2008

The Parliament of the Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

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

No. , 2008

(Attorney-General)

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

The Parliament of Australia enacts:

1 Short title

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

2 Commencement

(1) Each provision of this Act specified in column 1 of the table
    commences, or is taken to have commenced, in accordance with
column 2 of the table. Any other statement in column 2 has effect
    according to its terms.
<table>
<thead>
<tr>
<th>Column 1</th>
<th>Column 2</th>
<th>Column 3</th>
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<tbody>
<tr>
<td><strong>Provision(s)</strong></td>
<td><strong>Commencement</strong></td>
<td><strong>Date/Details</strong></td>
</tr>
<tr>
<td>1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table</td>
<td>The day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>2. Schedule 1</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
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<tr>
<td>3. Schedule 2, Part 1</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>4. Schedule 2, items 2 and 3</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>5. Schedule 2, items 4 to 23</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>6. Schedule 2, item 24</td>
<td>The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 13 of Schedule 2 to the Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
<td></td>
</tr>
<tr>
<td>7. Schedule 2, item 25</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>8. Schedule 2, item 26</td>
<td>The later of: (a) the start of the day after this Act receives the Royal Assent; and (b) immediately after the commencement of item 15 of Schedule 2 to the Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008. However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
<td></td>
</tr>
<tr>
<td>9. Schedule 2.</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
</tbody>
</table>
### Commencement information

<table>
<thead>
<tr>
<th>Provision(s)</th>
<th>Commencement</th>
<th>Date/Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>item 27</td>
<td>Assent.</td>
<td></td>
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<tr>
<td>item 27, item 28</td>
<td>The later of:</td>
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<td></td>
<td>(a) the start of the day after this Act receives the Royal Assent; and</td>
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<tr>
<td></td>
<td>(b) immediately after the commencement of item 17 of Schedule 2 to the <em>Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008</em>.</td>
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<tr>
<td></td>
<td>However, the provision(s) do not commence at all if the event mentioned in paragraph (b) does not occur.</td>
<td></td>
</tr>
<tr>
<td>item 28</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>Schedule 2, items 29 to 86</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>Schedules 3, 4 and 5</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>Schedule 6, Part 1</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>Schedule 6, Part 2</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>Schedule 7, items 1 to 7</td>
<td>On the day after the end of the period of 3 months beginning on the day on which this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>Schedule 7, items 8 to 55</td>
<td>The day after this Act receives the Royal Assent.</td>
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</tr>
<tr>
<td>Schedule 7, Part 3</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
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<tr>
<td></td>
<td>However, if Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</em> does not commence on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
<td></td>
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<tr>
<td>Schedule 7, item 58</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
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<tr>
<td></td>
<td>However, if Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation) Act 2008</em> does not commence on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
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<td>Column 1</td>
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<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
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<tr>
<td>2008 commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
<td></td>
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</tr>
<tr>
<td>19. Schedule 7, item 59</td>
<td>Immediately after the commencement of Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation)</em> Act 2008. However, if Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation)</em> Act 2008 commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
<td></td>
</tr>
<tr>
<td>20. Schedule 7, item 60</td>
<td>The day after this Act receives the Royal Assent. However, if Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation)</em> Act 2008 commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
<td></td>
</tr>
<tr>
<td>21. Schedule 7, item 61</td>
<td>Immediately after the commencement of Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation)</em> Act 2008. However, if Schedule 1 to the <em>Same-Sex Relationships (Equal Treatment in Commonwealth Laws—Superannuation)</em> Act 2008 commences on or before the day after this Act receives the Royal Assent, the provision(s) do not commence at all.</td>
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</tr>
<tr>
<td>22. Schedule 8, Part 1</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>23. Schedule 8, Part 2</td>
<td>The day after this Act receives the Royal Assent.</td>
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<tr>
<td>24. Schedule 9, Part 1</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
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</tbody>
</table>

4 *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. , 2008*
<table>
<thead>
<tr>
<th>Column 1</th>
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<th>Column 3</th>
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</thead>
<tbody>
<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>26. Schedule 9, Part 3</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>27. Schedule 10, Part 1</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
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<tr>
<td>28. Schedule 10, Parts 2 and 3</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>29. Schedule 10, Part 4</td>
<td>A single day to be fixed by Proclamation. However, if any of the provision(s) do not commence within the period of 6 months beginning on the day on which this Act receives the Royal Assent, they commence on the first day after the end of that period.</td>
<td></td>
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<tr>
<td>30. Schedule 11, Part 1</td>
<td>The later of:</td>
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<td></td>
<td>(a) the start of the day after this Act receives the Royal Assent; and</td>
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<tr>
<td></td>
<td>(b) immediately after the commencement of Schedule 2 to the Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008.</td>
<td></td>
</tr>
<tr>
<td>31. Schedule 11, Part 2</td>
<td>The day after this Act receives the Royal Assent. However, the provision(s) do not commence at all if Schedule 2 to the Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008 does not commence on or before the day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>32. Schedule 11, Part 3</td>
<td>The day after this Act receives the Royal Assent. However, the provision(s) do not commence</td>
<td></td>
</tr>
<tr>
<td>Column 1</td>
<td>Column 2</td>
<td>Column 3</td>
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<tr>
<td>Provision(s)</td>
<td>Commencement</td>
<td>Date/Details</td>
</tr>
<tr>
<td>at all if Schedule 2 to the Civil Aviation Legislation Amendment (1999 Montreal Convention and Other Amendments) Act 2008 commences on or before the day after this Act receives the Royal Assent.</td>
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<tr>
<td>33. Schedule 11, Part 4</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
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<tr>
<td>34. Schedule 12</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>35. Schedule 13</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
<tr>
<td>36. Schedule 14</td>
<td>The day after this Act receives the Royal Assent.</td>
<td></td>
</tr>
<tr>
<td>37. Schedule 15</td>
<td>1 July 2009.</td>
<td>1 July 2009</td>
</tr>
</tbody>
</table>

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

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

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.
Schedule 1—Agriculture, Fisheries and Forestry

Australian Meat and Live-stock Industry Act 1997

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

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

Farm Household Support Act 1992

2 Subsection 3(1)

   Insert:
   
   armed services widow

3 Subsection 3(1)

   Insert:

   armed services widower
Schedule 2—Attorney-General

Part 1—Amendment of the Acts Interpretation Act 1901

Acts Interpretation Act 1901

1 After section 22

Insert:

22A References to de facto partners

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

(a) the person is in a registered relationship with the other person under section 22B; or

(b) the person is in a de facto relationship with the other person under section 22C.

22B Registered relationships

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

22C De facto relationships

(1) For the purposes of paragraph 22A(b), a person is in a de facto relationship with another person if the persons:

(a) are not legally married to each other; and

(b) are not related by family (see subsection (6)); and

(c) have a relationship as a couple living together on a genuine domestic basis.

(2) In determining for the purposes of paragraph (1)(c) whether 2 persons have a relationship as a couple, all the circumstances of
their relationship are to be taken into account, including any or all of the following circumstances:

(a) the duration of the relationship;
(b) the nature and extent of their common residence;
(c) whether 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 their property;
(f) the degree of mutual commitment to a shared life;
(g) the care and support of children;
(h) the reputation and public aspects of the relationship.

(3) No particular finding in relation to any circumstance mentioned in subsection (2) is necessary in determining whether 2 persons have a relationship as a couple for the purposes of paragraph (1)(c).

(4) For the purposes of paragraph (1)(c), the persons are taken to be living together on a genuine domestic basis if the persons are not living together on a genuine domestic basis only because of:

(a) a temporary absence from each other; or
(b) illness or infirmity of either or both of them.

(5) For the purposes of subsection (1), a de facto relationship can exist even if one of the persons is legally married to someone else or is in a registered relationship (within the meaning of section 22B) with someone else or is in another de facto relationship.

(6) For the purposes of paragraph (1)(b), 2 persons are related by family if:

(a) one is the child (including an adopted child) of the other; or
(b) one is another descendant of the other (even if the relationship between them is traced through an adoptive parent); or
(c) they have a parent in common (who may be an adoptive parent of either or both of them).

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

(7) For the purposes of subsection (6), adopted means adopted under the law of any place (whether in or out of Australia) relating to the adoption of children.
Part 2—Amendment of other Acts

Administrative Decisions (Judicial Review) Act 1977

2 Subparagraph (d)(iv) of Schedule 2

Repeal the subparagraph, substitute:

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

3 Application

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

Age Discrimination Act 2004

4 Subsection 29(4)

Insert:

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

5 Subsection 29(4)

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

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

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

7 Subsection 29(4)

Insert:

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

8 At the end of section 29

Add:

Family relationships

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

Australian Federal Police Act 1979

9 At the end of section 42F

Add:

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

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

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

(c) relationships traced through relationships mentioned in paragraphs (a) and (b).
(4) In this section:

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

10 Application

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

Bankruptcy Act 1966

11 Subsection 5(1) (definition of child)

Repeal the definition, substitute:

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

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

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

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

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

13 Subsection 5(1)

Insert:

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

14 Subsection 5(1) (definition of de facto spouse)
Repeal the definition.

15 Subsection 5(1) (definition of parent)
Repeal the definition, substitute:

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

16 Subsection 5(1) (paragraph (g) of the definition of related entity)
After “spouse”, insert “, or de facto partner,”.

17 Subsection 5(1) (definition of relative)
Omit “de facto spouse”, substitute “de facto partner”.

18 Subsection 5(1)
Insert:

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

19 At the end of section 5
Add:

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

  (a) a de facto partner of the person;
  (b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in this section;
  (c) anyone else who would be a member of the person’s family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person’s family.

20 Paragraphs 60(4)(a) and (b)
After “spouse”, insert “or de facto partner”.

21 At the end of subsection 60(4)
Add:
Schedule 2 Attorney-General

Part 2 Amendment of other Acts

Note: See also subsection 5(6).

22 Subparagraphs 116(2)(d)(i) and (2)(g)(i) and (ii)
   After “spouse”, insert “or de facto partner”.

23 At the end of paragraph 116(2)(g)
   Add:
   Note: See also subsection 5(6).

24 Paragraph 116(2)(r)
   Omit “de facto spouse”, substitute “de facto partner”.

25 Paragraphs 120(5)(b) and (c)
   Omit “de facto spouse”, substitute “de facto partner”.

26 Paragraph 120(5)(f)
   Omit “de facto spouse”, substitute “de facto partner”.

27 Paragraphs 121(6)(b) and (c)
   Omit “de facto spouse”, substitute “de facto partner”.

28 Paragraph 121(6)(f)
   Omit “de facto spouse”, substitute “de facto partner”.

29 Paragraph 134(1)(ma)
   After “spouse”, insert “or de facto partner”.

30 At the end of paragraph 134(1)(ma)
   Add:
   Note: See also subsection 5(6).

31 Section 139K (definition of spouse)
   Omit “de facto spouse”, substitute “de facto partner”.

32 At the end of subsection 265(2)
   Add:
   Note: See also subsection 5(6).
33 At the end of subsection 268(6)

Add:

Note: See also subsection 5(6).

Crimes Act 1914

34 Subsection 3(1)

Insert:

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

35 Subsection 3(1)

Insert:

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

36 Subsection 3(1)

Insert:

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

(a) the adult is legally entitled to, and has, custody of the person; or
(b) the adult is legally responsible for the day-to-day care, welfare and development of the person and has the person in his or her care; or
(c) all of the following apply:
   (i) the person is the adult’s child because of the definition of child in this section;
   (ii) the person is not the adult’s biological or adopted child;
   (iii) there is no order of a court that stops the adult being legally entitled to custody of the person;
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(iv) the person is in the adult’s custody; or
(d) all of the following apply:
   (i) the person is the adult’s child because of the definition of child in this section;
   (ii) the person is not the adult’s biological or adopted child;
   (iii) there is no order of a court that stops the adult being legally responsible for the day-to-day care, welfare and development of the person;
   (iv) the adult has the person in his or her care.

37 Subsection 3(1)
   Insert:
   relative has a meaning affected by subsection (3).

38 At the end of section 3
   Add:
   (3) For the purposes of this Act, the relatives of a person are taken to include the following (without limitation):
      (a) a de facto partner of the person;
      (b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in this section;
      (c) anyone else who would be a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a relative of the person.

39 At the end of section 16A
   Add:
   (4) For the purposes of a reference in this section to a family, the members of a person’s family are taken to include the following (without limitation):
      (a) a de facto partner of the person;
      (b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in section 3;
40 Subsection 23WA(1) (definition of parent)

Repeal the definition.

Crimes (Superannuation Benefits) Act 1989

41 At the end of section 10

Add:

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

(a) relationships between de facto partners (within the meaning of the Acts Interpretation Act 1901);
(b) relationships of child and parent that arise if someone is the child of a person because of the definition of child in this section;
(c) relationships traced through relationships mentioned in paragraphs (a) and (b).

(4) In this section:

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

42 Application

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

Customs Act 1901

43 Subsection 4(1)
Schedule 2  Attorney-General

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Insert:

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

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

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

44 Subsection 4(1)

Insert:

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

45 After section 4

Insert:

4AAA Members of family

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

(a) a de facto partner of the person (within the meaning of the Acts Interpretation Act 1901);
(b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in section 4;
(c) anyone else who would be a member of the person’s family if someone mentioned in paragraph (a) or (b) is taken to be a member of the person’s family.

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

Repeal the subparagraph, substitute:

(i) they are members of the same family; or
47 At the end of subsection 154(3)
Add:

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

48 At the end of sections 219ZJB and 219ZJC
Add:

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

49 At the end of section 243AB
Add:

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

50 Subparagraph 269TAA(4)(a)(i)
Repeal the subparagraph, substitute:

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

51 At the end of subsection 269TAA(4)
Add:

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

52 Application

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

Amendments affecting Part XIII
(2) The amendments of Part I of the Customs Act 1901 made by this Part apply in relation to proceedings instituted under section 243B of that Act on or after the commencement of this item.
(3) Subitem (2) does not limit the operation of the amendments of Part I of
the *Customs Act 1901* made by this Part in relation to other provisions
of that Act.

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

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

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

54 After subsection 5(2)

Insert:

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

55 At the end of section 5

Add:

(5) In this section:

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

56 Application

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

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

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

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

58 After subsection 5(2)
59 At the end of section 5
Add:

(5) In this section:

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

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

*Passenger Movement Charge Collection Act 1978*

61 Section 3 (definition of *child*)
Repeal the definition, substitute:

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

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

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

62 Section 3
Insert:
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de facto partner has the meaning given by the Acts Interpretation Act 1901.

63 Section 3 (definition of spouse)
Repeal the definition, substitute:

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

64 Section 3
Insert:

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

Proceeds of Crime Act 2002

65 Paragraphs 180(1)(c) and 181(1)(c)
Omit “(including de facto spouse)”, substitute “or *de facto partner*”.

66 At the end of section 337
Add:

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

67 Section 338
Insert:

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

68 Section 338

Insert:

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

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

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

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

Omit “child”, substitute “*child*”.

71 Section 338

Insert:

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

72 Application

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

Service and Execution of Process Act 1992

73 Section 95

Insert:

*child*: without limiting who is a child of a person for the purposes of this Act, someone is the *child* of a person if he or she is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex). For this purpose, someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.
74 Section 95

Insert:

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

75 At the end of section 96

Add:

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

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

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

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

Sex Discrimination Act 1984

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

Repeal the definition, substitute:

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

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

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

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

77 Subsection 4A(2)

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

78 Subsection 4A(2)
Insert:

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

79 Subsection 4A(2) (definition of spouse)
Repeal the definition, substitute:

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

80 Subsection 4A(2)
Insert:

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

81 At the end of section 4A
Add:

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

82 After subsection 9(10)
Insert:

(10A) Subsection 14(3A) has effect in relation to discrimination involving dismissal of employees on the ground of family responsibilities, to the extent that the subsection gives effect to any of the following instruments:
(a) the International Covenant on Civil and Political Rights done at New York on 16 December 1966 [1980] ATS 23 (a copy of the English text of which is set out in Schedule 2 to the Human Rights and Equal Opportunity Commission Act 1986);

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

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


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

83 At the end of subsection 10(1)
Add “or (10A)”.

84 After section 11
Insert:

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

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

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

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

(4) If:
(a) a law of a State or Territory that furthers the objects of a relevant instrument deals with a matter dealt with by this Act; and
(b) a person has made a complaint, instituted a proceeding or taken any other action under that law in respect of an act or omission in respect of which the person would, but for this subsection, have been entitled to make a complaint under the Human Rights and Equal Opportunity Commission Act 1986 alleging that the act or omission is unlawful under subsection 14(3A) of this Act;
the person is not entitled to make a complaint or institute a proceeding under the Human Rights and Equal Opportunity Commission Act 1986 alleging that the act or omission is unlawful under that subsection.

(5) If:
(a) a law of a State or Territory that furthers the objects of a relevant instrument deals with a matter dealt with by this Act; and
(b) an act or omission by a person that constitutes an offence against that law also constitutes an offence against this Act;
the person may be prosecuted and convicted either under that law of the State or Territory or under this Act, but nothing in this subsection renders a person liable to be punished more than once in respect of the same act or omission.

(6) In this section:
relevant instrument means an instrument referred to in subsection 9(10A).

Witness Protection Act 1994

85 Section 3

Insert:

parent: without limiting who is a parent of anyone for the purposes of this Act, a person is the parent of another person if the other person is the product of a relationship the person has or had as a couple with a third person (whether of the same sex or a different sex). For this purpose, the other person cannot be the product of the relationship unless he or she is the biological child of at least one
of the person and the third person or was born to a woman in the relationship.
Part 3—Regulations

86 Regulations may deal with transitional, saving or application matters

The Governor-General may make regulations prescribing matters of a transitional nature (including prescribing any saving or application provisions) relating to amendments and repeals made by this Schedule or any other Schedule to this Act.
Schedule 3—Broadband, Communications and the Digital Economy

Australian Postal Corporation Act 1989

1  At the end of subsection 90K(2)
   Add: 
   Note: See also subsection (6).

2  At the end of section 90K
   Add:
   
   Next of kin
   
   (6) In determining for the purposes of subsection (2) whether a person is next of kin of another person, the following persons are also to be taken into account:
      (a) a de facto partner of the person within the meaning of the Acts Interpretation Act 1901;
      (b) someone who is the child of the person, or of whom the person is the child, because of subsection (7);
      (c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

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

Broadcasting Services Act 1992

3  Subsection 6(1) (paragraph (a) of the definition of associate)
   Omit “(including a de facto spouse)”. 

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

Omit “Note”, substitute “Note 1”.

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

Add:

Note 2: See also subsection (3).

6 Subsection 6(1)

Insert:

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

7 Subsection 6(1)

Insert:

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

8 Subsection 6(1)

Insert:

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

9 At the end of section 6

Add:

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

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

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

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

Telstra Corporation Act 1991

11 Clause 2 of the Schedule

Before “In Part 2A”, insert “(1)”.

12 Clause 2 of the Schedule

Insert:

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

13 Clause 2 of the Schedule

Insert:

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

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

Repeal the paragraph, substitute:
15 Clause 2 of the Schedule (paragraph (d) of the definition of relative)

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

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

Add:

Note: See also subclause (2).

17 At the end of clause 2 of the Schedule

Add:

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

18 Transitional provision

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

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

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

(2) If:

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

(b) the person would not have been required to do that thing if the amendments had not been made;
the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.
Schedule 4—Defence

Defence Force (Home Loans Assistance) Act 1990

1 Section 3
Before “In this Act”, insert“(1)”.

2 Section 3 (definition of child)
Repeal the definition, substitute:

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

(a) he or she is:
   (i) a legally adopted child or a stepchild of the person; or
   (ii) the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex); and

(b) he or she is:
   (i) under 16; or
   (ii) a student.

Note: See also subsection 3(2).

3 Section 3
Insert:

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

4 Section 3
Insert:

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

5 Section 3 (definition of spouse)
Repeal the definition.
Schedule 4  Defence

6 Section 3
   Insert:
   
   surviving spouse or de facto partner, in relation to a deceased person, means a person who was the spouse or de facto partner of the deceased person immediately before the deceased person’s death.

   Note: See also section 8.

7 Section 3 (definition of widow)
   Repeal the definition (including the note).

8 Section 3 (definition of widower)
   Repeal the definition (including the note).

9 At the end of section 3
   Add:
   
   (2) For the purposes of subparagraph (a)(ii) of the definition of child in subsection (1), someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

10 Paragraphs 5(1)(b) and (c)
   After “spouse”, insert “, de facto partner”.

11 Paragraphs 6(a), (b) and (c)
   After “spouse”, insert “or de facto partner”.

12 Section 8
   Repeal the section, substitute:

8 Multiple surviving spouses or de facto partners
   (1) If a deceased person has more than one surviving spouse or de facto partner, the surviving spouse or de facto partner who was living with the person immediately before his or her death is taken, for the purposes of Division 1 of Part 2 and paragraph 29(h), to be the person’s sole surviving spouse or de facto partner.
(2) For the purposes of subsection (1), the person is taken to have been living with a spouse or de facto partner immediately before the death of the person if they were not living together at that time only because of:

(a) a temporary absence from each other; or

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

13 Subsection 10(3)

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

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

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

15 Subsection 12(3)

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

16 Application provision

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

17 Subsection 14(4)

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

18 Paragraph 15(1)(b)

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

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

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

20 Paragraph 17(1)(b)

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

21 Paragraph 18(1)(b)
Schedule 4  Defence

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

22 Application provision

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

23 Paragraph 20(2)(d)

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

24 Application provision

If:

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

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

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

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

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

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

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

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

27 Subsection 24(4)

Insert:

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

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

Repeal the definition.

29 **Subsection 26(1)**

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

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

30 **Subsection 26(2)**

After “spouses”, insert “or de facto partners”.

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

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

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

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

33 **Paragraph 26(2)(b)**

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

34 **Paragraph 29(c)**

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

35 **Application provision**

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

36 **Paragraph 29(d)**

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

37 **Paragraph 29(g)**

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

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*Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 39, 2008*
38 Paragraph 29(h)
Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

39 Paragraph 30(1)(a)
Omit “is survived by a widow or widower”, substitute “has a surviving spouse or de facto partner”.

40 Paragraph 30(1)(b)
Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

41 Paragraph 30(2)(a)
Omit “is survived by a widow or widower”, substitute “has a surviving spouse or de facto partner”.

42 Paragraph 30(3)(b)
Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

43 Paragraph 30(4)(b)
Omit “surviving widow or widower who was legally married to the borrower”, substitute “surviving spouse or de facto partner”.

44 Paragraph 30(4)(d)
Omit “surviving widow or widower”, substitute “surviving spouse or de facto partner”.

45 Subsection 30(6)
Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

46 Paragraph 36A(1)(d)
Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

Defence (Parliamentary Candidates) Act 1969

47 Subsection 16(3)

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Repeal the subsection, substitute:

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

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

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

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

(4) In this section:

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

dependent means wholly or substantially dependent.

Royal Australian Air Force Veterans’ Residences Act 1953

48 Section 2

Insert:

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

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

Add “or”.

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

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

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

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

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

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

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

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

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

51 Section 2

Insert:

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

52 Section 2

Insert:

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

53 Application provision

42 Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 2008
The amendments of the *Royal Australian Air Force Veterans’ Residences Act 1953* made by this Schedule apply in relation to a person referred to in paragraph (a), (b) or (c) of the definition of *eligible person* in section 2 of that Act who dies on or after the commencement of this Schedule.
Schedule 5—Education, Employment and Workplace Relations

Education Services for Overseas Students Act 2000

1 Subsection 6(1) (paragraphs (a), (b) and (c) of the definition of associate)
   Omit “de facto spouse”, substitute “de facto partner”.

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

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

3 Subsection 6(7)
   Insert:
   
   de facto partner of a person has the meaning given by the Acts
   Interpretation Act 1901.

4 Subsection 6(7)
   Insert:
   
   parent: without limiting who is a parent of a person for the
   purposes of this section, someone is the parent of a person if the
   person is his or her child because of the definition of child in this
   section.

5 At the end of section 6
   Add:
Certain family relationships

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

Higher Education Support Act 2003

6 Clause 1 of Schedule 1

Before “In this Act”, insert “(1)”.

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

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

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

Add:

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

9 At the end of Schedule 1

Add:

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

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

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

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

(3) For the purposes of paragraph (2)(b), one person is the child of another person because of this subclause if he or she is the product of a relationship the other person has or had as a couple with a
third person (whether of the same sex or a different sex). For this purpose, he or she cannot be the product of the relationship unless he or she is the biological child of at least one of the persons or was born to a woman in the relationship.

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

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

Insert:

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

**Safety, Rehabilitation and Compensation Act 1988**

11 Subsection 4(1)

Insert:

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

12 Subsection 4(1)

Insert:

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

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

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

Note: See also subsection 4(2).

**15 Subsection 4(1)**
Insert:

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

**16 Subsection 4(1) (paragraph (a) of the definition of spouse)**
Repeal the paragraph, substitute:

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

**17 Subsection 4(1)**
Insert:

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

**18 Subsection 4(1)**
Insert:

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

19 Subsection 4(2)

Repeal the subsection, substitute:

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

(a) relationships between de facto partners; and

(b) relationships of child and parent that arise:

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

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

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

20 Subsection 4(6)

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

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


22 At the end of subsection 19(12)

Add:

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

23 Subsection 19(13)

Repeal the subsection.

24 At the end of subsection 29(2)

Add:

Note: In relation to paragraph (2)(d), see also subsection 4(2).
25 At the end of subsection 29(4)
   Add:
   
   Note: In relation to paragraph (4)(f), see also subsection 4(2).

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

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

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

Seafarers Rehabilitation and Compensation Act 1992

27 Section 3

   Insert:

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

28 Section 3

   Insert:

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

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

30 Section 3
Insert:

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

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

32 Section 3 (paragraph (a) of the definition of spouse)
Repeal the paragraph, substitute:
\[(a)\] in relation to an employee or a deceased employee—a person who is, or immediately before the employee’s death was, a de facto partner of the employee; and

33 Section 3
Insert:

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

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

**35 Subsection 15(3)**

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

**36 Section 16**

Repeal the section, substitute:

**16 Certain family relationships**

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

(a) relationships between de facto partners; and

(b) relationships of child and parent that arise:

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

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

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

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

Add:

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

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

Add:

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

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

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

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

**Student Assistance Act 1973**

40 Subsection 43B(5)

Insert:

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

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

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

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52 *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform)* Bill 2008 No. , 2008
Schedule 6—Families, Housing, Community Services and Indigenous Affairs

Part 1—Amendments commencing on the day after Royal Assent

Aboriginal Land Grant (Jervis Bay Territory) Act 1986

1 Subsection 37(1)
   Insert:
   
   child: without limiting who is a child of a person for the purposes of this Act, someone is the child of a person if he or she is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex). For this purpose, someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

2 Subsection 37(1)
   Insert:
   
   parent: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the person is his or her child because of the definition of child in this subsection.

3 Subsection 37(1) (definition of spouse)
   Repeal the definition, substitute:
   
   spouse of a person includes a de facto partner of the person within the meaning of the Acts Interpretation Act 1901.

4 At the end of section 37
   Add:
   
   (5) For the purposes of the definition of relative in subsection (1), if one person is the child of another person because of the definition of child in that subsection, relationships traced to or through the
person are to be determined on the basis that the person is the child of the other person.

Corporations (Aboriginal and Torres Strait Islander) Act 2006

5 Paragraph 293-1(2)(d)
Omit “and de facto spouses”.

6 At the end of Division 694
Add:

694-115 Certain family relationships

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

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

7 Section 700-1
Insert:

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

8 Section 700-1 (definition of de facto spouse)
Repeal the definition.
9 Section 700-1

   Insert:

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

10 Section 700-1

   Insert:

   spouse of a person includes a de facto partner of the person within
   the meaning of the Acts Interpretation Act 1901.
Part 2—Amendments commencing on 1 July 2009

A New Tax System (Family Assistance) Act 1999

11 Subsection 3(1)

Insert:

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

12 Subsection 3(1)

Insert:

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

13 After subsection 22(2)

Insert:

(2A) The individual is an FTB child of the adult if:

(a) the individual is aged under 18; and

(b) the adult is the relationship parent of the individual; and

(c) there is no order of a court that stops the adult from being legally responsible for the day-to-day care, welfare and development of the individual; and

(d) the individual is in the adult’s care; and

(e) the individual is an Australian resident, is a special category visa holder residing in Australia or is living with the adult.

14 Paragraph 23(1)(a)

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

15 Subsection 23(2)

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

16 Subsection 23(3)

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

17 Subsection 23(5)

Insert:

parent includes a relationship parent.

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

18 At the end of section 23

Add:

Parents of relationship children

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

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

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

20 At the end of section 36

Add:

Definition of parent

(7) In this section:

parent includes a relationship parent.

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

21 At the end of subsection 50R(1)

Add:

; (c) the relationship between a relationship child and his or her relationship parent.
22 Subsection 50R(2) (paragraphs (a) and (b) of the definition of step-parent)

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

23 Subsection 4(1)

Insert:

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

24 After paragraph 4(2)(a)

Insert:

(aa) both of the following conditions are met:

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

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

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

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

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

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

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

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

28 Subsection 4(2) (note)

Repeal the note.
29 Subsection 4(3)
   After “(2)(a)”, insert “, subparagraph (2)(aa)(ii)”.

30 Subparagraph 4(3)(c)(i)
   After “to”, insert “, or in a de facto relationship with, ”.

31 At the end of subparagraph 4(3)(e)(iv)
   Add “or a de facto relationship”.

32 Subsection 4(3A)
   Omit “marriage-like”, substitute “de facto”.

33 Paragraph 4(7)(a)
   Omit “a matrimonial”, substitute “their”.

34 At the end of section 4
   Add:

   Prohibited relationship

   (12) For the purposes of this Act, a person and his or her partner are
   within a prohibited relationship if the person is:
   (a) an ancestor or a descendant of the partner; or
   (b) a brother, sister, half-brother or half-sister of the partner.

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

35 Subsection 5(1)
   Insert:

   child: without limiting who is a child of a person for the purposes
   of this Act, someone is the child of a person if he or she is the
   product of a relationship the person has or had as a couple with
   another person (whether of the same sex or a different sex). For
   this purpose, someone cannot be the product of a relationship
   unless he or she is the biological child of at least one of the persons
   in the relationship or was born to a woman in the relationship.
36 Subsection 5(1) (subparagraph (a)(i) of the definition of parent)
Repeal the subparagraph, substitute:
(i) in relation to a person (the relevant person), other than an adopted child—a natural parent or relationship parent of the relevant person; or

37 Subsection 5(1) (subparagraph (a)(ii) of the definition of parent)
Omit “young person”, substitute “child”.

38 Subsection 5(1) (subparagraph (b)(i) of the definition of parent)
Omit “natural or adoptive parent”, substitute “natural parent, adoptive parent or relationship parent”.

39 Subsection 5(1) (subparagraph (b)(iv) of the definition of parent)
Omit “natural or adoptive parent”, substitute “natural parent, adoptive parent or relationship parent”.

40 Subsection 5(1)
Insert:
relationship child has the meaning given by subsection (25).

41 Subsection 5(1)
Insert:
relationship parent has the meaning given by subsection (25).

42 Subsection 5(1)
Insert:
step-child: without limiting who is a step-child of a person for the purposes of this Act, someone who is a child of a partner of the person is the step-child of the person, if he or she would be the person’s step-child except that the person is not legally married to the partner.
43 Subsection 5(1)

Insert:

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

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

Repeal the definition.

45 After paragraph 5(2)(a)

Insert:

(aa) all of the following apply:

(i) the young person is not a dependent child of the adult under paragraph (a);

(ii) the adult is a relationship parent of the young person;

(iii) there is no order of a court that stops the adult from being legally responsible for the day-to-day care, welfare and development of the young person;

(iv) the young person is in the adult’s care; or

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

After “paragraph (a)”, insert “or (aa)”.

47 At the end of section 5

Add:

*Relationship child and relationship parent*

(25) If:

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

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

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

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

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

48 Section 5E

Before “A person”, insert “(1)”.

49 Paragraph 5E(a)

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

50 At the end of section 5E

Add:

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

51 Paragraph 8(8)(z)

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

52 At the end of subsection 10B(3)

Add:

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

53 Paragraph 14A(3)(a)

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

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

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

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

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

56 Subsection 23(1)

Insert:

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

57 Subsection 23(1)
Insert:

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

58 Subsection 23(1)
Insert:

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

59 Subsection 23(1) (definition of *widow*)
Repeal the definition.

60 Paragraph 23(14)(a)
Omit “, father or mother”, substitute “or a parent”.

61 At the end of subsection 23(14)
Add:

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

62 At the end of section 23
Add:

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

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

63 After subsection 24(1)
Insert:

(1A) If:
(a) a relationship between a person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; and
(b) the person is not living separately and apart from the other person on a permanent or indefinite basis; and
(c) the Secretary is satisfied that the person should, for a special reason in the particular case, not be treated as a member of a couple;

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

64 Paragraph 24(2)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

65 Paragraph 24(2)(c)
Omit “marriage-like”, substitute “de facto”.

66 At the end of section 24
Add:

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

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

67 Subsection 553B(3) (note 2)
Repeal the note, substitute:

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

68 At the end of section 993
Add:

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

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64 Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 5, 2008
persons in the relationship are taken to be the young person’s only
parents for the purposes of this section.

69 Section 994

Before “A young person”, insert“(1)”.

70 At the end of section 994

Add:

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

71 At the end of section 995

Add:

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

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

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

73 At the end of section 1061PL

Add:

Parents of relationship children

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

74 Paragraph 1064(4)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

75 Paragraph 1064(4)(b)
Omit “marriage-like”, substitute “de facto”.

76 Paragraph 1065(3)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

77 Paragraph 1065(3)(b)
Omit “marriage-like”, substitute “de facto”.

78 Paragraph 1066(3)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

79 Paragraph 1066(3)(b)
Omit “marriage-like”, substitute “de facto”.

80 Paragraph 1066A(5)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

81 Paragraph 1066A(5)(b)
Omit “marriage-like”, substitute “de facto”.

82 Paragraph 1066B(4)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

83 Paragraph 1066B(4)(b)
Omit “marriage-like”, substitute “de facto”.

84 Paragraphs 1067A(3)(a) and (b)
Omit “natural or adoptive child”, substitute “natural child, adoptive child or relationship child”.

85 At the end of section 1067A

Add:

*Parents of relationship children*

(13) If a person (other than a person who is an adopted child) is a relationship child of another person because he or she is the product of a relationship the other person has or had as a couple with a third person, the two persons in the relationship are taken to be the person’s only parents for the purposes of subsections (5), (6), (7), (8), (9) and (11).

86 Section 1067B
Before “A person”, insert “(1)”.

87 Paragraphs 1067B(d) and (e)
Omit “natural or adoptive child”, substitute “natural child, adoptive child or relationship child”.

88 At the end of section 1067B
Add:

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

89 After paragraph 1067C(1)(a)
Insert:

(aa) both of the following conditions are met:

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

(ii) the person is not, in the Secretary’s opinion (formed as mentioned in subsection (3)), living separately and apart from the other person on a permanent or indefinite basis; or
90 Subparagraph 1067C(1)(b)(i)
   Omit “a person of the opposite sex”, substitute “another person, whether
   of the same sex or a different sex”.

91 Subparagraphs 1067C(1)(b)(iv), (v) and (vi)
   Omit “marriage-like”, substitute “de facto”.

92 Subparagraph 1067C(1)(b)(vii)
   Omit “for the purposes of section 23B of the Marriage Act 1961”.

93 After paragraph 1067C(2)(a)
   Insert:
   (aa) both of the following conditions are met:
   (i) a relationship between the person and another person
       (whether of the same sex or a different sex) was
       registered under a law of a State or Territory prescribed
       for the purposes of section 22B of the Acts
       Interpretation Act 1901 as a kind of relationship
       prescribed for the purposes of that section (whether or
       not the relationship is still registered);
       (ii) the person was not, in the Secretary’s opinion (formed
           as mentioned in subsection (3)), living separately and
           apart from the other person on a permanent or indefinite
           basis at all times while the relationship was registered;
           or

94 Subparagraph 1067C(2)(b)(i)
   Omit “a person of the opposite sex”, substitute “another person, whether
   of the same sex or a different sex”.

95 Subparagraphs 1067C(2)(b)(iv), (v) and (vi)
   Omit “marriage-like”, substitute “de facto”.

96 Subparagraph 1067C(2)(b)(vii)
   Omit “for the purposes of section 23B of the Marriage Act 1961”.

97 Subsection 1067C(3)
   After “(1)(a),” insert “subparagraph (1)(aa)(ii),”.

68 Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law
Reform) Bill 2008 No. , 2008
98 Subsection 1067C(3)
   After “(2)(a)”, insert “, subparagraph (2)(aa)(ii)”.

99 Subsection 1067C(4)
   Omit “marriage-like”, substitute “de facto”.

100 Section 1067C (note)
   Repeal the note.

101 At the end of section 1067D
   Add:

   Parents of relationship children

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

102 Paragraph 1067G(2)(a)
   After “to the other person”, insert “(whether the persons are the same
   sex or different sexes)”.

103 Paragraph 1067G(2)(b)
   Repeal the paragraph.

104 After subparagraph (b)(i) of point 1067G-B3AA
   Insert:

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

105 Subparagraph (b)(i) of subpoint 1067G-G9(2)
   After “a child”, insert “(other than a relationship child)”.

106 After subparagraph (b)(i) of subpoint 1067G-G9(2)
   Insert:
(ia) a relationship child of the person if there is an order of a court that stops the person from being legally responsible for the day-to-day care, welfare and development of the child; or

107 Point 1067G-H21
Omit “the father, mother, son, daughter”, substitute “a parent, child”.

108 Point 1067G-H22
Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

109 Section 1067J
Before “A person”, insert “(1)”.

110 At the end of section 1067J
Add:

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

111 Paragraph 1067L(2)(a)
After “to the other person”, insert “(whether the persons are the same sex or different sexes)”.

112 Paragraph 1067L(2)(b)
Omit “of the opposite sex and”.

113 Point 1067L-D17
Omit “the father, mother, son, daughter”, substitute “a parent, child”.

114 Point 1067L-D18
Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

115 Paragraph 1068(2)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

116 Paragraph 1068(2)(b)
Omit “marriage-like”, substitute “de facto”.

117 Paragraph (b) of point 1068-B1A
Omit “natural or adopted child”, substitute “natural child, adopted child or relationship child”.

118 After subparagraph (a)(i) of point 1068-B1B
Insert:

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

119 Point 1068-G5
Omit “the father, mother, son, daughter”, substitute “a parent, child”.

120 Point 1068-G6
Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

121 Paragraph 1068A(3)(a)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

122 Paragraph 1068A(3)(b)
Omit “marriage-like”, substitute “de facto”.

123 Point 1068B-D5
Omit “the father, mother, son, daughter”, substitute “a parent, child”.

124 Point 1068B-D6
Omit “the person’s father, mother, son, daughter, brother or sister”, substitute “a parent, child, brother or sister of the person”.

125 Section 1207A (definition of child)
Repeal the definition, substitute:

child: without limiting who is a child of a person for the purposes
of this Part, each of the following is the child of a person:
(a) an adopted child, step-child or foster-child of the person;
(b) someone who is the product of a relationship the person has
or had as a couple with another person (whether of the same
sex or a different sex).
For the purposes of paragraph (b), someone cannot be the product
of a relationship unless he or she is the biological child of at least
one of the persons in the relationship or was born to a woman in
the relationship.

126 Subsection 1207B(2)
Repeal the subsection, substitute:

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

127 Subsection 1209R(5) (definition of child)
Repeal the definition, substitute:

child of a principal beneficiary means:
(a) a natural child, adopted child or step-child of the beneficiary;
(b) someone who is the product of a relationship the beneficiary
has or had as a couple with another person (whether of the
same sex or a different sex).
For the purposes of paragraph (b), someone cannot be the product
of a relationship unless he or she is the biological child of at least
one of the persons in the relationship or was born to a woman in
the relationship.
Schedule 7—Finance and Deregulation

Part 1—General amendments

Commonwealth Electoral Act 1918

1 Subsection 4(1) (at the end of the definition of child)
   Add:
   ; and (c) a child who is the product of a relationship the person has or had as a couple with another person (whether the persons are the same sex or different sexes).
   For the purposes of paragraph (c), the child cannot be the product of the relationship unless he or she is the biological child of at least one of the persons or is born to a woman in the relationship.

2 Subsection 4(1)
   Insert:
   de facto partner of a person has the meaning given by the Acts Interpretation Act 1901.

3 Subsection 4(1)
   Insert:
   next of kin has a meaning affected by subsection (11).

4 Subsection 4(1) (definition of spouse)
   Repeal the definition.

5 At the end of section 4
   Add:
   (11) In determining whether a person is next of kin of another person, the following persons are also to be taken into account:
   (a) a de facto partner of the person;
   (b) a child of the person, or someone of whom the person is a child, because of the definition of child in this section;
(c) anyone else who would be a relative of the person because someone mentioned in paragraph (a) or (b) is taken into account.

6 Paragraph 95(1)(a)

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

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

7 At the end of section 104

Add:

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

(a) a de facto partner of the person;
(b) a child of the person, or someone of whom the person is a child, because of the definition of child in section 4;
(c) anyone else who would be a member of the person’s family because a person mentioned in paragraph (a) or (b) is taken to be a member of the family.

Medibank Private Sale Act 2006

8 Clause 33 of Schedule 2

Before “In this Part”, insert “(1)”.

9 Clause 33 of Schedule 2

Insert:

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

10 Clause 33 of Schedule 2

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

11 Clause 33 of Schedule 2 (paragraph (b) of the definition of
relative)
Repeal the paragraph, substitute:
(b) the person’s de facto partner within the meaning of the Acts
Interpretation Act 1901; or

12 Clause 33 of Schedule 2 (paragraph (d) of the definition of
relative)
Omit “son, daughter”, substitute “child”.

13 Clause 33 of Schedule 2 (at the end of the definition of
relative)
Add:
Note: See also subclause (2).

14 At the end of clause 33 of Schedule 2
Add:
(2) For the purposes of paragraphs (c), (d) and (e) of the definition of
relative in subclause (1), if one person is the child of another
person because of the definition of child in this Part, relationships
traced to or through the person are to be determined on the basis
that the person is the child of the other person.

15 Transitional provision
(1) For the purposes of clauses 29 and 30 of Schedule 2 of the Medibank
Private Sale Act 2006, if:
(a) apart from this subitem, an unacceptable ownership situation
would exist in relation to a Medibank Private company on the
day on which the amendments of that Act made by this
Schedule commence; and
(b) that situation would exist only because of the amendments;
the situation is, during the period of 6 months starting on the day on
which the amendments commence, taken not to exist for so long as it
would otherwise have existed.

(2) If:

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

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

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

Members of Parliament (Life Gold Pass) Act 2002

16 Section 3

Omit:

(a) spouses of pass-holders; and

(b) the widows and widowers of deceased
pass-holders; and

(c) the spouses of sitting members who have satisfied
the qualifying period for the issue of a Life Gold
Pass.

substitute:

(a) spouses or de facto partners of pass-holders; and

(b) surviving spouses or de facto partners of deceased
pass-holders; and

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Reform) Bill 2008 No.  , 2008
Finance and Deregulation  Schedule 7
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(c) the spouses or de facto partners of sitting members who have satisfied the qualifying period for the issue of a Life Gold Pass.

17 Section 4
Insert:

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

18 Section 4
Insert:

surviving spouse or de facto partner of a person who has died means a spouse or de facto partner of the person immediately before the person died who:
(a) was named in a nomination in force under section 9B; or
(b) if the person died while a member and satisfied the relevant qualifying period for the issue of a Life Gold Pass before his or her death—was named in a nomination in force for the purposes of a travel entitlement administered by the Department; or
(c) if different spouses or de facto partners are named in nominations in force under paragraphs (a) and (b)—the spouse or de facto partner named in the most recent nomination.

19 Section 4 (definition of widow)
Repeal the definition.

20 Section 4 (definition of widower)
Repeal the definition.

21 Subsection 9(2)
Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

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

22 Paragraphs 9(3)(a) and (b)
Schedule 7 Finance and Deregulation
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Omit “widow or widower”, substitute “surviving spouse or de facto partner”.

23 Subsection 9(4)
Omit “widow or widower” (wherever occurring), substitute “surviving spouse or de facto partner”.

24 At the end of Part 1
Add:

9A Entitlement of spouses and de facto partners

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

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

9B Nomination of spouse or de facto partner

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

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

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

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

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

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

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

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

26 Subsection 10(1) (table item 3)

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

27 Subsection 10(3)

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

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

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

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

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

30 Part 4 (heading)

Repeal the heading, substitute:

Part 4—Spouses or de facto partners of sitting
members

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

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

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

32 Section 13

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

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

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

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

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

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

Omit “events”.

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

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

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

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

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

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

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

Omit “events”.

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

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

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

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

42 Subsection 14(2)

Repeal the subsection, substitute:

Pro-rating of entitlement

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

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

(b) the difference between:

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

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

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

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

where:

remaining period means the period:

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

(b) ending at the end of the year.

43 Subsection 19(1) (table item 2)

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

44 Section 21

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

45 Sections 22, 23 and 24

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

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

46 Subsection 28(2)
Schedule 7 Finance and Deregulation
Part 1 General amendments

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

47 Paragraph 29(1)(b)
After “spouse”, insert “or de facto partner”.

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

Spouses entitled before commencement

(1) If, immediately before the commencement of the amendments of the Members of Parliament (Life Gold Pass) Act 2002 made by this Schedule, the spouse of a person was entitled to domestic return trips under that Act, the following provisions of that Act apply as if the spouse were nominated under section 9B of that Act:
   (a) sections 9A and 9B;
   (b) the definition of surviving spouse or de facto partner in section 4.

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

Spouses or de facto partners who become entitled on commencement

(3) If:
   (a) on or after the commencement of the amendments of the Members of Parliament (Life Gold Pass) Act 2002 made by this Schedule, a person makes a nomination under section 9B of that Act; and
   (b) the nomination names someone who was the spouse or de facto partner of the person on the day on which the amendments commenced;

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

Application of amendments to surviving spouses or de facto partners

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

**Application of amendments to widows and widowers**

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

**Parliamentary Entitlements Act 1990**

49 Section 3

Before “In this Act”, insert “(1)”.

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

Repeal the subparagraph, substitute:

(ii) is covered by subsection (2); or

(iii) is covered by subsection (3); or

51 Section 3 (definition of spouse)

Repeal the definition, substitute:

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

52 At the end of section 3

Add:

(2) For the purposes of subparagraph (a)(ii) of the definition of dependent child in subsection (1), a person under 16 is covered by this subsection if:

(a) the Officer does not have a legal right to custody, care and control of the person, otherwise than because an order of a court stops the Officer having that right; and

(b) the person is the product of a relationship the Officer has or had as a couple with another person (whether of the same sex or a different sex); and
(c) the person is in the care and control of the Officer.
For the purposes of paragraph (b), the person under 16 cannot be the product of the relationship unless he or she is the biological child of at least one of the Officer or the other person or was born to a woman in the relationship.

(3) For the purposes of subparagraph (a)(iii) of the definition of dependent child in subsection (1), a person under 16 (the child) is covered by this subsection if:
(a) there is no person who has the custody, care and control of the child; and
(b) there is no Officer in relation to whom the child is a dependent child because of being covered by subsection (2); and
(c) there is no other person in relation to whom, if the person were an Officer, the child would be a dependent child because of being covered by subsection (2); and
(d) the child is wholly or substantially in the care and control of the Officer.
Part 2—Superannuation amendments (general)

Superannuation Act 1976

53 Paragraph 51(6)(a)
   After “spouse”, insert “, or de facto partner within the meaning of the
   Acts Interpretation Act 1901,”.

54 Subparagraph 51A(1)(b)(i)
   After “spouse”, insert “, or de facto partner within the meaning of the
   Acts Interpretation Act 1901,”.

55 Application of amendments of the Superannuation Act 1976
   An amendment of the Superannuation Act 1976 made by this Schedule
   (whether Part 2, 3 or 4) applies in relation to leave commencing on or
   after the amendment commences.
Part 3—Superannuation amendments if same-sex superannuation amendments commence earlier

Superannuation Act 1976

56 At the end of section 51

Add:

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

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

57 At the end of section 51A

Add:

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

Note: Subsection 3(10) is relevant to working out if a child is the product of the relationship for the purposes of subsection (8).
Part 4—Superannuation amendments if same-sex superannuation amendments commence later

Superannuation Act 1976

58 At the end of section 51

Add:

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

59 Subsection 51(7)

Repeal the subsection, substitute:

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

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

60 At the end of section 51A

Add:

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

61 Subsection 51A(8)
Repeal the subsection, substitute:

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

Note: Subsection 3(10) is relevant to working out if a child is the product of the relationship for the purposes of subsection (8).
Schedule 8—Foreign Affairs and Trade

Part 1—Amendment commencing on 1 July 2009

Australian Passports Act 2005

1 After paragraph 53(3)(c)

    Insert:

        (ca) the name on a certificate, entry or record relating to the
        registration of the person’s relationship with another person,
        being a certificate, entry or record:
        (i) issued or made under, or for the purposes of a law of a
            State or Territory prescribed for the purposes of
            section 22B of the Acts Interpretation Act 1901; and
        (ii) relating to a kind of relationship prescribed for the
            purposes of that section; and
        (iii) issued or made by the Registrar of births, deaths and
            marriages (however described) of the State or Territory
            concerned; or
Part 2—Amendments commencing on the day after Royal Assent

Export Market Development Grants Act 1997

2 List of terms defined in Part 9

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

child

3 List of terms defined in Part 9

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

de facto partner

4 List of terms defined in Part 9

Omit “de facto spouse”.

5 List of terms defined in Part 9

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

parent

6 Section 107

Before “In”, insert “(1)”.

7 Section 107

Insert:

child: without limiting who is a child of an individual for the purposes of this Act, someone is the child of an individual if he or she is the product of a relationship the individual has or had as a couple with another individual (whether of the same sex or a different sex). For this purpose, someone cannot be the product of a relationship unless he or she is the biological child of at least one of the individuals in the relationship or was born to a woman in the relationship.
8 Section 107

Insert:

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

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

Repeal the definition.

10 Section 107

Insert:

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

11 Section 107 (definition of *spouse*)

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

12 At the end of section 107

Add:

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

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

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

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

13 Application

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

*Trade Representatives Act 1933*

14 Subsection 11(11)

Repeal the subsection, substitute:

*Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 91*
(11) For the purposes of this section, the members of a person’s family are taken to include the following (without limitation):

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

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

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

(12) In this section:

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

relevant person means:

(a) a Trade Representative; or

(b) an officer appointed under section 10.
Schedule 9—Health and Ageing

Part 1—Amendments commencing on the day after Royal Assent

Prohibition of Human Cloning for Reproduction Act 2002

1 Subsection 8(1) (definition of spouse)
   Omit “person who, although not legally married to the person, is living with the person as the person’s spouse on a bona fide domestic basis”, substitute “de facto partner of the person within the meaning of the Acts Interpretation Act 1901”.

Research Involving Human Embryos Act 2002

2 Subsection 7(1) (definition of spouse)
   Omit “person who, although not legally married to the person, is living with the person as the person’s spouse on a bona fide domestic basis”, substitute “de facto partner of the person within the meaning of the Acts Interpretation Act 1901”.

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 93, 2008
Part 2—Amendments commencing on 1 January 2009

Health Insurance Act 1973

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

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

4 At the end of section 3

Add:

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

5 Paragraph 10AA(6)(b)

Repeal the paragraph, substitute:

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

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

Repeal the definition, substitute:

dependent child, in relation to a person, means:

(a) a child under 16 who is in the custody, care and control of the person; or

(b) a child under 16:

(i) in relation to whom the person does not have a legal right to custody, care and control, otherwise than because an order of a court stops the person having that right; and

(ii) who is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex); and
(iii) who is in the care and control of the person; or

(c) a child under 16 who is not the dependent child of a person
under paragraph (a) or (b) and who is wholly or substantially
in the care and control of the person;

(d) a student child who is wholly or substantially dependent on
the person.

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

7 Subsection 10AA(7) (paragraph (b) of the definition of
spouse)
Repeal the paragraph, substitute:

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

8 Subsection 23DZZID(1) (definition of child)
Repeal the definition, substitute:

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

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

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

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

9 Subsection 23DZZID(1) (definition of parent)
Repeal the definition, substitute:

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

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

Note: See also subsection (3).

11 Subsection 23DZZID(1) (definition of spouse)
Schedule 9  Health and Ageing
Part 2  Amendments commencing on 1 January 2009

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

12 Subsection 23DZZID(1)

Insert:

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

13 At the end of section 23DZZID

Add:

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

14 Section 46A

Insert:

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

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

National Health Act 1953

15 Subsection 4(1)

Insert:

*de facto partner* of a person means:

(a) another person (whether of the same sex or a different sex) with whom the person has a relationship that is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; or
(b) another person (whether of the same sex or a different sex) who is living with the person on a genuine domestic basis although not legally married to the person.

16 Subsection 4(1) (definition of de facto spouse)
Repeal the definition.

17 Subsection 4(1) (definition of spouse)
Omit “de facto spouse”, substitute “de facto partner”.

18 At the end of section 4
Add:

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

19 Subsection 9BA(7)
Insert:

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

(a) the child is the person’s adoptive child or stepchild; or
(b) the child would be the person’s stepchild except that the person is not legally married to the person’s de facto partner; or
(c) the child is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex).

Note: Subsection 4(6) is relevant to working out if someone is the product of the relationship for the purposes of paragraph (c) of the definition of parent.

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

Note: See also subsection (3B).

21 After subsection 84(3A)
Schedule 9 Health and Ageing
Part 2 Amendments commencing on 1 January 2009

Insert:

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

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

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

(c) someone who is the product of a relationship the member has or had as a couple with another person (whether of the same sex or a different sex).

Note: Subsection 4(6) is relevant to working out if someone is the product of the relationship for the purposes of paragraph (c) of subsection (3B).

22 Paragraph 84(4)(b)
Omit “of the spouse”, substitute “or the spouse”.

23 After paragraph 84(4)(b)
Insert:

(ba) a child under the age of 16 years:

(i) in relation to whom the person does not have a legal right to custody, care and control, otherwise than because an order of a court stops the person having that right; and

(ii) who is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex); and

(iii) who is in the care and control of the person or the person’s spouse; or

(bb) a child under the age of 16 years who is not the dependent child of a person under paragraph (b) or (ba) and who is wholly or substantially in the care and control of the person; or

24 At the end of subsection 84(4)
Add:

Note: Subsection 4(6) is relevant to working out if a child is the product of the relationship for the purposes of subparagraph (4)(ba)(ii).

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

Add “or the person’s spouse”.

26 Subsection 84B(4) (definition of dependent child)

Repeal the definition, substitute:

dependent child, in relation to a person, means:

(a) a child under 16 who is in the custody, care and control of the person; or

(b) a child under 16:

(i) in relation to whom the person does not have a legal right to custody, care and control, otherwise than because an order of a court stops the person having that right; and

(ii) who is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex); and

(iii) who is in the care and control of the person; or

(c) a child under 16 who is not the dependent child of a person under paragraph (a) or (b) and who is wholly or substantially in the care and control of the person; or

(d) a student child who is wholly or substantially dependent on the person.

Note: Subsection 4(6) is relevant to working out if a child is the product of the relationship for the purposes of subparagraph (b)(ii) of the definition of dependent child.

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

Repeal the paragraph, substitute:

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

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

28 Paragraph 84B(5)(a)
Omit “a person who is legally married to another person (the person’s partner)”, substitute “a person who is the spouse of another person (the person’s partner) under paragraph (a) or (b) of the definition”.

29 Paragraph 84B(5)(b)

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

100 Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. , 2008
Part 3—Amendments commencing on 1 July 2009

Aged Care Act 1997

30 Subsection 44-11(1)

Insert:

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

(a) a stepchild or an adopted child of the person;
(b) someone who would be the stepchild of the person except that the person is not legally married to the person’s partner;
(c) someone who is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex);
(d) someone included in a class of persons specified for the purposes of this paragraph in the Residential Care Subsidy Principles.

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

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

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

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

Add:

Note: See also subsection (5).

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

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

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

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

35 Subsection 44-11(1)

Insert:

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

36 After subparagraph 44-11(2)(a)(i)

Insert:

(ia) is covered by subsection (2A) in relation to the young person; or

37 After subsection 44-11(2)

Insert:

(2A) For the purposes of subparagraph (2)(a)(ia), an adult is covered by this subsection in relation to a young person if:

(a) the young person is the child of the adult because of paragraph (c) of the definition of child in this section; and

(b) the adult is not the biological or adoptive parent of the young person; and

(c) there is no order of a court that stops the adult from being legally responsible for the day-to-day care, welfare and development of the young person.

38 At the end of section 44-11
Add:

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

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

Omit “a next of kin of such a care recipient, or”.

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Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 103, 2008
Schedule 10—Immigration and Citizenship

Part 1—Australian Citizenship Act 2007

1 Section 3 (definition of child)

Repeal the definition, substitute:

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

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

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

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

2 Section 3 (definition of commencement day)

After “54”, insert “(as originally enacted)”.

3 Section 3

Insert:

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

4 Section 3

Insert:

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

5 After subsection 6(1)

Insert:

(1A) In paragraph (1)(a):
6 Subsection 6(2)

Omit “(1)(a), (b)”, substitute “(1)(b)”.

7 Section 8

Repeal the section, substitute:

8 Children born as a result of artificial conception procedures

(1) This section applies if:

(a) a child is born to a woman as a result of the carrying out of an artificial conception procedure while the woman:
   (i) was married to a man (the husband); or
   (ii) had a de facto partner; and
(b) the procedure was carried out with the consent of the husband or de facto partner.

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

(a) to be the child of the woman and the husband or de facto partner; and
(b) not to be the child of anyone else.

8 Application of amendments affecting sections 3, 6 and 8

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

9 Subsection 22(9)

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

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

10 Paragraph 22(9)(a)

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

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Immigration and Citizenship Schedule 10
Australian Citizenship Act 2007 Part 1

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

6 Subsection 6(2)

Omit “(1)(a), (b)”, substitute “(1)(b)”.

7 Section 8

Repeal the section, substitute:

8 Children born as a result of artificial conception procedures

(1) This section applies if:

(a) a child is born to a woman as a result of the carrying out of an artificial conception procedure while the woman:
   (i) was married to a man (the husband); or
   (ii) had a de facto partner; and
(b) the procedure was carried out with the consent of the husband or de facto partner.

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

(a) to be the child of the woman and the husband or de facto partner; and
(b) not to be the child of anyone else.

8 Application of amendments affecting sections 3, 6 and 8

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

9 Subsection 22(9)

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

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

10 Paragraph 22(9)(a)

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

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Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 1, 2008 105
11 Subsection 22(10)

Repeal the subsection, substitute:

(10) In subsection (9):

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

12 Application of amendments of section 22

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

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

(b) that:

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

(ii) were applications in relation to which decisions were
not made before that commencement to approve, or to
refuse to approve, the applicants becoming Australian
citizens.
Part 2—Migration Act 1958

Division 1—Main amendments

Migration Act 1958

13 Subsection 5(1)
   Insert:
   
   child of a person has a meaning affected by section 5CA.

14 Subsection 5(1)
   Insert:
   
   de facto partner has the meaning given by section 5CB.

15 Subsection 5(1) (paragraph (a) of the definition of health criterion)
   Omit “(within the meaning of the regulations)”.

16 Subsection 5(1)
   Insert:
   
   member of the family unit of a person has the meaning given by the regulations made for the purposes of this definition.

17 Subsection 5(1)
   Insert:
   
   member of the same family unit: one person is a member of the same family unit as another if either is a member of the family unit of the other or each is a member of the family unit of a third person.

18 Subsection 5(1)
   Insert:
   
   parent: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the
person is his or her child because of the definition of child in section 5CA.

19 Subsection 5(1)
Insert:
spouse has the meaning given by section 5F.

20 After section 5C
Insert:

5CA Child of a person

(1) Without limiting who is a child of a person for the purposes of this Act, each of the following is the child of a person:
   (a) an adopted child of the person;
   (b) someone who is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex).

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

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

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

5CB De facto partner

De facto partners

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

De facto relationship

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

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

Definition

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

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

21 After section 5E

Insert:
5F Spouse

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

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

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

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

5G Relationships and family members

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

(2) For the purposes of this Act, the members of a person’s family and relatives of a person are taken to include the following:
   (a) a de facto partner of the person;
   (b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in section 5CA;
   (c) anyone else who would be a member of the person’s family or a relative of the person if someone mentioned in paragraph (a) or (b) is taken to be a member of the person’s family or a relative of the person.

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

22 Paragraph 36(2)(b)

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

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

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

24 Application of amendments of sections 36 and 48A

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

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

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

25 Subsection 83(1)

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

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

26 At the end of subsection 83(1)

Add:

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

This section as in force before the amendment of this Act by that Act continues to apply in relation to visas granted before 1 July 2009.

27 At the end of subsection 83(2)

Add:

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

28 Application of amendments affecting section 83

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Amendments of subsection 83(1)

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

Other amendments affecting subsection 83(1)

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

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

Amendments affecting subsection 83(2)

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

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

29 Subsection 84(3)

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

30 Paragraph 84(5)(a)

Repeal the paragraph, substitute:

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

31 Subsection 87(1)

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

32 Paragraph 87(2)(a)

Repeal the paragraph, substitute:

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

33 Application of amendments affecting sections 84 and 87
(1) The definition of child in subsection 5(1) of the Migration Act 1958 (as amended by this Part) applies for the purposes of the operation of sections 84 and 87 of that Act in relation to:
   (a) applications for visas that are made on or after the commencement of this Part; and
   (b) applications for visas that were made before the commencement of this Part and were not finally determined before that commencement.

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

(3) The amendments of sections 84 and 87 of the Migration Act 1958 made by this Part apply in relation to:
   (a) applications for visas that are made on or after the commencement of this Part; and
   (b) applications for visas that were made before the commencement of this Part and were not finally determined before that commencement.

34 At the end of section 91S
   Add:
       Note: Section 5G may be relevant for determining family relationships for the purposes of this section.

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

36 Subsection 137T(3)
   Repeal the subsection.

37 Subsection 140(1)
   Omit “(within the meaning of the regulations)”.

38 At the end of subsection 192(7)
   Add:
       Note: Section 5G may be relevant for determining relationships for the purposes of paragraph (7)(b).
39 Subsections 199(1) and (2) and 205(1) and (2)
   After “spouse” (wherever occurring), insert “or de facto partner”.

40 Paragraphs 211(1)(a) and (2)(a)
   Omit “the spouses of each other within the meaning of the regulations”,
   substitute “spouses or de facto partners of each other”.
   Note: The heading to section 211 is altered by inserting “, de facto partners” after “spouses”.

41 Subparagraph 211(3)(b)(i)
   Omit “spouse within the meaning of the regulations”, substitute “spouse or de facto partner”.

42 Subparagraph 211(3)(b)(ii)
   Omit “such a spouse”, substitute “a spouse, or a de facto partner,”.

43 Application of amendments of section 211
   The amendments of section 211 of the Migration Act 1958 made by this Part apply in relation to detention starting on or after the commencement of this Part.

44 Paragraphs 212(1)(a) and (2)(a)
   Omit “the spouses of each other within the meaning of the regulations”,
   substitute “spouses or de facto partners of each other”.
   Note: The heading to section 212 is altered by inserting “, de facto partners” after “spouses”.

45 Subparagraph 212(3)(b)(i)
   Omit “spouse within the meaning of the regulations”, substitute “spouse or de facto partner”.

46 Subparagraph 212(3)(b)(ii)
   Omit “such a spouse”, substitute “a spouse, or a de facto partner,”.

47 Application of amendments of section 212
   The amendments of section 212 of the Migration Act 1958 made by this Part apply in relation to removal and deportation on or after the commencement of this Part.

48 Paragraph 237(a)
Omit “married to, or is the de facto spouse of, and has a genuine and
continuing marital relationship”, substitute “the spouse or de facto
partner of, and has a genuine and continuing relationship, involving a
shared life to the exclusion of all others”.

49 Paragraph 237(b)
Repeal the paragraph.

50 Subparagraphs 237(c)(i), (ii) and (iii)
Repeal the subparagraphs, substitute:
(i) entering into a married relationship that is not intended
to be a genuine and continuing relationship involving a
shared life to the exclusion of all others; or
(ii) pretending to be a de facto partner of another person.

51 Section 238 (definition of interdependency relationship)
Repeal the definition.

52 Subsection 241(1)
Omit “de facto spouses of each other for the purposes of the
regulations”, substitute “de facto partners of each other”.

53 Subsection 241(1)
Omit “such spouses” (wherever occurring), substitute “such de facto
partners”.

54 Section 242
Repeal the section.

55 Subsection 243(1)
Omit “married to, or being, for the purposes of the regulations, the
de facto spouse of;”, substitute “the spouse or de facto partner of”.

56 Subsection 243(1)
Omit “genuine and continuing marital relationship”, substitute “married
relationship (within the meaning of subsection 5F(2)) or de facto
relationship (within the meaning of subsection 5CB(2)), as appropriate”.

57 Subsection 243(3)
Omit “married to, or being, for the purposes of the regulations, the de facto spouse of,”, substitute “the spouse or de facto partner of”.

58 Subsection 243(3)
Omit “genuine and continuing marital relationship”, substitute “married relationship (within the meaning of subsection 5F(2)) or de facto relationship (within the meaning of subsection 5CB(2)), as appropriate”.

59 Section 244
Repeal the section.

60 Paragraph 245(1)(a)
Omit “have a genuine and continuing marital relationship between them”, substitute “are in a married relationship (within the meaning of subsection 5F(2))”.

61 Paragraphs 245(1)(b) and (c)
Repeal the paragraphs, substitute:
   (b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;

62 Paragraph 245(3)(a)
Omit “have a genuine and continuing marital relationship between them”, substitute “are in a married relationship (within the meaning of subsection 5F(2))”.

63 Paragraphs 245(3)(b) and (c)
Repeal the paragraphs, substitute:
   (b) whether or not other persons are in a de facto relationship (within the meaning of subsection 5CB(2)) with one another;

64 Application of amendments of Subdivision B of Division 12 of Part 2
The amendments of Subdivision B of Division 12 of Part 2 of the Migration Act 1958 made by this Part apply in relation to visas applied for on or after the commencement of this Part.

65 Paragraph 338(6)(c)
After “spouse,”, insert “de facto partner,”.
66 At the end of subsection 338(6)
   Add:
   Note: Section 5G may be relevant for determining family relationships for
   the purposes of this subsection.

67 Paragraph 338(7)(b)
   After “spouse,”, insert “de facto partner.”.

68 At the end of subsection 338(7)
   Add:
   Note: Section 5G may be relevant for determining family relationships for
   the purposes of this subsection.

69 Application of amendments of section 338
   The amendments of section 338 of the Migration Act 1958 made by this
   Part apply to decisions made on or after the commencement of this Part.

70 At the end of subsection 347(2)
   Add:
   Note: Section 5G may be relevant for determining family relationships for
   the purposes of paragraph (2)(c).

71 At the end of subsection 431(2)
   Add:
   Note: Section 5G may be relevant for determining relationships for the
   purposes of this subsection.

72 Subsection 492(2)
   Omit “, 243 or 244”, substitute “or 243”.

73 At the end of subsection 501K(2)
   Add:
   Note: Section 5G may be relevant for determining relationships for the
   purposes of this subsection.

74 Subsection 507(1)
   Omit “married or being the de facto spouse”, substitute “the spouse or
   de facto partner”.

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Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill
2008 No.  , 2008 117
75 Paragraph 507(1)(a)

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

Division 2—Consequential amendment

Australian Citizenship Act 2007

76 Subparagraph 34(6)(a)(i)

Omit “, 243 or 244”, substitute “or 243, or former section 244 (as in force before its repeal by the Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008),”.

Part 3—Immigration (Education) Act 1971

77 Section 3
Insert:

child of a person has the same meaning as in the Migration Act.

78 Section 3
Insert:

parent of a person has the same meaning as in the Migration Act.
Part 4—Immigration (Guardianship of Children) Act 1946

79 Section 4

Insert:

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

80 Section 4

Insert:

relative of a person includes:

(a) a parent of the person; and

(b) anyone who is a step-parent of the person or would be except that he or she is not legally married to his or her de facto partner (within the meaning of the Acts Interpretation Act 1901); and

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

81 Section 6

Omit “father and mother”, substitute “parents”.

82 Application

The amendments made by this Part apply in relation to persons under 18 who enter Australia on or after commencement.
Schedule 11—Infrastructure, Transport, Regional Development and Local Government

Part 1—Carriers’ liability amendments (general)

Civil Aviation (Carriers’ Liability) Act 1959

1 Paragraph 5(2)(a)

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

2 Paragraph 5(3)(c)

Repeal the paragraph, substitute:

(c) relationships of child and parent that arise because of the definitions of child and parent in this section; and

(d) relationships traced through relationships referred to in paragraphs (a), (b) and (c).
Part 2—Carriers’ liability amendments if Montreal Convention amendments commence earlier

Civil Aviation (Carriers’ Liability) Act 1959

3 Subsection 5(1)

Insert:

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

4 Subsection 5(1)

Insert:

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

5 Subsection 5(1)

Insert:

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

6 Subsection 5(1)

Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the stepchild of the person, if he or she would be the person’s stepchild except that the person is not legally married to the partner.
7 Subsection 5(1)

Insert:

step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a de facto partner of a parent of the person is the step-parent of the person, if he or she would be the person’s step-parent except that he or she is not legally married to the person’s parent.
Part 3—Carriers’ liability amendments if Montreal Convention amendments commence later

Civil Aviation (Carriers’ Liability) Act 1959

8 Section 5
Insert:

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

9 Section 5
Insert:

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

10 Section 5
Insert:

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

11 Section 5
Insert:

stepchild: without limiting who is a stepchild of a person for the purposes of this Act, someone who is a child of a de facto partner of the person is the stepchild of the person, if he or she would be the person’s stepchild except that the person is not legally married to the partner.
12 Section 5

Insert:

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

13 Subsection 12(5)

Repeal the subsection, substitute:

(5) A reference in subsection (3) to the members of the passenger’s
family is taken to be a reference to the wife or husband, de facto
partner, parents, step-parents, grandparents, brothers, sisters,
half-brothers, half-sisters, children, step-children and grandchildren
of the passenger. For this purpose, relationships are taken to
include:

(a) ex-nuptial relationships;
(b) relationships by adoption;
(c) relationships of child and parent that arise because of the
definitions of child and parent in section 5;
(d) relationships traced through relationships referred to in
paragraphs (a), (b) and (c).

14 Subsection 35(5)

Repeal the subsection, substitute:

(5) A reference in subsection (3) to the members of the passenger’s
family is taken to be a reference to the wife or husband, de facto
partner, parents, step-parents, grandparents, brothers, sisters,
half-brothers, half-sisters, children, step-children and grandchildren
of the passenger. For this purpose, relationships are taken to
include:

(a) ex-nuptial relationships;
(b) relationships by adoption;
(c) relationships of child and parent that arise because of the
definitions of child and parent in section 5;
(d) relationships traced through relationships referred to in
paragraphs (a), (b) and (c).
Part 4—Other amendments

Airports Act 1996

15 Clause 2 of the Schedule
Before “In Part 3”, insert “(1)”.

16 Clause 2 of the Schedule
Insert:

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

17 Clause 2 of the Schedule
Insert:

parent: without limiting who is a parent of a person for the purposes of Part 3 and this Schedule, someone is the parent of a person if the person is his or her child because of the definition of child in this clause.

18 Clause 2 of the Schedule (paragraph (b) of the definition of relative)
Repeal the paragraph, substitute:

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

19 Clause 2 of the Schedule (paragraph (d) of the definition of relative)
Omit “son, daughter”, substitute “child”.

20 Clause 2 of the Schedule (at the end of the definition of relative)

Add:

Note: See also subclause (2).

21 At the end of clause 2 of the Schedule

Add:

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

22 Transitional provision

Unacceptable foreign-ownership situation

(1) For the purposes of sections 42 and 43 of the Airports Act 1996, if:

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

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

Unacceptable airline-ownership situation

(2) For the purposes of sections 46 and 47 of the Airports Act 1996, if:

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

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

(3) For the purposes of sections 52 and 53 of the *Airports Act 1996*, if:
   (a) apart from this subitem, an unacceptable cross-ownership situation would exist in relation to a pair of airport-operator companies on the day on which the amendments of that Act made by this Schedule commence; and
   (b) the situation would exist only because of the amendments;

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

Practical control of an airport-operator company

(4) If:
   (a) the Minister administering the *Airports Act 1996* is satisfied, for the purposes of subparagraph 55(1)(a)(ii) of that Act, that a person was in a position to exercise control over an airport-operator company on the day on which the amendments of that Act made by this Schedule commenced; and
   (b) the person was in that position on that day only because of the amendments;

   the Minister must not make a declaration under section 55 of that Act in relation to that person and that company during the period of 6 months starting on the day on which the amendments commence.

Record-keeping

(5) If:
   (a) on the day on which the amendments of the *Airports Act 1996* made by this Schedule commence, a person would, apart from this subitem, be required by regulations made for the purposes of section 60 of that Act to do something in relation to an ownership matter; and
   (b) the person would not have been required to do that thing if the amendments had not been made;

   the person is, during the period of 6 months starting on the day on which the amendments commence, taken not to be required to do that thing for so long as the person would otherwise have been required to do that thing.
Navigation Act 1912

23 Subsection 6(1)
Insert:

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

24 Subsection 6(1)
Insert:

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

25 Subsection 6(1)
Insert:

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

26 Subsection 6(1)
Insert:

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

27 At the end of section 6
Add:

(8) For the purposes of this Act, members of a person’s family are taken to include the following (without limitation):
(a) a de facto partner of the person;
(b) someone who is the child of the person, or of whom the
person is the child, because of the definition of \textit{child} in this
section;
(c) anyone else who would be a member of the person’s family
because someone mentioned in paragraph (a) or (b) is taken
to be a member of the person’s family.

28 At the end of subsection 7(1)
Add:

Note: In relation to subparagraph (1)(d)(i), see also subsection 6(8).

29 Subparagraph 70(1)(a)(i)
After “husband,”, insert “de facto partner,”.

30 At the end of section 70
Add:

(5) For the purposes of subparagraph (1)(a)(i), if one person is the
child of another person because of the definition of \textit{child} in this
Act, relationships traced to or through the person are to be
determined on the basis that the person is the child of the other
person.

31 At the end of subsection 127(1)
Add:

Note: In relation to paragraph (1)(f), see also subsection 6(8).

32 Subparagraph 156(1)(b)(i)
Omit “be the widow, the widower or”, substitute “to have been the
deceased’s spouse or de facto partner immediately before the
deceased’s death, to be”.

33 Application of amendment of section 156
The amendment of section 156 of the \textit{Navigation Act 1912} made by this
Schedule applies in relation to a seaman who dies on or after the
commencement of the amendment.

34 Paragraph 157(1)(b)
Omit “related to the testator by blood or marriage”, substitute “a relative of the testator”.

35 At the end of section 157

Add:

(3) The reference in paragraph (1)(b) to a relative of the testator includes a reference to the following (without limitation):

(a) a de facto partner of the testator;
(b) someone who is the child of the testator, or of whom the testator is the child, because of the definition of child in section 6;
(c) anyone else who would be a relative of the testator because someone mentioned in paragraph (a) or (b) is taken to be a relative of the testator.

36 Application of amendments of section 157

The amendments of section 157 of the Navigation Act 1912 made by this Schedule apply in relation to wills made on or after the commencement of the amendments.

37 Subsection 158(6)

Omit “as widow, widower,”, substitute “who was the deceased’s spouse or de facto partner immediately before the deceased’s death, or who is the deceased’s”.

38 Subsection 158(7)

Omit “, as widow, widower,”, substitute “who was the deceased’s spouse or de facto partner immediately before the deceased’s death, or who is the deceased’s”.

39 At the end of section 158

Add:

(8) In determining for the purposes of subsections (6) and (7) whether a person is next-of-kin of another person, the following persons are also to be taken into account:

(a) someone who is the child of the person, or of whom the person is the child, because of the definition of child in this Act;
(b) anyone else who would be a relative of the person because someone mentioned in paragraph (a) is taken into account.

40 Application of amendments of section 158

The amendments of section 158 of the Navigation Act 1912 made by this Schedule apply in relation to a seaman who dies on or after the commencement of the amendments.

41 Subsection 161(1)

After “husband,”, insert “de facto partner,”.
Schedule 12—Innovation, Industry, Science and Research

Pooled Development Funds Act 1992

1 Subsection 4(1) (definition of de facto spouse)
   Repeal the definition.

2 Subsection 31(2) (paragraph (a) of the definition of associate)
   Omit “(including a person who is such a relation by adoption)”.

3 Subsection 31(2) (paragraph (b) of the definition of associate)
   Omit “de facto spouse”, substitute “de facto partner”.

4 Subsection 31(2)
   Insert:
   
   child: without limiting who is a child of a person for the purposes of this section, someone is the child of a person if he or she is the product of a relationship the person has or had as a couple with another person (whether of the same sex or a different sex). For this purpose, someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

5 Subsection 31(2)
   Insert:
   
   de facto partner has the meaning given by the Acts Interpretation Act 1901.

6 Subsection 31(2)
   Insert:
   
   parent: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the
person is his or her child because of the definition of child in this section.

7 After subsection 31(2A)

Insert:

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

8 Transitional

(1) This item applies if:

(a) on the commencement of the amendments made by this Schedule, a person holds shares in a PDF (the initial shares); and

(b) the person would, but for this item, contravene section 31 of the Pooled Development Funds Act 1992 only because of one or more of those amendments.

(2) Subject to subitem (4), disregard the person’s continued holding of the initial shares in the PDF on and after that commencement when applying that section as then in force to the person and the person’s associates.

(3) If, after that commencement, any bonus shares in the PDF are issued to the person because the person is the holder of the initial shares, then, subject to subitem (4), disregard the person’s holding of those bonus shares when applying that section as then in force to the person and the person’s associates.

(4) If, after that commencement, the person, or any of the person’s associates, acquires additional shares (other than bonus shares) in the PDF, the initial shares and the bonus shares are to be taken into account in determining whether the acquisition of those additional shares complies with that section as then in force.
Schedule 13—Prime Minister and Cabinet

Privacy Act 1988

1 At the end of section 6

Add:

(10) For the purposes of this Act, a reference to family in the definition of credit in subsection 6(1), and in sections 6D and 16E, in relation to any individual is taken to include the following (without limitation):

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

(b) someone who is the child of the person, or of whom the person is the child, because of the definition of child in subsection (11);

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

(11) In this section:

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

2 Paragraph 2.5(c) of Schedule 3

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

3 Subclause 2.6 of Schedule 3 (definition of child)

Repeal the definition, substitute:

child: without limiting who is a child of an individual for the purposes of this clause, each of the following is the child of an individual:
(a) an adopted child, stepchild, exnuptial child or foster child of
the individual; and
(b) someone who is the product of a relationship the individual
has or had as a couple with another individual (whether of the
same sex or a different sex).
For the purposes of paragraph (b), someone cannot be the product
of a relationship unless he or she is the biological child of at least
one of the individuals in the relationship or was born to a woman
in the relationship.

4 Subclause 2.6 of Schedule 3
Insert:

\textit{de facto partner} has the meaning given by the \textit{Acts Interpretation}
Act 1901.

5 Subclause 2.6 of Schedule 3 (definition of \textit{parent})
Repeal the definition, substitute:

\textit{parent}: without limiting who is a parent of an individual for the
purposes of this clause, someone is the \textit{parent} of an individual if
the individual is his or her child because of the definition of \textit{child}
in this subclause.

6 Subclause 2.6 of Schedule 3
Insert:

\textit{stepchild}: without limiting who is a stepchild of an individual for
the purposes of this clause, someone is the \textit{stepchild} of an
individual if he or she would be the individual’s stepchild except
that the individual is not legally married to the individual’s de facto
partner.

7 At the end of clause 2 of Schedule 3
Add:

2.7 For the purposes of the definition of \textit{relative} in subclause 2.6,
relationships to an individual may also be traced to or through
another individual who is:
(a) a de facto partner of the first individual; or
(b) the child of the first individual because of the definition of child in that subclause.

2.8 For the purposes of the definition of sibling in subclause 2.6, an individual is also a sibling of another individual if a relationship referred to in that definition can be traced through a parent of either or both of them.
Schedule 14—Treasury

Part 1—Amendment of tax laws

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

1 Subsection 7(1)

Repeal the subsection, substitute:

De facto couples treated as if married

(1) This Act applies to 2 persons (whether of the same sex or different sexes) as if they were married to each other for a period if:

(a) their relationship is registered for the period under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; or

(b) they lived together in a relationship as a couple on a genuine domestic basis for the period, although not legally married to each other.

(1A) If, during the period, either or both of the persons was legally married to another person, or in a relationship mentioned in paragraph (1)(a) with another person, this Act applies as if the person or persons were not legally married to, or in a relationship mentioned in paragraph (1)(a) with, the other person.


The amendment of the A New Tax System (Medicare Levy Surcharge—Fringe Benefits) Act 1999 made by this Schedule applies to the 2009-2010 year of income and later years of income.

Fringe Benefits Tax Assessment Act 1986

3 At the end of section 58V

Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining who a person’s relatives are for the purposes of paragraphs (b) and (c).

4 **Subsection 136(1) (at the end of paragraph (h) of the definition of fringe benefit)**

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining who a person’s relatives are for the purposes of paragraph (h).

5 **Subsection 136(1)**

Insert:

*parent* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

6 **Application of amendments of the Fringe Benefits Tax Assessment Act 1986**

The amendments of the *Fringe Benefits Tax Assessment Act 1986* made by this Schedule apply in relation to the FBT year starting on 1 April 2009 and later FBT years.

7 **Subsection 6(1)**

Insert:

*parent* has the meaning given by subsection 995-1(1) of the *Income Tax Assessment Act 1997*.

8 **At the end of subsection 24D(7)**

Add:

Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (7).

9 **At the end of subsection 24F(4)**

Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (4).

10 At the end of subsection 24G(3)
Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of subsection (3).

11 At the end of subsection 24M(1)
Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of paragraph (1)(a).

12 At the end of subsection 24M(2)
Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of paragraph (2)(a).

13 Subsection 73AA(1) (table item 3)
After “Marriage”, insert “or relationship”.

14 Subsection 100A(13) (at the end of the definition of *agreement*)
Add:
Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining family relationships for the purposes of the definition of *agreement*.

15 Section 102AAB (definition of *de facto marriage*)
Repeal the definition.

16 Section 102AAB
Insert:

*de facto relationship* means:
(a) a relationship between 2 persons (whether of the same sex or different sexes) that is registered under a law of a State or
Territory prescribed for the purposes of section 22B of the 
Acts Interpretation Act 1901 as a kind of relationship 
prescribed for the purposes of that section; or 
(b) a relationship between 2 persons (whether of the same sex or 
different sexes) who, although not legally married to each 
other, live with each other on a genuine domestic basis in a 
relationship as a couple.

17 Subparagraph 102AAH(1)(a)(i)
After “post-marital”, insert “or post-relationship”.

18 Subsection 102AAH(2)
After “post-marital”, insert “or post-relationship”.

19 Subparagraph 102AAH(2)(a)(ii)
Omit “de facto marriage”, substitute “de facto relationship”.

20 At the end of subsection 102AAH(3)
Add:

Note: Section 960-255 of the Income Tax Assessment Act 1997 may be 
relevant to determining relationships for the purposes of 
subparagraph (3)(a)(iii).

21 Paragraph 102AGA(2)(a)
Omit “on a genuine domestic basis (whether or not legally married to 
that person)”.

22 Subparagraph 102AGA(2)(b)(i)
Omit “natural”.

23 Subparagraphs 102AGA(2)(b)(ii) and (iii)
Repeal the subparagraphs.

24 Paragraph 102AGA(2)(c)
Omit “on a genuine domestic basis”.

25 Paragraph 102AGA(3)(a)
Omit “natural”.
26 Paragraph 102AGA(3)(a)
Omit “on a genuine domestic basis (whether or not legally married)”.  

27 Paragraph 102AGA(3)(b)
Omit “natural”.  

28 Paragraph 102AGA(3)(c)
Omit “natural” (wherever occurring).  

29 Section 109ZD (definition of family law obligation)
Omit “(c),”.  

30 Subsection 124PA(1) (table item 3)
After “Marriage”, insert “or relationship”.  

31 Subsection 159J(6) (at the end of the definition of invalid relative)
Add:

Note: Section 960-255 of the Income Tax Assessment Act 1997 may be relevant to determining relationships for the purposes of the definition of invalid relative.  

32 At the end of section 177D
Add:

Note: Section 960-255 of the Income Tax Assessment Act 1997 may be relevant to determining family relationships for the purposes of subparagraphs (b)(vi) and (viii).  

33 Subsection 251R(2)
Repeal the subsection, substitute:

(2) If, during any period, 2 persons (whether of the same sex or different sexes):

(a) had a relationship that was registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section; or

(b) lived together in a relationship as a couple on a genuine domestic basis, although not legally married to each other;
this Part and any Act imposing levy has effect in relation to the
period as if the persons were married to each other.

(2A) If, during the period, either or both of the persons was legally
married to another person, or in a relationship mentioned in
paragraph (2)(a) with another person, this Part and any Act
imposing levy has effect as if the person or persons were not
legally married to, or in a relationship mentioned in
paragraph (2)(a) with, the other person or persons.

34 At the end of subsection 251U(1)
Add:

Note: Section 960-255 of the Income Tax Assessment Act 1997 may be
relevant to determining family relationships for the purposes of
subparagraph (1)(e)(iii).

35 Subsection 317(1) (definition of de facto marriage)
Repeal the definition.

36 Subsection 317(1)
Insert:

de facto relationship means:
(a) a relationship between 2 persons (whether of the same sex or
different sexes) that is registered under a law of a State or
Territory prescribed for the purposes of section 22B of the
Acts Interpretation Act 1901 as a kind of relationship
prescribed for the purposes of that section; or
(b) a relationship between 2 persons (whether of the same sex or
different sexes) who, although not legally married to each
other, live with each other on a genuine domestic basis in a
relationship as a couple.

37 Subsection 318(7)
Repeal the subsection, substitute:

(7) In this section and any other provision of this Act that has effect
for the purposes of this section, a reference to the spouse of a
person does not include:
(a) a spouse who is legally married to the person but living
separately and apart from the person on a permanent basis; or
(b) a spouse within the meaning of paragraph (a) of the definition of *spouse* in subsection 995-1(1) of the *Income Tax Assessment Act 1997* who is living separately and apart from the person on a permanent basis.

38 **Subparagraph 328(1)(a)(i)**

   After “post-marital”, insert “or post-relationship”.

39 **Subsection 328(2)**

   After “post-marital”, insert “or post-relationship”.

40 **Subparagraph 328(2)(a)(ii)**

   Omit “de facto marriage”, substitute “de facto relationship”.

41 **At the end of subsection 328(3)**

   Add:

   Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of subparagraph (3)(a)(iii).

42 **After subparagraph 491(2)(a)(i)**

   Insert:

   (ia) a spouse of the person, other than a spouse within the meaning of paragraph (a) of the definition of *spouse* in subsection 995-1(1) of the *Income Tax Assessment Act 1997* who is living separately and apart from the person and has been so living for at least 12 months; or

43 **At the end of subsection 491(2)**

   Add:

   Note: Section 960-255 of the *Income Tax Assessment Act 1997* may be relevant to determining relationships for the purposes of subparagraph (2)(a)(iii).

44 **Subparagraph 491(2)(b)(i)**

   Repeal the subparagraph, substitute:

   (i) a child of the person (other than a child excluded under subsection (3)); or

45 **At the end of section 491**
Add:

(3) For the purposes of subparagraph (2)(b)(i), the following children are excluded under this subsection:

(a) a step-child of the person; and

(b) someone who would be the step-child of the person except that the person is not legally married to the person’s spouse.

46 Subparagraphs 269-80(1)(c)(i) and (iii) in Schedule 2F
After “marriage”, insert “or relationship”.

Note: The heading to section 269-80 is altered by omitting “or marriage breakdown” and substituting “or breakdown of marriage or relationship”.

47 Paragraph 269-95(2)(a) in Schedule 2F
After “marriage”, insert “or relationship”.

48 Subparagraphs 269-95(2)(b)(i) and (ii) and (c)(i) and (ii) in Schedule 2F
After “marriage”, insert “or relationship”.

49 Paragraphs 269-95(2)(d) and (e) in Schedule 2F
After “marriage”, insert “or relationship”.

50 Subparagraph 269-95(3)(c)(ii) in Schedule 2F
After “marriage”, insert “or relationship”.

51 Paragraph 272-90(2A)(a) in Schedule 2F
After “marriage”, insert “or relationship”.

52 Paragraph 272-90(2A)(b) in Schedule 2F
Repeal the paragraph, substitute:

(b) a person:

(i) who was the spouse of either the primary individual or of a member of the primary individual’s family immediately before the death of the primary individual or member of the primary individual’s family; and

(ii) who is now the spouse of a person who is not a member of the primary individual’s family; and
53 Paragraph 272-90(2A)(c) in Schedule 2F
Omit “step-child”, substitute “child of the spouse”.

54 Paragraph 272-90(2A)(c) in Schedule 2F
After “marriage”, insert “or relationship”.

55 Subsection 272-95(1) in Schedule 2F (note)
Repeal the note, substitute:

Note 1: Child, parent and spouse are defined in subsection 6(1).
Note 2: Section 960-255 may be relevant to determining relationships for the purposes of paragraph (1)(a).

56 Subsection 272-140(1) in Schedule 2F (definition of breakdown in the marriage)
Repeal the definition.

57 Subsection 272-140(1) in Schedule 2F
Insert:

breakdown in the marriage or relationship of an individual: this occurs if the individual is living with another individual on a genuine domestic basis in a relationship as a couple (whether the individuals are the same sex or different sexes and whether legally married or not) and ceases to do so.

58 Application of amendments of the Income Tax Assessment Act 1936
The amendments of the Income Tax Assessment Act 1936 made by this Schedule apply in relation to the 2009-2010 year of income and later years of income.

Income Tax Assessment Act 1997

59 Subsection 40-340(1) (table item 3)
After “Marriage”, insert “or relationship”.

60 Paragraph 52-105(1)(a)
Omit “parent”, substitute “* parent”.

61 At the end of subsection 70-100(10)
   Add:
   Note: Section 960-255 may be relevant to determining family relationships for the purposes of paragraph (10)(a).

62 Subsection 100-10(3)
   After “marriage”, insert “or relationship”.

63 Subsection 100-33(1)
   After “marriage”, insert “or relationship”.

64 Section 112-150 (table items 1, 2 and 7)
   After “marriage”, insert “or relationship”.

65 Section 118-75 (heading)
   Repeal the heading, substitute:

118-75 Marriage or relationship breakdown settlements

66 Paragraph 118-75(1)(a)
   Omit “marriage or de facto marriage”, substitute “relationship between *spouses”.

67 Subparagraph 118-75(1)(b)(i)
   Omit “*spouse”, substitute “spouse”.

68 Paragraph 118-178(1)(c)
   After “marriage”, insert “or relationship”.

69 Section 118-180 (heading)
   Repeal the heading, substitute:

118-180 Acquisition of dwelling from company or trust on marriage or relationship breakdown—roll-over provision applying

70 Subdivision 126-A (heading)
   Repeal the heading, substitute:
Subdivision 126-A—Marriage or relationship breakdowns

71 Paragraph 126-5(1)(a)
Repeal the paragraph, substitute:
(a) a court order under the *Family Law Act 1975* or under a
"State law, "Territory law or "foreign law relating to
breakdowns of relationships between spouses; or

72 Paragraph 126-5(1)(b)
Omit “of that Act”, substitute “of the *Family Law Act 1975*”.

73 Paragraph 126-5(1)(c)
Repeal the paragraph.

74 Subparagraph 126-5(1)(f)(i)
Omit “de facto marriage breakdowns”, substitute “breakdowns of
relationships between spouses”.

75 Paragraph 126-15(1)(a)
Repeal the paragraph, substitute:
(a) a court order under the *Family Law Act 1975* or under a
"State law, "Territory law or "foreign law relating to
breakdowns of relationships between spouses; or

76 Paragraph 126-15(1)(b)
Omit “of that Act”, substitute “of the *Family Law Act 1975*”.

77 Paragraph 126-15(1)(c)
Repeal the paragraph.

78 Subparagraph 126-15(1)(f)(i)
Omit “de facto marriage breakdowns”, substitute “breakdowns of
relationships between spouses”.

79 Paragraph 126-25(1)(b)
Omit “marriage or de facto marriage”, substitute “relationship between
the spouses or former spouses”.

80 Paragraph 126-140(2B)(b)
Omit “or a corresponding foreign law”.

81 Paragraph 126-140(2B)(c)
Omit “de facto marriage breakdowns”, substitute “breakdowns of relationships between "spouses".

82 Subparagraph 126-140(2B)(e)(i)
Omit “de facto marriage breakdowns”, substitute “breakdowns of relationships between spouses”.

83 Paragraph 126-140(2C)(b)
Omit “marriage or de facto marriage”, substitute “relationship between the spouses or former spouses”.

84 Subsections 149-30(3) and 149-60(4) (table item 1)
Omit “marriage break downs”, substitute “marriage or relationship breakdowns”.

85 Subsection 152-45(2) (heading)
Repeal the heading, substitute:

Marriage or relationship breakdowns

86 Subsection 152-45(2) (note 2)
After “marriage”, insert “or relationship”.

87 Section 152-100
After “marriage”, insert “or relationship”.

88 Subsection 152-115(2) (heading)
Repeal the heading, substitute:

Marriage or relationship breakdowns

89 Subsection 152-115(2) (note)
After “marriage”, insert “or relationship”.

90 After Subdivision 960-H of Division 960
Insert:
Subdivision 960-J—Family relationships

Guide to Subdivision 960-J

960-250 What this Subdivision is about

This Subdivision has 2 principles for defining family relationships.

The first principle is to treat an unmarried couple (whether of the same sex or different sexes) in the same way as a married couple if:

(a) their relationship is registered under particular State or Territory laws; or

(b) they live together on a genuine domestic basis.

The second principle is to treat anyone who is defined to be an individual’s child in the same way as the individual’s natural child would be treated.

Both principles extend to tracing other family relationships, including beyond couples and children and their parents.

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Operative provisions

960-252 Object of this Subdivision

(1) The first object of this Subdivision is to ensure that the same consequences flow under this Act and the other Acts to which this Subdivision applies from the relationship between 2 people who are an unmarried couple (whether of the same sex or different sexes) as from a marriage, if:

(a) the relationship is registered under a "State law or "Territory
law (as mentioned in paragraph (a) of the definition of
spouse in subsection 995-1(1)); or
(b) they live together on a genuine domestic basis.

(2) The second object of this Subdivision is to ensure that under this
Act and the other Acts to which this Subdivision applies, anyone
who is defined to be an individual’s "child is treated in the same
way as if he or she were the individual’s natural child.

960-255 Family relationships

Relationships between couples

(1) If one individual is the "spouse of another individual because of the
definition of spouse in subsection 995-1(1), relationships traced to,
from or through the individual, and family groups of which either
individual is a member, are to be determined in the same way as if
the individual were legally married to the other individual.

Example: George and Angelika are not legally married but live together on a
genuine domestic basis in a relationship as a couple. This Act treats
them as part of each other’s family.

Relationships involving children

(2) If one individual is the "child of another individual because of the
definition of child in subsection 995-1(1), relationships traced to,
from or through the individual, and family groups of which either
individual is a member, are to be determined in the same way as if
the individual were the natural child of the other individual.

Example: Clare’s stepfather Frank has a sister Angela. This Act applies as if
Angela were Clare’s aunt because Clare is defined to be Frank’s child.
That is, Clare’s relationship to Angela is determined on the basis that
Clare is Frank’s natural child.

Application

(3) Subsections (1) and (2) apply for the purposes of this Act. They
also apply for the purposes of a provision of another Act if one or
more of the following applies for the purposes of that provision (or
would apply if it were used in the provision):

(a) the definition of child in subsection 995-1(1);
(b) the definition of parent in subsection 995-1(1);
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(c) the definition of relative in subsection 995-1(1);
(d) the definition of spouse in subsection 995-1(1).

91 Subsection 995-1(1) (definition of child)
Repeal the definition, substitute:

child: without limiting who is a child of an individual, each of the
following is the child of an individual:
(a) the individual’s *adopted child, stepchild or exnuptial child;
(b) a child of the individual’s *spouse;
(c) someone who is the product of a relationship the individual
has or had as a couple with another individual (whether of the
same sex or a different sex).
For the purposes of paragraph (c), someone cannot be the product
of a relationship unless he or she is the biological child of at least
one of the individuals in the relationship or was born to a woman
in the relationship.

92 Subsection 995-1(1)
Insert:

parent: an individual is the parent of anyone who is the
individual’s *child.

93 Subsection 995-1(1) (paragraph (b) of the definition of
relative)
Omit “parent”, substitute “*parent”.

94 Subsection 995-1(1) (at the end of the definition of
relative)
Add:

Note: Section 960-255 may be relevant to determining relationships for the
purposes of paragraph (b) of the definition of relative.

95 Subsection 995-1(1) (definition of spouse)
Repeal the definition, substitute:

spouse of an individual includes:
(a) another individual (whether of the same sex or a different
sex) with whom the individual is in a relationship that is
registered under a "State law or "Territory law prescribed for
the purposes of section 22B of the Acts Interpretation Act
1901 as a kind of relationship prescribed for the purposes of
that section; and
(b) another individual who, although not legally married to the
individual, lives with the individual on a genuine domestic
basis in a relationship as a couple.

96 Application of amendments of the Income Tax
Assessment Act 1997

The amendments of the Income Tax Assessment Act 1997 made by this
Schedule apply:

(a) in relation to the 2009-2010 income year and later income
years; and

(b) to the extent to which the amendments affect the Fringe
Benefits Tax Assessment Act 1986—in relation to the FBT
year starting on 1 April 2009 and later FBT years.
Part 2—Amendment of market regulation laws

Financial Sector (Shareholdings) Act 1998

97 Clause 2 of Schedule 1

Before “In Part 2”, insert “(1)”.

98 Clause 2 of Schedule 1

Insert:

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

99 Clause 2 of Schedule 1

Insert:

\textit{parent}: without limiting who is a parent of a person for the purposes of this Act, someone is the \textit{parent} of a person if the person is his or her child because of the definition of \textit{child} in this clause.

100 Clause 2 of Schedule 1 (paragraph (b) of the definition of relative)

Repeal the paragraph, substitute:

(b) the de facto partner of the person within the meaning of the \textit{Acts Interpretation Act 1901}; or

101 Clause 2 of Schedule 1 (paragraph (d) of the definition of relative)

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

102 Clause 2 of Schedule 1 (at the end of the definition of relative)
Add:
Note: See also subclause (2).

103 At the end of clause 2 of Schedule 1

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

104 Transitional provisions

Unacceptable ownership situation

(1) For the purposes of section 12 of the Financial Sector (Shareholdings) Act 1998, if:
   (a) apart from this subitem, an unacceptable ownership situation would exist in relation to a financial sector company on the commencement day; and
   (b) the situation would exist only because of the amendments of that Act made by this Part;
then, the situation is, during the period of 6 months starting on the commencement day, taken not to exist for so long as it would otherwise have existed.

Practical control of a financial sector company

(2) If:
   (a) the Treasurer is satisfied, for the purposes of subparagraph 23(1)(a)(ii) of the Financial Sector (Shareholdings) Act 1998, that a person was in a position to exercise control over a financial sector company on the commencement day; and
   (b) the person was in that position on that day only because of the amendments of that Act made by this Part;
then, the Treasurer may not make a declaration under section 23 of that Act in relation to that person and that company during the period of 6 months starting on the commencement day.
Record-keeping

(3) If:

(a) apart from this subitem, a person would be required by regulations made for the purposes of section 26 of the Financial Sector (Shareholdings) Act 1998 to do something on the commencement day in relation to an ownership matter; and

(b) the person would not be required to do that thing if the amendments of that Act made by this Part had not been made;

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

Commencement day

(4) In this item:

commencement day means the day on which the amendments of the Financial Sector (Shareholdings) Act 1998 made by this Part commence.

Foreign Acquisitions and Takeovers Act 1975

105 Subsection 5(1)

Insert:

child has the meaning given by subsection 6(2).

106 Subsection 5(1)

Insert:

parent has the meaning given by subsection 6(2).

107 Section 6

Before “For the purposes”, insert “(1)”.

108 Paragraph 6(a)

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

109 **Paragraph 6(a)**

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

110 **At the end of section 6**

Add:

(2) In this Act:

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

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

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

111 **Transitional provisions**

(1) If:

(a) apart from this subitem, a person would be an associate of another person for the purposes of paragraph 9(1)(a) or (b) or paragraph 9A(1)(a) or (b) of the *Foreign Acquisitions and Takeovers Act 1975* on the commencement day; and

(b) the persons would be associates only because of the amendments of that Act made by this Part;

then, during the period of 6 months starting on the commencement day, the provision does not apply to them as associates of each other for so long as the persons would otherwise have been associates of each other.

(2) If:

(a) apart from this subitem, a person would be an associate of another person on the commencement day; and
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(b) the persons would be associates only because of the amendments of the *Foreign Acquisitions and Takeovers Act 1975* made by this Part;

then, the Treasurer may not make an order under Part II of that Act in relation to them as associates of each other during the period of 6 months starting on the commencement day.

(3) In this item:

*commencement day* means the day on which the amendments of the *Foreign Acquisitions and Takeovers Act 1975* made by this Part commence.

*Insurance Acquisitions and Takeovers Act 1991*

112 Section 4

Before “In this Act”, insert “(1)”.

113 Section 4

Insert:

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

114 Section 4

Insert:

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

115 Section 4 (paragraph (b) of the definition of *relative*)

Repeal the paragraph, substitute:

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

158  *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No.  , 2008*
116 Section 4 (paragraph (d) of the definition of relative)
Omit “son, daughter”, substitute “child”.

117 Section 4 (at the end of the definition of relative)
Add:
Note: See also subsection (2).

118 At the end of section 4
Add:
(2) For the purposes of paragraphs (c), (d) and (e) of the definition of relative in subsection (1), if one person is the child of another person because of the definition of child in that subsection, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

119 Transitional provision
If:
(a) apart from this item, a person would be an associate of another person for the purposes of a provision of the Insurance Acquisitions and Takeovers Act 1991 on the day on which the amendments made by this Part commence; and
(b) the persons would be associates only because of those amendments;
then, during the period of 6 months starting on that day, the provision does not apply to them as associates of each other for so long as the persons would otherwise have been associates of each other.

Life Insurance Act 1995

120 Paragraph 204(1)(b)
After “spouse”, insert “or de facto partner”.

121 Paragraph 211(1)(c)
Omit “father, mother”, substitute “de facto partner, parent”.

122 After subsection 211(1)
Insert:
(1A) For the purposes of paragraph (1)(c), if one person is the child of another person because of the definition of child in this Act, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

123 Paragraph 212(1)(c)
Omit “father, mother”, substitute “de facto partner, parent”.

124 After subsection 212(1)
Insert:

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

125 Schedule
Insert:

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

126 Schedule
Insert:

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

127 Schedule
Insert:

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

128 Schedule (definition of spouse)
Repeal the definition.

129 Transitional provision

The amendments of sections 211 and 212 of the *Life Insurance Act 1995* made by this Part apply in relation to a person who dies on or after the commencement of those amendments.
Part 3—Amendment of the Corporations Act 2001

Corporations Act 2001

130 Section 9

Insert:

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

131 Section 9 (paragraph (a) of the definition of close associate)

Omit “or de facto spouse”.

132 Section 9 (paragraph (b) of the definition of close associate)

Omit “, or of a de facto spouse,”.

133 Section 9 (definition of de facto spouse)

Repeal the definition.

134 Section 9 (paragraph (a) of the definition of immediate family member)

Omit “or de facto spouse”.

135 Section 9

Insert:

parent: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the person is his or her child because of the definition of child in this section.
Treasury Schedule 14
Amendment of the Corporations Act 2001 Part 3

136 Section 9 (paragraph (b) of the definition of related entity)
   Omit “, or de facto spouse,”.

137 Section 9 (paragraph (c) of the definition of related entity)
   Omit “, or of a de facto spouse,”.

138 Section 9 (paragraph (e) of the definition of related entity)
   Omit “, or de facto spouse,”.

139 Section 9 (paragraph (f) of the definition of related entity)
   Omit “, or of a de facto spouse,”.

140 Section 9 (paragraph (i) of the definition of related entity)
   Omit “, or de facto spouse,”.

141 Section 9 (paragraph (j) of the definition of related entity)
   Omit “, or of a de facto spouse,”.

142 Section 9 (definition of relative)
   Omit “son, daughter”, substitute “child”.

143 Section 9
   Insert:
   
   spouse of a person includes a de facto partner of the person within
   the meaning of the Acts Interpretation Act 1901.

144 After section 9
   Insert:

   9AA Certain family relationships
   For the purposes of this Act, relationships (including the
   relationship of being family) are taken to include:
   
   (a) relationships between de facto partners (within the meaning
   of the Acts Interpretation Act 1901); and

   (b) relationships of child and parent that arise:
145 Paragraph 228(2)(d)  
Omit “and de facto spouses”.

146 Subparagraph 440J(1)(a)(ii)  
Omit “, de facto spouse”.

147 Paragraph 440J(1)(b)  
Omit “, de facto spouse”.

148 Subsection 556(2) (definition of spouse)  
Repeal the definition.

149 Paragraph 601JA(2)(f)  
Omit “or de facto spouse”.

150 Paragraph 601JB(2)(e)  
Omit “or de facto spouse”. 
Schedule 15—Veterans' Affairs

Defence Service Homes Act 1918

1 Subsection 4(1)
   Insert:
   
   *de facto partner* of a person has the meaning given by the Acts Interpretation Act 1901.

2 Subsection 4(1) (subparagraph (a)(ii) of the definition of *dependent parent*)
   After “married”, insert “and did not have a de facto partner”.

3 Subsection 4(1) (subparagraph (b)(ii) of the definition of *dependent parent*)
   Omit “husband or wife”, substitute “spouse or de facto partner”.

4 Subsection 4(1) (subparagraph (a)(ii) of the definition of *further advance*)
   After “spouse” (wherever occurring), insert “or de facto partner”.

5 Subsection 4(1) (paragraph (b) of the definition of *initial advance*)
   After “spouse” (wherever occurring), insert “or de facto partner”.

6 Subsection 4(1)
   Insert:
   
   *parent*: without limiting who is a parent of anyone for the purposes of this Act, a person is the *parent* of another person if the other person is the product of a relationship the person has or had as a couple with a third person (whether of the same sex or a different sex). For this purpose, the other person cannot be the product of the relationship unless he or she is the biological child of at least one of the person or the third person or was born to a woman in the relationship.

7 Subsection 4(1) (definition of *Widow*)
8 Subsection 4(1)

Insert:

_widow_ of a person who has died includes a woman who was a
de facto partner of the person immediately before the person died.

9 Application of amendment of definition of _widow_

The amendment of the definition of _widow_ in subsection 4(1) of the
_Defence Service Homes Act 1918_ made by this Schedule applies in
relation to someone whose de facto partner dies on or after the
commencement of the amendment.

10 Subsection 4(1) (definition of _widower_)

Repeal the definition, substitute:

_widower_ of a person who has died includes a man who was a
de facto partner of the person immediately before the person died.

11 Application of amendment of definition of _widower_

The amendment of the definition of _widower_ in subsection 4(1) of the
_Defence Service Homes Act 1918_ made by this Schedule applies in
relation to someone whose de facto partner dies on or after the
commencement of the amendment.

12 Paragraphs 4(2AB)(a) and (b)

Omit “husband” (wherever occurring), substitute “spouse or de facto
partner”.

13 Paragraph 4(2AC)(d)

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

14 Paragraph 4(2AC)(d)

Omit “he and she”, substitute “they”.

15 Paragraph 4(2AC)(e)

Omit “wife” (wherever occurring), substitute “spouse or de facto
partner”.

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16 **Subsections 4(3A), (3B) and (3C)**
Repeal the subsections.

17 **Subsection 4(8)**
After “spouse”, insert “or de facto partner”.

18 **Paragraph 4(13)(b)**
After “spouse” (wherever occurring), insert “or de facto partner”.

19 **Subsections 4A(1) and (3)**
Omit “wife or husband” (wherever occurring), substitute “spouse or de facto partner”.

Note: The heading to section 4A is altered by inserting “or de facto partner” after “spouse”.

20 **Paragraphs 17A(1)(a) and (b)**
Omit “wife or husband”, substitute “spouse or de facto partner”.

21 **Paragraphs 18(1)(a) and (e)**
Omit “husband or wife” (wherever occurring), substitute “spouse or de facto partner”.

22 **Subparagraph 20(1)(a)(i)**
Omit “, widowed mother or widowed father”, substitute “or a widowed parent”.

23 **Subparagraph 20(1)(a)(ii)**
Omit “the wife or husband”, substitute “a spouse or de facto partner”.

24 **Subparagraph 23(1)(a)(ii)**
Omit “the widowed mother or widowed father”, substitute “a widowed parent”.

25 **Subparagraph 23(1)(a)(iii)**
Omit “the wife or husband”, substitute “a spouse or de facto partner”.

26 **Subsection 26(4)**
Omit “the husband or wife”, substitute “a spouse or de facto partner”.

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*Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 1, 2008 167*
27  Paragraphs 27A(1)(c) and (2)(c)
   Omit “wife or husband”, substitute “spouse or de facto partner”.

28  Subsection 27A(3)
   Omit “a wife and husband”, substitute “2 persons who are spouses or
   de facto partners of each other”.

29  Paragraph 27A(3)(a)
   Omit “the wife and husband”, substitute “spouses or de facto partners”.

30  Paragraph 27A(3)(b)
   Omit “wife or the death of the husband, whichever is the later”,
   substitute “spouse or de facto partner who died last”.

31  Paragraph 38C(1)(gb)
   Omit “wife or husband”, substitute “spouse or de facto partner”.

32  Subsection 45A(2)
   Omit “a husband and wife”, substitute “2 persons who are spouses or
   de facto partners of each other”.

Military Rehabilitation and Compensation Act 2004

33  Section 5
   Before “In this Act”, insert “(1)”.

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

35  Section 5
   Insert:
parent: without limiting who is a parent of a person for the purposes of this Act, someone is the parent of a person if the person is his or her child because of the definition of child in this subsection.

36 Section 5 (definition of partner)
Omit “of the opposite sex to the member”.

37 Section 5 (after paragraph (b) of the definition of partner)
Insert:

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

38 Section 5 (paragraph (c) of the definition of partner)
Repeal the paragraph, substitute:

(c) the person (whether of the same sex or a different sex to the member):

(i) is, in the Commission’s opinion (see subsection (2)), in a de facto relationship with the member; and

(ii) is not an ancestor, descendant, brother, sister, half-brother or half-sister of the member (see subsection (3)).

39 Section 5
Insert:

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

40 Section 5
Insert:
step-parent: without limiting who is a step-parent of a person for the purposes of this Act, someone who is a partner of a parent of the person is the step-parent of the person, if he or she would be the person’s step-parent except that he or she is not legally married to the person’s parent.

41 At the end of section 5

Add:

(2) For the purposes of subparagraph (c)(i) of the definition of partner in subsection (1), section 11A of the Veterans’ Entitlements Act 1986 applies to the forming of the Commission’s opinion about whether a person and a member are in a de facto relationship.

(3) For the purposes of subparagraph (c)(ii) of the definition of partner in subsection (1), a child who is, or has ever been, an adopted child of a person is taken to be the natural child of that person and the person is taken to be the natural parent of the child.

42 Subparagraphs 15(2)(a)(ii) to (vii)

Repeal the subparagraphs, substitute:

(ii) a parent or step-parent of the member;
(iii) a parent or step-parent of the member’s partner;
(iv) a grandparent of the member;
(v) a child or stepchild of the member;
(vi) a child or stepchild of the member’s partner;
(vii) a grandchild of the member;

43 Section 16

Repeal the section, substitute:

16 Certain relationships

(1) For the purposes of paragraph 15(2)(a), if one person is the child of another person because of:

(a) adoption; or
(b) the definition of child in this Act;

relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.
(2) For the purposes of paragraphs 215(f) and 218(g), the relatives of a person are taken to include the following (without limitation):

(a) a partner of the person;
(b) a stepchild or an adopted child of the person, or someone of whom the person is a stepchild or an adopted child;
(c) someone who is a child of the person, or someone of whom the person is a child, because of the definition of child in this Act;
(d) anyone else who would be a relative of the person if someone mentioned in paragraph (a), (b) or (c) is taken to be a relative of the person.

44 Subsection 18(1)
Omit “son or daughter”, substitute “child”.

45 Subsection 80(3)
Omit “son or daughter”, substitute “child”.

46 At the end of section 433
Add:

(4) For the purposes of paragraph (3)(a), the members of a person’s family are taken to include the following (without limitation):

(a) a partner of the person;
(b) a stepchild or an adopted child of the person, or someone of whom the person is a stepchild or an adopted child;
(c) someone who is a child of the person, or someone of whom the person is a child, because of the definition of child in this Act;
(d) anyone else who would be a relative of the person if someone mentioned in paragraph (a), (b) or (c) is taken to be a member of the person’s family.

Veterans’ Entitlements Act 1986

47 Section 5 (item relating to parent)
Repeal the item, substitute:

parent 5F(1), 10A
48 Section 5 (index of definitions)
Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

prohibited relationship 5E(6), (7)

49 Section 5 (index of definitions)
Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

step-child 5F(1)

50 Section 5 (index of definitions)
Insert the following entry in its appropriate alphabetical position, as determined on a letter-by-letter basis:

step-parent 5F(1)

51 Subsection 5E(1)
Insert:

prohibited relationship has the meaning given by subsections (6) and (7).

52 Subsection 5E(1) (paragraph (a) of the definition of widow)
Omit “a man immediately before he”, substitute “a person immediately before the person”.

53 Subsection 5E(1) (paragraph (a) of the definition of widower)
Omit “a woman immediately before she”, substitute “a person immediately before the person”.

54 After paragraph 5E(2)(a)
Insert:

(aa) both of the following conditions are met:
   (i) a relationship between the person and another person (whether of the same sex or a different sex) is registered under a law of a State or Territory prescribed for the purposes of section 22B of the Acts Interpretation Act 1901 as a kind of relationship prescribed for the purposes of that section;
(ii) the person is not living separately and apart from the other person on a permanent basis; or

55 Subparagraph 5E(2)(b)(i)
Omit “a person of the opposite sex”, substitute “another person, whether of the same sex or a different sex”.

56 Subparagraph 5E(2)(b)(iii)
Omit “marriage-like”, substitute “de facto”.

57 Subparagraph 5E(2)(b)(iv)
Omit “for the purposes of section 23B of the Marriage Act 1961”.

58 Subsection 5E(2) (note 2)
Repeal the note.

59 At the end of section 5E
Add:

Prohibited relationship

(6) For the purposes of this Act, a person and his or her partner are within a prohibited relationship if the person is:
(a) an ancestor or a descendant of the partner; or
(b) a brother, sister, half-brother or half-sister of the partner.

(7) For the purposes of subsection (6), a child who is, or has ever been, an adopted child of a person is taken to be the natural child of that person and the person is taken to be the natural parent of the child.

60 Subsection 5F(1) (definition of parent)
Repeal the definition, substitute:

parent has a meaning affected by section 10A.

61 Subsection 5F(1)
Insert:

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

62 Subsection 5F(1)

Insert:

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

63 After subsection 5G(1A)

Insert:

(1AB) For the purposes of paragraph (1A)(b), family relationships are
taken to include (without limitation):

(a) relationships between partners; and
(b) relationships of child and parent that arise if someone is the
parent of a person under section 10A; and
(c) any other relationship that would be a family relationship if a
relationship mentioned in paragraph (a) or (b) is taken to be a
family relationship.

64 Paragraph 5H(8)(zd)

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

65 Subsection 5L(1) (paragraph (a) of the definition of *family
member*)

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

66 Subsection 5P(1) (paragraph (a) of the definition of *eligible
descendant*)

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

67 Subsection 5Q(1) (after paragraph (a) of the definition of
*immediate family member*)

Insert:

(ab) who is the person’s parent because of subsection 10A(1); or
68 At the end of section 5Q

Add:

(5) For the purposes of this Act, if under a provision of this Act one person is the child of another person because the person is the product of a relationship the other person has or had as a couple with a third person, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

Note: Paragraph 10(1)(b) and paragraph (b) of the definition of child in section 52ZO are examples of provisions under which one person may be the child of another person because the person is the product of a relationship the other person has or had as a couple with a third person.

(6) Subsection (5) does not apply for the purposes of determining when a person and his or her partner are within a prohibited relationship under subsection 5E(6). However, this does not prevent expressions used in subsection 5E(6) from having their ordinary meaning.

69 Paragraph 5R(5)(b)

Omit “a matrimonial”, substitute “their”.

70 Subsections 10(1) and (2)

Repeal the subsections, substitute:

(1) In this Act, a reference to a child of a veteran or of a deceased veteran is a reference to:

(a) a child of the veteran or an adopted child of the veteran; or

(b) a child who is the product of a relationship the veteran has or had as a couple with another person (whether of the same sex or a different sex); or

(c) any other child who is, or was immediately before the death of the veteran, wholly or substantially dependent on the veteran.

(2) For the purposes of paragraph (1)(b), a child cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.
71 Subsection 10(3)
Omit “subsections (1) and (2)”, substitute “subsection (1)”.

72 Subsection 10(5)
Omit “or (2)”.

73 After section 10
Insert:

10A Parent of a person

(1) Without limiting who is a parent of anyone for the purposes of this Act, a person is the parent of another person (other than an adopted child) if the other person is the product of a relationship the person has or had as a couple with a third person (whether of the same sex or a different sex). For this purpose, the other person cannot be the product of the relationship unless he or she is the biological child of at least one of the person or the third person or was born to a woman in the relationship.

(2) For the purposes of this Act, parent of a person who is an adopted child means an adoptive parent of the person.

74 Section 11A
Omit “marriage-like” (first occurring), substitute “de facto”.

Note: The heading to section 11A is altered by omitting “Marriage-like” and substituting “De facto”

75 Subparagraph 11A(c)(i)
Omit “married to”, substitute “being in a de facto relationship with”.

76 Subparagraph 11A(e)(iv)
Omit “marriage-like”, substitute “de facto”.

77 Paragraph 30C(12)(b)
Omit “the spouse”, substitute “a partner or non-illness separated spouse”.

78 Paragraph 30D(8)(b)
Veterans’ Affairs Schedule 15

Omit “the spouse”, substitute “a partner or non-illness separated spouse”.

79 Subparagraph 38(1)(d)(iii)
Before “spouse”, insert “non-illness separated”.

80 Subparagraph 38(1)(i)(iii)
Before “spouse”, insert “non-illness separated”.

81 Paragraph 38(2A)(a)
Omit “marriage-like”, substitute “de facto”.

82 Paragraph 38(2A)(a)
Omit “when this subsection commenced”, substitute “on 1 July 2009”.

83 Paragraph 38(2A)(b)
Omit “this subsection commenced”, substitute “on 1 July 2009”.

84 Paragraph 38(2A)(b)
Omit “was a marriage-like”, substitute “is a de facto”.

85 Subsection 38(2A) (note 2)
After “veteran”, insert “non-illness separated”.

86 Subparagraph 38(3A)(a)(i)
Omit “marriage-like”, substitute “de facto”.

87 Subparagraph 38(3A)(a)(ii)
Omit “marriage-like relationship when this subsection commenced”, substitute “de facto relationship on 1 July 2009”.

88 Subparagraph 38(3A)(b)(i)
Omit “this subsection commenced”, substitute “1 July 2009”.

89 Subparagraph 38(3A)(b)(i)
Omit “was a marriage-like”, substitute “is a de facto”.

Note: The headings to subsections 45UG(1) and (2) are altered by omitting “marital” and substituting “couple”.

Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Bill 2008 No. 1, 2008 177
90 Section 52ZO (definition of child)

Repeal the definition, substitute:

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

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

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

91 Subsection 52ZP(2)

Repeal the subsection, substitute:

(2) For the purposes of this section, if one person is the child of another person because of the definition of child in section 52ZO, relationships traced to or through the person are to be determined on the basis that the person is the child of the other person.

92 Subsection 52ZZZWE(5) (definition of child)

Repeal the definition, substitute:

child, of a principal beneficiary, means the following (no matter how old the child is):

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

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

93 Subsection 123(1) (paragraph (b) of the definition of child)

Repeal the paragraph, substitute:

(b) a person who was a natural child of the deceased; or
(ba) someone who is the product of a relationship the deceased had as a couple with another person (whether of the same sex or a different sex); or

94 Subsection 123(1) (at the end of the definition of child)
Add:

Note: Subsection (2A) is relevant to working out if someone is the product of a relationship for the purposes of paragraph (ba) of the definition of child.

95 After subsection 123(2)
Insert:

(2A) For the purposes of paragraph (ba) of the definition of child in subsection (1), someone cannot be the product of a relationship unless he or she is the biological child of at least one of the persons in the relationship or was born to a woman in the relationship.

96 Saving
The amendments of subsections 38(2A) and (3A) of the Veterans’ Entitlements Act 1986 made by this Schedule do not affect the operation of those subsections as in force before 1 July 2009.