "widow" (first, second, third and fourth references) and substituting "surviving partner"; and
- (b) by omitting "remarriage of the widow" and substituting "further relationship of the surviving partner".

**57. Pension in respect of children on death of retired Judge**

Section 8 of the Principal Act is amended –

- (a) by omitting from subsection (1) "widow" (first, second, third and fourth references) and substituting "surviving partner";
- (b) by omitting from subsection (1) "remarriage of the widow" and substituting "further relationship of the surviving partner";
- (c) by omitting from subsection (2) "married" and substituting "married, or entered a de facto relationship with, his or her surviving partner";
- (d) by omitting from subsection (2)(d) "marriage" and substituting "marriage or de facto relationship"; and
- (e) by omitting from subsection (2)(e) "widow" and substituting "surviving partner".

**58. Pension in respect of children on death of surviving partner**

Section 9 of the Principal Act is amended –

- (a) by omitting from subsection (1) "widow" (first, second and third references) and substituting "surviving partner";
- (b) by omitting from subsection (1) "remarriage of the widow" and substituting "further relationship of the surviving partner";
- (c) by omitting from subsection (2) all the words after "but for" (first reference) and substituting "the death or any further relationship of the surviving partner, would, by virtue of section 5 or 6, have been payable to the surviving partner";
- (d) by omitting from subsection (3) "married" and substituting "married, or entered a de facto relationship with, his or her surviving partner";
- (e) by omitting from subsection (3) "widow" (first reference) and substituting "surviving partner";

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- (f) by omitting from subsection (3)(d) "marriage" and substituting "marriage or de facto relationship"; and
- (g) by omitting from subsection (3)(e) "widow" and substituting "surviving partner".

**59. Pension in respect of children when surviving partner's pension not payable**

Section 10 of the Principal Act is amended –

- (a) by omitting from subsection (1) "widow" and "spouse" and substituting "surviving partner" and "spouse or de facto partner" respectively;
- (b) by omitting from subsection (2) "widow" (all references) and substituting "surviving partner";
- (c) by omitting from subsection (2) "whose marriage to the retired Judge occurred" and substituting "who married, or entered a de facto relationship with, the retired Judge";
- (d) by omitting subsection (3)(a) and substituting the following:
  - "(a) a child of a former spouse or de facto partner of a Judge or retired Judge"; and
- (e) by omitting from subsection (3)(b) "marriage of a retired Judge that occurred" and substituting "marriage or de facto relationship of a retired Judge that occurred or was entered into".

**60. Special provision relating to pensions payable to children**

Section 13 of the Principal Act is amended by omitting from subsection (2) "widow" (all references) and substituting "surviving partner".

**61. Application**

The amendments of the Principal Act effected by this Act do not apply in relation to a pension that –

- (a) became payable before the commencement of this Division; or
- (b) becomes payable after that commencement if the pension relates to a Judge who died, or a retired Judge who retired, before that commencement.

***Division 7 – Amendments of other Acts and subordinate legislation***

**62. Amendments of other Acts**

The Acts specified in Schedule 1 are amended as set out in that Schedule.

**63. Amendments of subordinate legislation**

(1) The subordinate legislation specified in Schedule 2 is amended as set out in that Schedule.

(2) Subordinate legislation amended as set out in Schedule 2 may be amended or repealed by subordinate legislation as if the amendments had been made by subordinate legislation.

***Division 8 – Application of amendments in Schedules 1 and 2***

**64. Amendment of *Administration and Probate Act***

The *Administration and Probate Act* as amended by this Act applies in relation to the administration of the estate of a deceased person who dies after the commencement of Schedule 1, Part 2.

**65. Amendment of section 18 of *Cemeteries Act***

The amendment of section 18 of the *Cemeteries Act* effected by this Act applies in relation to a person who dies after the commencement of Schedule 1, Part 8.

**66. Amendments of *Compensation (Fatal Injuries) Act***

The *Compensation (Fatal Injuries) Act* as amended by this Act applies in relation to a death occurring after the commencement of Schedule 1, Part 9, whether the act, neglect or default that caused the death occurred before or after that commencement.

**67. Amendment of *Coroners Act***

The *Coroners Act* as amended by this Act applies in relation to a death that occurs after the commencement of Schedule 1, Part 11.

**68. Amendments of *Crimes (Victims Assistance) Act***

The *Crimes (Victims Assistance) Act* as amended by this Act applies in relation to an injury occurring after the commencement of Schedule 1, Part 12.

**69. Amendments of *Family Provision Act***

The *Family Provision Act* as amended by this Act applies in relation to the administration of the estate of a deceased person who dies after the commencement of Schedule 1, Part 16.

**70. Amendments of *First Home Owner Grant Act***

The *First Home Owner Grant Act* as amended by this Act applies in relation to an eligible transaction the commencement date of which is after the commencement of Schedule 1, Part 17.

**71. Amendment of *Gaming Machine Act***

The amendment of the *Gaming Machine Act* effected by this Act does not apply in relation to an application for the grant of a gaming machine licence made before the commencement of Schedule 1, Part 18.

**72. Amendments of *Human Tissue Transplant Act***

The amendments of the *Human Tissue Transplant Act* effected by this Act do not apply in relation to a person who died before the commencement of Schedule 1, Part 19.

**73. Amendments of *Lands Acquisition Act***

The *Lands Acquisition Act* as amended by this Act applies in relation to an acquisition of land after the commencement of Schedule 1, Part 21.

**74. Amendments of *Law Reform (Miscellaneous Provisions) Act***

(1) The amendments of section 12 of the *Law Reform (Miscellaneous Provisions) Act* effected by this Act do not apply in relation to damage suffered as a result of a tort committed before the commencement of Schedule 1, Part 22.

(2) The amendment of section 23 of the *Law Reform (Miscellaneous Provisions) Act* effected by this Act does not apply in relation to an injury caused before the commencement of Schedule 1, Part 22.

**75. Amendment of *Legislative Assembly Members' Superannuation Act***

The amendment of the *Legislative Assembly Members' Superannuation Act* effected by this Act does not apply in relation to a pension or other benefit that –

- (a) became payable before the commencement of Schedule 1, Part 25;
- or

- (b) becomes payable after that commencement if the pension or benefit relates to a former member who ceased to be a member before that commencement.

**76. Amendments of *Legislative Assembly (Register of Members' Interests) Act***

(1) The first occasion on which a member is required to notify the Clerk of any new information is in the return required to be submitted to the Clerk under section 4(1) of the amended Act within 90 days after 30 June 2004.

(2) In subsection (1) –

"amended Act" means the *Legislative Assembly (Register of Members' Interests) Act* as amended by this Act;

"new information", in relation a member, means information in respect of the member or the member's family required to be included in a return under section 4(1) of the amended Act because of the amendments of the *Legislative Assembly (Register of Members' Interests) Act* effected by this Act.

**77. Amendments of *Motor Accidents (Compensation) Act***

The amendments of the *Motor Accidents (Compensation) Act* effected by this Act do not apply in relation to an accident that occurred before the commencement of Schedule 1, Part 32.

**78. Amendment of *Pastoral Land Act***

The amendment of the *Pastoral Land Act* effected by this Act applies in relation to an acquisition of pastoral land, or an interest in pastoral land, after the commencement of Schedule 1, Part 35.

**79. Amendments of *Superannuation Act***

The amendments of the *Superannuation Act* effected by this Act do not apply in relation to a benefit that became payable before the commencement of Schedule 1, Part 40.

**80. Amendments of *Supreme Court (Judges Long Leave Payments) Act***

The amendments of the *Supreme Court (Judges Long Leave Payments) Act* do not apply in relation to an amount that –

- (a) became payable before the commencement of Schedule 1, Part 41;  
or

- (b) becomes payable after that commencement if the amount relates to a Judge who died before that commencement.

**81. Amendment of *Totalisator Licensing and Regulation Act***

The amendment of the *Totalisator Licensing and Regulation Act* effected by this Act does not apply in relation to an application for the grant, renewal or variation of a licence made before the commencement of Schedule 1, Part 45.

**82. Amendments of *Work Health Act***

The amendments of the *Work Health Act* effected by this Act do not apply in relation to an injury arising before the commencement of Schedule 1, Part 48.

**83. Amendments of First Home Owner Grant Regulations**

The First Home Owner Grant Regulations as amended by this Act apply in relation to an eligible transaction the commencement date of which is after the commencement of Schedule 1, Part 17.

**84. Amendments of Home Purchase Assistance Scheme Regulations**

The Home Purchase Assistance Scheme Regulations as amended by this Act apply in relation to an advance the application for which is made after the commencement of Schedule 2, Part 20.

**85. Amendments of Housing Assistance Schemes Regulations**

The Housing Assistance Schemes Regulations as amended by this Act apply in relation to a housing loan or other assistance the application for which is made after the commencement of Schedule 2, Part 21.

**86. Amendments of Housing (Concessional Loans) Regulations**

The Housing (Concessional Loans) Regulations as amended by this Act apply in relation to a loan the application for which is made after the commencement of Schedule 2, Part 22.

**87. Amendments of Housing Loans Regulations**

The Housing Loans Regulations as amended by this Act apply in relation to a loan the application for which is made after the commencement of Schedule 2, Part 23.

**88. Amendments of Northern Territory Interest Subsidy Scheme Regulations**

The Northern Territory Interest Subsidy Regulations as amended by this Act apply in relation to an interest subsidy the application for which is made after the commencement of Schedule 2, Part 33.

**89. Amendment of Work Health Regulations**

The amendment of the Work Health Regulations effected by this Act do not apply in relation to an injury that arose before the commencement of Schedule 1, Part 48.

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## SCHEDULE 1

Section 62

### AMENDMENTS OF OTHER ACTS

| Provision   | Amendment   |  |
|---|---|--|
|   | omit  | substitute   |
| <b><i>Part 1 – Aboriginal Land Act</i></b>            |   |  |
| Section 6A(1)   | (1) A<br>in respect of that person,<br>his spouse if living with<br>him, his de facto partner<br>(if any) as defined in<br>subsection (2) and any<br>infant for the time being<br>living with him | A<br>in respect of the person<br>and any of the following<br>persons if they are living<br>with the person:<br>(a) any spouse or de<br>facto partner of the<br>person;<br>(b) any infants.           |
| Section 6A(2)   | the whole paragraph   |  |
| <b><i>Part 2 – Administration and Probate Act</i></b> |   |  |
| Section 6(1)  | the whole definition  |  |
| – definition of "de facto<br>partner"                 |   |  |
| <b><i>Part 3 – Adult Guardianship Act</i></b>         |   |  |
| Section 3(1)  |   |  |
| – definition of "near<br>relative"                    | the whole definition  | "near relative, of a<br>person, means –<br>(a) a parent of the<br>person;<br>(b) a spouse of the<br>person;<br>(c) a de facto partner<br>of the person; or<br>(d) another relative of<br>the person; |



|                     |                        |   |
|---------------------|------------------------|---|
| Section 3(2)(a)     | marriage               | marriage, de facto relationship   |
| Section 3(2)(a)(ii) | the whole subparagraph | (ii) by marriage if one is married to the other or to a person who is connected by blood relationship to the other;<br>(iia) by de facto relationship if one is in a de facto relationship with the other or with a person who is connected by blood relationship to the other; |

***Part 4 – Aged and Infirm Persons' Property Act***

Section 4

- definition of "de facto partner" the whole definition

|                 |                                    |   |
|-----------------|------------------------------------|---|
| Section 7(1)(b) | near relation by blood or marriage | a near relation by blood, marriage or de facto relationship |
|-----------------|------------------------------------|---|

***Part 5 – Agents Licensing Act***

|                  |                   |  |
|------------------|-------------------|--|
| Section 60(2)(a) | his or her spouse | a spouse or de facto partner of the person |
|------------------|-------------------|--|

|                  |                               |                              |
|------------------|-------------------------------|------------------------------|
| Section 60(2)(b) | the spouse or de facto spouse | a spouse or de facto partner |
|------------------|-------------------------------|------------------------------|

Section 108F(1)

- definition of "spouse" the whole definition

|   |        |                          |
|---|--------|--------------------------|
| Section 108F(2)(a), (b), (c) and (d) and (3)(a) and (b) | spouse | spouse, de facto partner |
|---|--------|--------------------------|

*Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*

***Part 6 – Associations Act***

Section 40(6)                      homosexual partner,

***Part 7 – Births, Deaths and Marriages Registration Act***

Section 19(1)(a)              father and mother              parents

***Part 8 – Cemeteries Act***

Section 18(1A)              the whole subsection              (1A) For subsection (1),  
a deceased person's next  
of kin are –

- (a) any spouse of the  
person;
- (b) any de facto  
partner of the  
person; and
- (c) any person who is  
related by blood to  
the person.

Section 30C(1)(a)              the whole paragraph              (a) a spouse or de  
facto partner of the  
deceased person;

***Part 9 – Compensation (Fatal Injuries) Act***

Section 4(1)

– definition of "child"              step-child              stepchild

Section 4(2)(a)              the whole paragraph              (a) a spouse or de  
facto partner of the  
deceased person;

Section 4(2)(g)              the whole paragraph              (g) a former spouse or  
de facto partner of  
the deceased  
person.

Section 4(3)(b)              person;              person; and

Section 4(3)(c)              the whole paragraph

*Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*

|                  |  |   |
|------------------|--|---|
| Section 10(3)(c) | wife or husband<br><br>of husband and wife | spouse or de facto partner  |
| Section 10(4)(h) | the whole paragraph                        | (h) the marriage or entry into a de facto relationship, or the prospects of doing so, of a surviving spouse or de facto partner or a surviving former spouse or de facto partner. |

***Part 10 – Co-operatives Act***

|                                 |   |  |
|---------------------------------|---|--|
| Section 153(d)                  | and his or her spouse<br><br>and spouse | , a spouse or de facto partner of each such director,<br><br>, spouse and de facto partner |
| Section 226(1)(a)               | the whole paragraph                     | (a) a spouse or de facto partner of the director;  |
| Section 226(1)(b)(i) and (c)(i) | director's spouse                       | a spouse or de facto partner of the director   |
| Section 270(1)(b)               | the spouse                              | a spouse or de facto partner   |

***Part 11 – Coroners Act***

|                           |                      |  |
|---------------------------|----------------------|--|
| Section 3                 |                      |  |
| – definition of "married" | the whole definition | "married" includes being in a de facto relationship; |

***Part 12 – Crimes (Victims Assistance) Act***

**Section 4(1)**

- definition of "de facto partner"      the whole definition      "de facto partner", in relation to a deceased victim, means a person who, immediately before the victim's death, was a de facto partner of the victim;
- definition of "relative", paragraph (c)      , including a child of the de facto partner of the victim

**Section 4(2)**      the whole subsection

***Part 13 – Criminal Property Forfeiture Act***

**Section 5**

- definition of "spouse"      the whole definition
  - definition of "valuable consideration", paragraphs (b) and (c)      the spouse      a spouse or de facto partner
- Sections 63(1)(a)(i) and 82(b)**      the spouse or a      a spouse, de facto partner or

***Part 14 – Domestic Violence Act***

**Section 3(1)**

- definition of "spouse"      the whole definition

**Section 3(2)(a)(i)**      the whole subparagraph      (i) a spouse or de facto partner or a former spouse or de facto partner;

**Section 3(2)(e)**      the whole paragraph      (e) has or has had a personal relationship with the other person.

***Part 15 – Emergency Medical Operations Act***

Section 2(1)

- definition of "de facto partner" the whole definition

***Part 16 – Family Provision Act***

Section 4(1)

- definition of "de facto partner" the whole definition

Section 7(1)(a)                      the widow or widower                      a spouse or de facto partner

Section 7(1)(b)                      wife or former husband                      spouse or de facto partner

Section 7(1)(f)                      person; and                      person.

Section 7(1)(g)                      the whole paragraph

Section 7(1A)                      the whole subsection

Section 7(2)(a)                      wife or former husband                      spouse or de facto partner

Section 7(2)(b)                      person; or                      person,

Section 7(2)(c)                      the whole paragraph

Section 7(4)(b)                      his spouse                      a spouse or a de facto partner

***Part 17 – First Home Owner Grant Act***

Section 3

- definition of "spouse" the whole definition

Section 6(1)                      the whole subsection

Section 6(2)                      (2) If                      If  
legally  
(all references)

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|  |                            |                            |
|--|----------------------------|----------------------------|
| Sections 10(1)(a) and (3), 11(1) and (3) and 14(2)(b) and (c), (3) and (4) | spouse<br>(all references) | spouse or de facto partner |
|--|----------------------------|----------------------------|

***Part 18 – Gaming Machine Act***

|                 |                     |   |
|-----------------|---------------------|---|
| Section 5(1)(a) | the whole paragraph | (a) a spouse or de facto partner of the person; |
|-----------------|---------------------|---|

***Part 19 – Human Tissue Transplant Act***

|  |                   |                              |
|--|-------------------|------------------------------|
| Section 4(1)   |                   |                              |
| – definition of "senior available next of kin", paragraph (b)(i) | the spouse        | a spouse or de facto partner |
| Section 17   | the whole section |                              |

***Part 20 – Juries Act***

|            |            |                                |
|------------|------------|--------------------------------|
| Schedule 7 | the spouse | a spouse or a de facto partner |
|------------|------------|--------------------------------|

***Part 21 – Lands Acquisition Act***

|                |   |  |
|----------------|---|--|
| Schedule 2     |   |  |
| – clause 12(1) | (1) In<br>a claimant's spouse and his de facto partner if any | In<br>any spouse or de facto partner of the claimant |
| – clause 12(2) | the whole subclause   |  |

***Part 22 – Law Reform (Miscellaneous Provisions) Act***

|                                    |   |                              |
|------------------------------------|---|------------------------------|
| Section 12(3)                      | the wife, husband                       | a spouse, de facto partner   |
| Section 12(5)                      | the husband or wife<br>(all references) | a spouse or de facto partner |
| Section 23                         |   |                              |
| – definition of "de facto partner" | the whole definition                    |                              |

***Part 23 – Legal Practitioners Act***

|                   |                     |                              |
|-------------------|---------------------|------------------------------|
| Section 68(1)(c)  | the spouse          | a spouse or de facto partner |
| Section 68(2)(c)  | spouse              | spouse or de facto partner   |
| Section 84B(3)(b) | the whole paragraph | (b) a de facto partner;      |

***Part 24 – Legal Practitioners (Incorporation) Act***

Section 3

- definition of "near relative"      spouse      spouse, de facto partner
- definition of "spouse"      the whole definition

***Part 25 – Legislative Assembly Members' Superannuation Act***

Section 18

- definition of "spouse"      the whole definition      "spouse", of a member or former member, means –
  - (a) a spouse of the member or former member who, at the relevant time, was living with the member or former member on a bona fide domestic basis;
  - (b) a spouse of the member or former member who, at the relevant time, was not living with the member or former member on a bona fide domestic basis but, in the opinion of the Trustee, was wholly or substantially

dependent upon the member or former member at that time;

- (c) a de facto partner of the member or former member; or
- (d) a former de facto partner of the member or former member who, in the opinion of the Trustee, was wholly or substantially dependent upon the member or former member at the relevant time,

but does not include a person who married, or entered a de facto relationship with, a former member –

- (e) after the former member's retirement;
- (f) after the former member attained the age of 60 years; and
- (g) less than 5 years before the former member's death.

***Part 26 – Legislative Assembly (Register of Members' Interests) Act***

**Section 3**

- definition of "family", the spouse
- definition of "spouse" the whole definition

a spouse or de facto partner



*Law Reform (Gender, Sexuality and De Facto Relationships) Act 2003*

|                      |            |  |
|----------------------|------------|--|
| Section 5(1)(f)(iii) | his spouse | a spouse or de facto partner of the member |
|----------------------|------------|--|

***Part 27 – Local Government Act***

|                  |   |  |
|------------------|---|--|
| Section 20(2)(d) | the spouse of the member (including a person to whom the member is not legally married but who is living as a spouse on a bona fide domestic basis) | a spouse or de facto partner of the member |
|------------------|---|--|

|               |   |                              |
|---------------|---|------------------------------|
| Section 20(3) | or spouse (within the meaning of subsection (2)(d)) | , spouse or de facto partner |
|---------------|---|------------------------------|

|   |           |                              |
|---|-----------|------------------------------|
| Section 20(3)(b), (f), (g), (h) and (j) | or spouse | , spouse or de facto partner |
|---|-----------|------------------------------|

|                  |        |                            |
|------------------|--------|----------------------------|
| Section 95(4)(a) | spouse | spouse or de facto partner |
|------------------|--------|----------------------------|

***Part 28 – Maintenance Act***

|               |                            |        |
|---------------|----------------------------|--------|
| Section 31(1) | father<br>(last reference) | parent |
|---------------|----------------------------|--------|

***Part 29 – Meat Industries Act***

|                 |                                |                    |
|-----------------|--------------------------------|--------------------|
| Section 4(6)(c) | (including a de facto partner) | , de facto partner |
|-----------------|--------------------------------|--------------------|

***Part 30 – Medical Services Act***

Section 5

- definition of "de facto partner" the whole definition

***Part 31 – Mental Health and Related Services Act***

Section 4

- definition of "primary care provider" de-facto de facto

***Part 32 – Motor Accidents (Compensation) Act***

**Section 4(1)**

- definition of "spouse"      the whole definition      "spouse", in relation to a person, means –
- (a) a spouse of the person who, at the relevant time, was living with the person on a bona fide domestic basis;
  - (b) a spouse of the person who, at the relevant time, was not living with the person on a bona fide domestic basis but, in the opinion of the Board, was wholly or substantially dependent upon the person at that time;
  - (c) a de facto partner of the person who had been the person's de facto partner for a continuous period of at least 2 years immediately preceding that time;
  - (d) a de facto partner of the person who had not been the person's de facto partner for a continuous period of at least 2 years immediately preceding the

relevant time but  
who, in the opinion  
of the Board, was  
wholly or  
substantially  
dependent upon the  
person at that time;  
or

- (e) if the person is an  
Aboriginal or  
Torres Strait  
Islander --
  - (i) a person  
referred to in  
paragraphs  
(a), (b) or (c);  
or
  - (ii) an Aboriginal  
or Torres  
Strait Islander  
to whom the  
person is  
married  
according to  
the customs  
and traditions  
of the  
particular  
community  
of  
Aboriginals  
or Torres  
Strait  
Islanders  
with which  
either person  
identifies;

Section 14(1)(b)(ii)

the whole subparagraph

- (ii) who was not  
married or in a  
relationship that, in  
the opinion of the  
Board, was a de  
facto relationship;  
and

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|                  |  |   |
|------------------|--|---|
| Section 14(1)(d) | establishes a relationship of the kind referred to in paragraph (b)(ii)  | enters a relationship that, in the opinion of the Board, is a de facto relationship   |
| Section 14       | establishing that relationship   | entering that relationship  |
| Section 14(3)(b) | the whole paragraph  | (b) enters a relationship that, in the opinion of the Board, is a de facto relationship; or   |
| Section 37(1)    | an aboriginal native of Australia married to more than one person according to the custom of the group or tribe of aboriginal natives of Australia to which he belongs | an Aboriginal or Torres Strait Islander married to more than one person according to the customs and traditions of the particular community of Aboriginals or Torres Strait Islanders with which the resident of the Territory or any of those persons identifies |
| Section 37(2)    | an aboriginal native of Australia  | an Aboriginal or Torres Strait Islander   |

***Part 33 – Northern Territory Electoral Act***

|              |                                       |                              |
|--------------|---------------------------------------|------------------------------|
| Section 9(2) | spouse (including a de facto partner) | a spouse or de facto partner |
|--------------|---------------------------------------|------------------------------|

***Part 34 – Partnership Act***

|                      |            |                            |
|----------------------|------------|----------------------------|
| Section 6(1)(c)(iii) | the spouse | a spouse, de facto partner |
|----------------------|------------|----------------------------|

***Part 35 – Pastoral Land Act***

|                                    |                      |  |
|------------------------------------|----------------------|--|
| Section 3(1)                       |                      |  |
| – definition of "de facto partner" | the whole definition |  |

***Part 36 – Police Administration Act***

|                   |   |                             |
|-------------------|---|-----------------------------|
| Section 135(1)(b) | the spouse (including a de facto spouse), | a spouse, de facto partner, |
|-------------------|---|-----------------------------|

***Part 37 – Prostitution Regulation Act***

Section 3

|                                    |                      |
|------------------------------------|----------------------|
| – definition of "de facto partner" | the whole definition |
|------------------------------------|----------------------|

|                  |                     |
|------------------|---------------------|
| Section 24(1)(d) | homosexual partner, |
|------------------|---------------------|

***Part 38 – Public Trustee Act***

|                  |   |                              |
|------------------|---|------------------------------|
| Section 60(1)(b) | the spouse, de facto partner (as defined in subsection (5)) | a spouse or de facto partner |
|------------------|---|------------------------------|

|               |                      |
|---------------|----------------------|
| Section 60(5) | the whole subsection |
|---------------|----------------------|

***Part 39 – Retirement Villages Act***

Section 3(1)

|  |   |                              |
|--|---|------------------------------|
| – definitions of "resident" and "retired person" | the spouse or de facto partner (within the meaning of the <i>De Facto Relationships Act</i> ) | a spouse or de facto partner |
|--|---|------------------------------|

***Part 40 – Superannuation Act***

Section 3(1)

|  |                                     |   |
|--|-------------------------------------|---|
| – definition of "dependant", paragraph (a) | , adopted child or ex-nuptial child | or adopted child  |
| – definition of "spouse"                   | the whole definition                | "spouse", in relation to an eligible employee or former eligible employee, includes a de facto partner of the employee; |

***Part 41 – Supreme Court (Judges Long Leave Payments) Act***

|                         |                                      |                               |
|-------------------------|--------------------------------------|-------------------------------|
| Section 5(2)(a) and (b) | widow or widower<br>(all references) | spouse or de facto<br>partner |
|-------------------------|--------------------------------------|-------------------------------|

***Part 42 – Swimming Pool Fencing Act***

|                  |  |   |
|------------------|--|---|
| Section 39(5)(b) | spouse, surviving<br>relative, or member of<br>the family, | surviving spouse or de<br>facto partner, another<br>surviving relative or a<br>member of the family |
|------------------|--|---|

***Part 43 – Taxation (Administration) Act***

Section 56BAA

|   |                          |   |
|---|--------------------------|---|
| – definition of "family<br>member", paragraph<br>(a)          | the spouse               | a spouse or de facto<br>partner                       |
| – definition of "family<br>member", paragraph<br>(c)          | step child               | stepchild   |
| – definition of "family<br>member", paragraph<br>(e)          | the spouse               | a spouse or de facto<br>partner                       |
| – definition of "family<br>member", paragraphs<br>(f) and (g) | the beneficiary's spouse | a spouse or de facto<br>partner of the<br>beneficiary |

|   |            |                                 |
|---|------------|---------------------------------|
| Section 56C(2)(c)(i), (ii)<br>and (iii) | the spouse | a spouse or de facto<br>partner |
|---|------------|---------------------------------|

|                       |            |                                 |
|-----------------------|------------|---------------------------------|
| Section 56C(2)(c)(iv) | the spouse | a spouse or de facto<br>partner |
|                       | a spouse   | a spouse or de facto<br>partner |

|                   |         |                                 |
|-------------------|---------|---------------------------------|
| Section 56C(3)(a) | spouses | spouses or de facto<br>partners |
|-------------------|---------|---------------------------------|

|                   |                     |  |
|-------------------|---------------------|--|
| Section 56C(5)(a) | the whole paragraph |  |
|-------------------|---------------------|--|

***Part 44 – Territory Insurance Office Act***

|                 |        |                          |
|-----------------|--------|--------------------------|
| Section 3(2)(b) | spouse | spouse, de facto partner |
|-----------------|--------|--------------------------|

***Part 45 – Totalisator Licensing and Regulation Act***

Section 3(1)

- |  |                     |   |
|--|---------------------|---|
| – definition of "associate", paragraph (a) | the whole paragraph | (a) a spouse or de facto partner of the person; |
|--|---------------------|---|

***Part 46 – Traffic Act***

- |                           |               |                             |
|---------------------------|---------------|-----------------------------|
| Sections 33(6) and 33A(9) | the spouse, a | a spouse, de facto partner, |
|---------------------------|---------------|-----------------------------|

***Part 47 – Witness Protection (Northern Territory) Act***

Section 3(1)

- |                                 |                      |   |
|---------------------------------|----------------------|---|
| – definition of "family member" | the whole definition | "family member", of a witness, means –<br><br>(a) a spouse or de facto partner of the witness; or<br><br>(b) a person who is related to or associated with the witness; |
|---------------------------------|----------------------|---|

***Part 48 – Work Health Act***

Section 49(1)

- |  |                        |  |
|--|------------------------|--|
| – definition of "dependant", paragraph (c) | an ex-nuptial child or | a  |
| – definition of "dependant", paragraph (d) | the whole paragraph    |  |
| – definition of "family"                   | the whole definition   | "family", in relation to an Aboriginal or Torres Strait Islander, includes all persons who are members of the person's family according to the customs and traditions of the |

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- |                          |                      |  |
|--------------------------|----------------------|--|
|                          |                      | particular<br>community of<br>Aboriginals or<br>Torres Strait<br>Islanders with<br>which the person<br>identifies; |
| – definition of "spouse" | the whole definition | "spouse", in relation to a<br>person, includes a<br>de facto partner of<br>the person;                             |
-



**SCHEDULE 2**

Section 63

**AMENDMENTS OF SUBORDINATE LEGISLATION**

| Provision  | Amendment                     |   |
|--|-------------------------------|---|
|  | omit                          | substitute                                  |
| <b>Part 1 – Agents Licensing Regulations</b>                     |                               |   |
| Regulation 17(2)(a)  | his or her spouse             | a spouse or de facto partner of that person |
| Regulation 17(2)(b)  | the spouse or de facto spouse | a spouse or de facto partner                |
| <b>Part 2 – Alice Springs (Control of Public Places) By-laws</b> |                               |   |
| By-law 55A(4)(c)   | (including a de facto spouse) | , de facto partner                          |
| <b>Part 3 – Alpurrurulam Community Government Scheme</b>         |                               |   |
| Clause 21(2)   | the spouse                    | a spouse or de facto partner                |
| <b>Part 4 – Anmatjere Community Government Scheme</b>            |                               |   |
| Clause 29(2)   | the spouse                    | a spouse or de facto partner                |
| <b>Part 5 – Arltarlpilta Community Government Scheme</b>         |                               |   |
| Clause 25(2)   | the spouse                    | a spouse or de facto partner                |
| <b>Part 6 – Barunga Manyallaluk Community Government Scheme</b>  |                               |   |
| Clause 24(2)   | the spouse                    | a spouse or de facto partner                |
| <b>Part 7 – Belyuen Community Government Scheme</b>              |                               |   |
| Clause 24(2)   | the spouse                    | a spouse or de facto partner                |

**Part 8 – Binjari Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 22(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 9 – Births, Deaths and Marriages Registration Regulations**

|                                   |                               |   |
|-----------------------------------|-------------------------------|---|
| Regulation 3(f), (g), (h) and (j) | the whole paragraph           | (f) the full name, maiden family name (if applicable), occupation and usual place of residence of each of the child's parents;<br><br>(g) the date of birth (or age) and place of birth of each of the child's parents; |
| Regulation 3(n)                   | , the mother or father        | or a parent   |
| Regulation 4B(d)                  | the spouse or a former spouse | a spouse or de facto partner or a former spouse or de facto partner   |
| Regulation 7(h)                   | bona fide domestic partner    | de facto<br>de facto partner  |
| Regulation 7(k) and (m)           | the whole paragraph           | (k) the full name, maiden family name (if applicable) and occupation of each of the deceased's parents;   |
| Regulation 8(c) and (d)           | the whole paragraph           | (c) the full name of each of the child's parents (if known);  |
| Regulation 10(k)                  | bona fide domestic partner    | de facto<br>de facto partner  |

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|                          |  |   |
|--------------------------|--|---|
| Regulation 10(n) and (p) | the whole paragraph                      | (n) the full name, maiden family name (if applicable) and occupation of each of the deceased's parents; |
| Regulation 12(h)         | bona fide domestic partner               | de facto<br>de facto partner  |
| Regulation 12(k) and (m) | the whole paragraph                      | (k) the full name, maiden family name (if applicable) and occupation of each of the deceased's parents; |
| Regulation 13(a)         | name of father and maiden name of mother | and name and maiden name (if applicable) of each parent   |

**Part 10 – Borroloola Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 26(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 11 – Coomalie Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 25(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 12 – Co-operatives Regulations**

**Schedule 4**

|  |            |                                |
|--|------------|--------------------------------|
| – clause 1, definition of "internal creditor", paragraph (b) | or spouse  | , spouse or de facto partner   |
| – clause 1, definition of "internal creditor", paragraph (c) | the spouse | a spouse or a de facto partner |

**Part 13 – Cox Peninsula Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 21(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 14 – Cullen Bay Marina Regulations**

|                  |                   |  |
|------------------|-------------------|--|
| Regulation 59(2) | his or her spouse | a spouse or de facto partner of the person |
|------------------|-------------------|--|

**Part 15 – Daguragu Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 24(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 16 – Dangerous Goods Regulations**

|                                   |            |                              |
|-----------------------------------|------------|------------------------------|
| Regulation 28(2)(a)(ii) and (iii) | the spouse | a spouse or de facto partner |
|-----------------------------------|------------|------------------------------|

**Part 17 – Domestic Violence Regulations**

Schedule 2

- |   |  |  |
|---|--|--|
| – Form 4, subparagraph (a)(i)           | and a person of the opposite sex who is living or has lived with the person as if he or she were the spouse of the person although not married to the person | , a de facto partner of the person and a former de facto partner of the person |
| – Form 4, paragraph (e)                 | the whole paragraph  | (e) has or has had a personal relationship with the other person.              |
| – Form 5, NOTES, subparagraph (2)(a)(i) | and a person of the opposite sex who is living or has lived with the person as if he or she were the spouse of the person although not married to the person | , a de facto partner of the person and a former de facto partner of the person |
| – Form 5, NOTES, paragraph (2)(e)       | the whole paragraph  | (e) has or has had a personal relationship with                                |

|  |  |  |
|--|--|--|
|  |  | the other person.  |
| – Form 6A, NOTES, subparagraph (2)(a)(i) | and a person of the opposite sex who is living or has lived with the person as if he or she were the spouse of the person although not married to the person | , a de facto partner of the person and a former de facto partner of the person |
| – Form 6A, NOTES, paragraph (2)(e)       | the whole paragraph  | (e) has or has had a personal relationship with the other person.              |
| – Form 6B, NOTE, subparagraph (a)(i)     | and a person of the opposite sex who is living or has lived with the person as if he or she were the spouse of the person although not married to the person | , a de facto partner of the person and a former de facto partner of the person |
| – Form 6B, NOTE, paragraph (e)           | the whole paragraph  | (e) has or has had a personal relationship with the other person.              |

### **Part 18 – Elliott District Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 25(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

### **Part 19 – First Home Owner Grant Regulations**

#### **Regulation 3(3)**

|   |                     |  |
|---|---------------------|--|
| – definition of "relative", paragraph (a)               | the spouse          | a spouse or de facto partner               |
| – definition of "relative", paragraphs (b), (c) and (d) | the person's spouse | a spouse or de facto partner of the person |
| – definition of "relative", paragraph (g)               | the spouse          | a spouse or de facto partner               |

## **Part 20 – Home Purchase Assistance Scheme Regulations**

### **Schedule**

- |                                       |                      |                            |
|---------------------------------------|----------------------|----------------------------|
| – clause 1(1), definition of "spouse" | the whole definition |                            |
| – clause 4(b)(ii)                     | spouse               | spouse or de facto partner |
| – clause 6(1)(a)(ii)                  | the person's spouse  | a spouse of the person     |
| – clause 10(b)(ii)                    | spouse               | spouse or de facto partner |

## **Part 21 – Housing Assistance Schemes Regulations**

### **Regulation 2(1)**

- |                                       |                      |  |
|---------------------------------------|----------------------|--|
| – definition of "gross weekly income" | the person's spouse  | any spouse or de facto partner of the person |
| – definition of "spouse"              | the whole definition |  |

### **Regulation 2(3)**

- |                                |                              |
|--------------------------------|------------------------------|
| the spouse<br>(all references) | a spouse or de facto partner |
|--------------------------------|------------------------------|

### **Schedule 1**

- |                                  |                   |                                  |
|----------------------------------|-------------------|----------------------------------|
| – clauses 2(a) and 10(b) and (c) | , the spouse or a | or a spouse, de facto partner or |
|----------------------------------|-------------------|----------------------------------|

### **Schedule 2**

- |                                  |                   |                                  |
|----------------------------------|-------------------|----------------------------------|
| – clauses 2(a) and 11(b) and (c) | , the spouse or a | or a spouse, de facto partner or |
|----------------------------------|-------------------|----------------------------------|

### **Schedule 3**

- |                  |                 |                                  |
|------------------|-----------------|----------------------------------|
| – clause 2(1)(a) | , the spouse or | or a spouse, de facto partner or |
|------------------|-----------------|----------------------------------|

### **Schedule 4**

- |                       |                 |                               |
|-----------------------|-----------------|-------------------------------|
| – clause 2(d)         | the spouse      | a spouse, de facto partner    |
| – clause 2(e) and (f) | the spouse or a | a spouse, de facto partner or |

## Schedule 5

- clause 2(a) \_\_\_\_\_, the spouse or a \_\_\_\_\_ or a spouse, de facto partner or \_\_\_\_\_

## Schedule 6

- clause 3(a) , the spouse or a or a spouse, de facto partner or

## Schedule 7

- clause 3(1)(a) , the spouse or a or a spouse, de facto partner or

## Schedule 8

- clause 2(a) , the spouse or a spouse, de facto partner

## Schedule 9

- |               |                 |                               |
|---------------|-----------------|-------------------------------|
| – clause 2(d) | the spouse      | a spouse, de facto partner    |
| – clause 2(e) | the spouse or a | a spouse, de facto partner or |

## Part 22 – Housing (Concessional Loans) Regulations

## Schedule

- |               |                     |    |
|---------------|---------------------|----|
| – clause 3(1) | (1) A               | A  |
| – clause 3(2) | the whole subclause | 58 |

## Part 23 – Housing Loans Regulations

## Schedule

- |               |                     |   |
|---------------|---------------------|---|
| – clause 1(1) | (1) A               | A |
| – clause 1(2) | the whole subclause |   |

## Part 24 – Jilkmिंग्गान Community Government Scheme

- |              |            |                              |
|--------------|------------|------------------------------|
| Clause 21(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

## Part 25 – Kunbarllaninja Community Government Scheme

- |              |            |                              |
|--------------|------------|------------------------------|
| Clause 20(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 26 – Lajamanu Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 24(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 27 – Local Court Rules**

|                  |                              |   |
|------------------|------------------------------|---|
| Rule 48.05(2)(c) | the judgment debtor's spouse | a spouse or de facto partner of the judgment debtor |
|------------------|------------------------------|---|

**Part 28 – Local Government (Electoral) Regulations**

|                 |                         |   |
|-----------------|-------------------------|---|
| Regulation 5(2) | the whole subregulation | (2) A candidate or a spouse or de facto partner of a candidate is not entitled to be appointed as an officer. |
|-----------------|-------------------------|---|

**Part 29 – Ltyentye Purte Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 24(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 30 – Marngarr Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 26(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 31 – Mataranka Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 23(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 32 – Nauiyu Nambiyu Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 24(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 33 – Northern Territory Interest Subsidy Scheme Regulations**

**Schedule**

- |                                       |                      |                                  |
|---------------------------------------|----------------------|----------------------------------|
| – clause 1(1), definition of "spouse" | the whole definition |                                  |
| – clause 3(b), (d) and (e)            | , the spouse or a    | or a spouse, de facto partner or |



**Part 34 – Numbulwar Numburindi Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 23(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 35 – Pine Creek Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 24(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 36 – Prostitution Regulations**

Schedule 2

|                   |                   |
|-------------------|-------------------|
| – Forms 13 and 14 | spouse/homosexual |
|-------------------|-------------------|

**Part 37 – Supreme Court Rules**

|                      |                              |  |
|----------------------|------------------------------|--|
| Rule 72.04(4)        | the judgment debtor's spouse | a spouse or de facto partner of the judgment debtor  |
| Rule 72.04(5)        | his or her spouse            | any spouse or de facto partner of the judgment debtor  |
| Rule 88.24(1)(b)(iv) | the whole subparagraph       | (iv) establishing the status of the deceased, that is, whether the deceased died leaving a spouse, de facto partner or issue, whether at the date of death the deceased was not married or in a de facto relationship, whether a spouse or de facto partner of the deceased had died before the deceased or whether the deceased died leaving a former |

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spouse or de facto  
partner

Rule 88.32(1)(b)                      the spouse                      each spouse and de facto  
partner

**Part 38 – Tapatjatjaka Community Government Scheme**

Clause 21(2)                      the spouse                      a spouse or de facto  
partner

**Part 39 – Timber Creek Community Government Scheme**

Clause 24(2)                      the spouse                      a spouse or de facto  
partner

**Part 40 – Tiwi Islands Local Government Constitution**

Schedule 4

– Part A, clause 15(2)                      the spouse                      a spouse or de facto  
partner

– Part B, clause 11(2)                      the spouse                      a spouse or de facto  
partner

**Part 41 – Walangeri Ngumpinku Community Government Scheme**

Clause 25(2)                      the spouse                      a spouse or de facto  
partner

**Part 42 – Wallace Rockhole Community Government Scheme**

Clause 22(2)                      the spouse                      a spouse or de facto  
partner

**Part 43 – Watiyawanu Community Government Scheme**

Clause 23(2)                      the spouse                      a spouse or de facto  
partner

**Part 44 – Work Health Regulations**

Regulation 4                      a husband or wife  
(including a de facto  
husband or wife)                      a spouse

**Part 45 – Wugularr Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 25(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 46 – Yuendumu Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 23(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

**Part 47 – Yugul Mangi Community Government Scheme**

|              |            |                              |
|--------------|------------|------------------------------|
| Clause 52(2) | the spouse | a spouse or de facto partner |
|--------------|------------|------------------------------|

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# ALTERATIONS TO PROVISION HEADINGS

On the day on which the laws specified in the following table are amended by this Act, in addition to any alteration to provision headings indicated in the text of this Act, the headings to the provisions specified in the table are altered as set out in the table.

| Provision  | Amendment          |   |
|--|--------------------|---|
|  | omit               | substitute                                    |
| <b><i>Administration and Probate Act</i></b>     |                    |   |
| Section 74                                       | <b>matrimonial</b> |   |
| <b><i>De Facto Relationships Act</i></b>         |                    |   |
| Section 28                                       | <b>marriage</b>    | <b>marriage or de facto relationship</b>      |
| <b><i>First Home Owner Grant Act</i></b>         |                    |   |
| Sections 10 and 11                               | <b>spouse</b>      | <b>spouse or de facto partner</b>             |
| <b><i>Motor Accidents (Compensation) Act</i></b> |                    |   |
| Section 37                                       | <b>aboriginals</b> | <b>Aboriginals or Torres Strait Islanders</b> |