

Serial 79
De Facto
Relationships
(Miscellaneous
Amendments)
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA
DE FACTO RELATIONSHIPS (MISCELLANEOUS
AMENDMENTS) BILL 1991

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend various Acts and Regulations to make provision,
or revised provision, with respect to de facto partners,
and for related purposes

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *De Facto Relationships (Miscellaneous Amendments) Act 1991*.

2. COMMENCEMENT

This Act shall come into operation on 1 January 1992.

3. ABORIGINAL LAND ACT

Section 6A of the *Aboriginal Land Act* is amended -

(a) by omitting "that person and his spouse and children who normally reside with him." and substituting "that person, his spouse if living with him, his de facto partner (if any) as defined in subsection (2) and any infant for the time being living with him."; and

(b) by adding at the end the following:

"(2) In subsection (1), 'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

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4. *AGED AND INFIRM PERSONS' PROPERTY ACT*

The *Aged and Infirm Persons' Property Act* is amended -

- (a) by inserting in section 4 before the definition of "estate" the following:

"'de facto partner' means -

- (a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;";
- (b) by omitting from section 7(1)(b) "the spouse or near relation" and substituting "a spouse or de facto partner of that person, any near relation"; and
- (c) by omitting from section 17(1)(e) "and the spouse and the children" and substituting ", any spouse or de facto partner of that person and any children".

5. *CEMETERIES ACT*

(1) Section 18 of the *Cemeteries Act* is amended by inserting after subsection (1) the following:

"(1A) For the purposes of subsection (1), the next of kin of a deceased person are that person's spouse, a de facto partner of that person and anyone related by blood to that person; and 'de facto partner', in relation to a deceased person, means -

- (a) where the deceased was a man - a woman who, immediately before the man's death, was living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) where the deceased was a woman - a man who, immediately before the woman's death, was living with her as her husband on a bona fide domestic basis although not married to her.".

(2) The amendment made by subsection (1), so far as it relates to the de facto partner of a deceased person, shall not apply in relation to a person dying before the commencement of this Act.

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6. *EMERGENCY MEDICAL OPERATIONS ACT*

(1) Section 2(1) of the *Emergency Medical Operations Act* is amended -

(a) by inserting after the definition of "blood transfusion" the following:

"'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;"; and

(b) by inserting after "the spouse of the patient" in the definition of "next of kin" the words ", a de facto partner of the patient,".

(2) Section 3(4)(a) and (b) of that Act are amended by inserting before "parent or guardian" the words "de facto partner or".

7. *INSTRUMENTS ACT*

(1) The *Instruments Act* is amended by omitting section 12 and substituting the following:

"12. BILL OF SALE HAS NO EFFECT AS TO CERTAIN HOUSEHOLD FURNITURE

"(1) Subject to subsections (2) and (3), where a person makes or gives a bill of sale which comprises any household furniture, and, at the time when he does so, he -

(a) is married and living with his spouse; or

(b) has a de facto partner as defined in subsection (4),

the bill of sale shall not be enforced by seizure or sale of any such furniture as then is actually in use by the person or his spouse or (as the case may be) de facto partner unless -

(c) at the time of execution, it is endorsed by the spouse or (as the case may be) de facto partner in the manner and according to the form contained in Schedule 1; and

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- (d) the endorsement is witnessed by a person who has attained the age of 18 years, who shall legibly write, type or stamp his name and address or telephone number below his signature.

"(2) Subsection (1) shall cease to apply to a bill of sale made or given by a person at a time when he was married and living with his spouse if -

- (a) the spouse dies; or
- (b) the person and his spouse live apart pursuant to a decree, order or deed of separation, or a decree is made for the dissolution or nullity of their marriage.

"(3) Subsection (1) shall cease to apply to a bill of sale made or given by a person at a time when he had a de facto partner if the de facto partner dies or ceases for any other reason to be his de facto partner.

"(4) In this section, 'de facto partner' means -

- (a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

(2) The *Instruments Act* is further amended by omitting the form set out in Schedule 1 and substituting the following:

"I (*name of spouse or de facto partner*), the *spouse/de facto partner** of (*name of maker or giver of bill of sale*) consent to this bill of sale being effective as to the household furniture actually in use by my *spouse/de facto partner** and me, and which is comprised in this bill of sale.

Dated

Signed

Address of signatory

Signature of witness

Name, and address
or telephone number,
of witness

* *Delete whichever is inapplicable.*"

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(3) Section 12 of the *Instruments Act* as in force immediately before the commencement of this Act shall, in relation to a bill of sale to which it then applied, continue to have effect on and after the commencement of this Act as if this Act had not been enacted.

8. *LAW REFORM (MISCELLANEOUS PROVISIONS) ACT*

(1) Section 23 of the *Law Reform (Miscellaneous Provisions) Act* is amended -

(a) by inserting after the definition of "child" the following:

"'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;"; and

(b) by inserting in the definition of "member of the family" after "wife" the words "de facto partner,".

(2) Section 25(1)(a) of that Act is amended by inserting after "wife" the words "or de facto partner".

(3) The amendments made by this section shall not apply in respect of an injury sustained by a person before the commencement of this Act.

9. *MEDICAL SERVICES ACT*

(1) Section 5 of the *Medical Services Act* is amended -

(a) by inserting after the definition of "declared premises" the following:

"'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;"; and

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- (b) by inserting in paragraph (a) of the definition of "dependant" after "spouse" the words "or de facto partner".

(2) The amendments made by this section shall not apply in relation to charges in respect of medical services received by a person before the commencement of this Act.

10. *PUBLIC TRUSTEE ACT*

Section 60 of the *Public Trustee Act* is amended -

- (a) by omitting from subsection (1)(b) "wife or husband" and substituting "spouse, de facto partner (as defined in subsection (5))"; and
- (b) by adding at the end the following:

"(5) In subsection (1)(b), 'de facto partner' means -

- (a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

11. *AMENDMENT OF OTHER ACTS*

(1) The provisions of the Acts specified in Schedule 1 are amended as provided for in that Schedule.

(2) The amendments of the *Legislative Assembly Members' Superannuation Act* shall not apply in relation to a member or former member of the Legislative Assembly who dies before the commencement of this Act.

(3) The amendments of the *Motor Accidents (Compensation) Act* shall not apply in relation to an accident occurring before the commencement of this Act.

12. *AMENDMENT OF CERTAIN REGULATIONS*

(1) The provisions of the Regulations specified in Schedule 2 are amended as provided for in that Schedule.

(2) A provision amended as provided for in Schedule 2 may be repealed or further amended by regulations as if the amendments made by this Act were duly made by regulations.

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SCHEDULE 1

Section 11(1)

AMENDMENT OF OTHER ACTS

Provision	Amendment	
	omit	substitute
<i>Compensation (Fatal Injuries) Act</i>		
Section 4(3)(c)(i)	"permanent and"	
<i>Crimes (Victims Assistance) Act</i>		
Section 4(1)		
- definition of "de facto widow" and "de facto widower"	the whole definition	"'de facto partner', in relation to a deceased victim, means - (a) where the victim was a man - a woman who, immediately before the victim's death, was living with him as his wife on a bona fide domestic basis although not married to him; and (b) where the victim was a woman - a man who, immediately before the victim's death, was living with her as her husband on a bona fide domestic basis although not married to her;"
- paragraphs (b) and (c) of the definition of "relative"	"de facto widow or de facto widower"	"de facto partner"
Section 5(2A)(a)	"de facto widow or de facto widower;"	"de facto partner;"

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Provision	Amendment	
	omit	substitute
Section 8(2)(c)(i)	"de facto widow or de facto widower;"	"de facto partner;"
<i>Family Provision Act</i>		
Section 4(1)		
- definition of " <u>de facto</u> widow" and " <u>de facto</u> widower"	the whole definition	"'de facto partner', in relation to a deceased person means - (a) where the deceased was a man - a woman who, immediately before the man's death, was living with him as his wife on a bona fide domestic basis although not married to him; and (b) where the deceased was a woman - a man who, immediately before the woman's death, was living with her as her husband on a bona fide domestic basis although not married to her;"
Section 7(1)(g) and (2)(c)	" <u>de facto</u> widow or <u>de facto</u> widower"	"de facto partner"
<i>Human Tissue Transplant Act</i>		
Section 17	"permanent and"	
<i>Lands Acquisition Act</i>		
Schedule 2		
- rule 11(4)(a) (ii) and (iii)	"his spouse"	"his spouse or de facto partner"

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Provision

Amendment

omit

substitute

- rule 12

the whole rule

"12. INTERPRETATION

"(1) In rules 9 and 11, a reference to a claimant includes a reference to a claimant's spouse and his de facto partner if any.

"(2) In this Schedule, 'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

*Legislative Assembly
Members' Superannuation
Act*

Section 18

- paragraph (a)
of the
definition of
"spouse"

"permanent and"

- paragraph (b)
of the
definition of
"spouse"

"permanent and"

"at that time"

"at that time; or"

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Provision	Amendment	
	omit	substitute
- paragraphs (c) and (d) of the definition of "spouse"	the whole paragraphs	"(c) a person who is not legally married to the member or former member but who was, at the relevant time, living with the member or former member as the member's or former member's husband or wife, as the case may be, on a bona fide domestic basis,"
<i>Legislative Assembly (Register of Members' Interests) Act</i>		
Section 3		
- definition of "spouse"	"permanent and"	
<i>Mental Health Act</i>		
Section 34(1)(b)	"person; or"	"person;"
Section 34(1)(c)	the whole paragraph	"(c) a de facto partner of that person, meaning - (i) where that person is a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

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Provision

Amendment

omit

substitute

(ii) where that person is a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her; or

(d) the Chief Medical Officer,

*Motor Accidents
(Compensation) Act*

Section 4(1)

- paragraphs (a) and (b) of the definition of "spouse" "permanent and"

- paragraphs (c) and (d) of the definition of "spouse" "3 years" "2 years"
"ordinarily"
"permanent and"

Superannuation Act

Section 3(1)

- paragraph (a) of the definition of "spouse" "ordinarily lived" "been living"
"permanent and"

De Facto Relationships (Miscellaneous Amendments)

Provision	Amendment	
	omit	substitute
<hr/>		
<i>Work Health Act</i>		
Section 49(1)		
- paragraph (a) of the definition of "spouse"	"of the opposite sex to the person," "had ordinarily lived" "permanent and"	"was living"

SCHEDULE 2

Section 12(1)

AMENDMENT OF CERTAIN REGULATIONS

1. HOME PURCHASE ASSISTANCE SCHEME REGULATIONS

The Schedule to the Home Purchase Assistance Scheme Regulations is amended by omitting from clause 1(1) the definition of "spouse" and substituting the following:

"'spouse' includes a de facto partner, meaning -

- (a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and
- (b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

2. HOUSING LOANS REGULATIONS

The Schedule to the Housing Loans Regulations is amended -

- (a) by omitting from clause 1(a) and (c) "wife or husband" and substituting "spouse or de facto partner"; and

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

"(2) In subclause (1), 'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

3. HOUSING (CONCESSIONAL LOANS) REGULATIONS

The Schedule to the Housing (Concessional Loans) Regulations is amended by omitting clause 3 and substituting the following:

"3.(1) A loan will not be made to a person who, or whose spouse or de facto partner, has already been granted a loan under this scheme.

"(2) In subclause (1), 'de facto partner' means -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her."

4. NORTHERN TERRITORY INTEREST SUBSIDY SCHEME REGULATIONS

The Schedule to the Northern Territory Interest Subsidy Scheme Regulations is amended by omitting from clause 1(1) the definition of "spouse" and substituting the following:

"'spouse' includes a de facto partner, meaning -

(a) in relation to a man - a woman who is living with him as his wife on a bona fide domestic basis although not married to him; and

(b) in relation to a woman - a man who is living with her as her husband on a bona fide domestic basis although not married to her;".



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