2008

The Parliament of the
Commonwealth of Australia

THE SENATE

Social Security and Veterans’ Affairs Legislation Amendment (Enhanced Allowances) Bill 2008

(Request for an amendment to be moved by Senator Nettle on behalf of the Australian Greens in committee of the whole)

(1) Page 30 (after line 24), at the end of the bill, add:

Schedule 4—Same-sex entitlements

Social Security Act 1991

1 Subsection 4(1)

Insert:

de facto partner means one of two people in a de facto relationship.

de facto relationship means a relationship, irrespective of gender, between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship and, in determining whether two people are in a de facto relationship, all the circumstances of the relationship must be taken into account, including but not limited to:

(a) the length of their relationship;
(b) how long and under what circumstances they have lived together;
(c) whether there is a sexual relationship between them;
(d) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
(e) the ownership, use and acquisition of their property, including any property that they own individually;
(f) their degree of mutual commitment to a shared life;
(g) whether they mutually care for and support children;
(h) the performance of household duties;
(i) the reputation, and public aspects, of the relationship between them;
(j) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;

and to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.
A recognised partner means one of two people in a recognised relationship.

A recognised relationship means any relationship that is registered with a State or Territory Registry of Births, Deaths and Marriages under a State or Territory law allowing for the official registration of that relationship and includes but is not limited to relationships recognised as civil unions, civil partnerships, significant relationships, domestic relationships or relationships established through a Deed of Relationship. To avoid doubt, the requirements for beginning or ending any recognised relationship are to be determined by the relevant State or Territory law.

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

Omit “a person of the opposite sex”, substitute “another person”.

3 Subparagraph 4(2)(b)(iii)

Omit “marriage-like relationship”, substitute “de facto relationship or a recognised relationship”.

4 Subparagraph 4(3)(e)(iv)

Omit “marriage-like relationship”, substitute “de facto relationship or a recognised relationship”.

5 Subsection 4(3A)

Omit “marriage-like relationship”, substitute “de facto relationship or a recognised relationship”.

6 Subsection 5(1) (at the end of subparagraph (a)(ii) of the definition of parent)

Add “or the de facto or recognised partner of the adoptive parent of the young person”.

7 Subsection 23(1) (definition of widow)

Repeal the definition, substitute:

widow means a woman who was a partner of a person immediately before that person died.

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

Omit “a person of the opposite sex”, substitute “another person”.

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

Omit “a person of the opposite sex”, substitute “another person”.

10 Section 1067C

Omit “marriage-like relationship” (wherever occurring), substitute “de facto relationship or a recognised relationship”.

Veterans’ Entitlements Act 1986

11 Section 5 (table)

Insert:

<table>
<thead>
<tr>
<th>De facto partner</th>
<th>5E(1)</th>
</tr>
</thead>
<tbody>
<tr>
<td>De facto relationship</td>
<td>5E(1), 11A</td>
</tr>
</tbody>
</table>

C:\WINDOWS\TEMP\aphdata_temp\1cfa152b-05d0-4b44-8c2d-e1c04153d145\5437.doc 21/7/2009 5:01 PM
recognised partner 5E(1)
recognised relationship 5E(1), 11A

12 Section 5 (table item dealing with marriage-like relationships)
Repeal the table item.

13 Subsection 5E(1)
Insert:

*de facto partner* means one of two people in a de facto relationship.

*de facto relationship* means a relationship, irrespective of gender, between two people living together as a couple on a genuine domestic basis, where the relationship is not a marital relationship and, in determining whether two people are in a de facto relationship, all the circumstances of the relationship must be taken into account, including but not limited to:

(a) the length of their relationship;
(b) how long and under what circumstances they have lived together;
(c) whether there is a sexual relationship between them;
(d) their degree of financial dependence or interdependence, and any arrangements for financial support, between or by them;
(e) the ownership, use and acquisition of their property, including any property that they own individually;
(f) their degree of mutual commitment to a shared life;
(g) whether they mutually care for and support children;
(h) the performance of household duties;
(i) the reputation, and public aspects, of the relationship between them;
(j) the existence of a statutory declaration signed by both persons stating that they regard themselves to be in a de facto relationship with the other person;

and to avoid doubt, two people may still be in a de facto relationship if they are living apart from each other on a temporary basis.

*recognised partner* means one of two people in a recognised relationship.

*recognised relationship* means any relationship that is registered with a State or Territory Registry of Births, Deaths and Marriages under a State or Territory law allowing for the official registration of that relationship and includes but is not limited to relationships recognised as civil unions, civil partnerships, significant relationships, domestic relationships or relationships established through a Deed of Relationship. To avoid doubt, the requirements for beginning or ending any recognised relationship are to be determined by the relevant State or Territory law.

14 Subsection 5E(1) (before paragraph (a) of the definition of *non-illness separated spouse*)
Insert:

(aa) who is a de facto or recognised partner of another person but living separately and apart from that other person on a permanent basis; or

15 Subsection 5E(1) (paragraph (a) of the definition of *widow*)
Repeal the paragraph, substitute:

(a) a woman who was the partner of a person immediately before that person died; or
16 Subsection 5E(1) (paragraph (a) of the definition of widow)
   Repeal the paragraph, substitute:
   (a) a man who was the partner of a person immediately before that person died; or

17 Subparagraph 5E(2)(b)(i)
   Omit “a person of the opposite sex”, substitute “another person”.

18 Subparagraph 5E(2)(b)(iii)
   Omit “marriage-like relationship”, substitute “de facto relationship or a recognised relationship”.

19 Subsection 5F(1) (at the end of the definition of parent)
   Add “or the de facto or recognised partner of the adoptive parent of the child”.

20 Section 11A
   Omit “marriage-like” (wherever occurring), substitute “de facto relationship or a recognised relationship”.

Note: The heading to section 11A is replaced by the heading “De facto and recognised relationships”. [same-sex entitlements]