

House of Assembly—No 105A

As reported with amendments, report agreed to and passed remaining stages,
3 December 2009

South Australia

Commonwealth Powers (De Facto Relationships) Bill 2009

A BILL FOR

An Act to refer certain financial matters relating to the breakdown of certain relationships to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the *Constitution of the Commonwealth*.

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The Parliament of South Australia enacts as follows:

1—Short title

This Act may be cited as the *Commonwealth Powers (De Facto Relationships) Act 2009*.

2—Commencement

- 5 (1) This Act will come into operation on a day to be fixed by proclamation.
- (2) Section 7(5) of the *Acts Interpretation Act 1915* does not apply in relation to the commencement of this Act or any provision of this Act.

3—Interpretation

- (1) In this Act—

10 ***companion couple relationship*** means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include—

- (a) the relationship between a legally married couple; or
- (b) a de facto relationship; or
- 15 (c) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind;

de facto relationship has the same meaning as in section 4AA of the *Family Law Act 1975* of the Commonwealth;

20 ***financial matters***—

- (a) in relation to the parties to a de facto relationship—means any or all of the following matters:
- (i) the maintenance of 1 of the parties;
- (ii) the distribution of the property of the parties or of either of them;
- 25 (iii) the distribution of any other financial resources of the parties or of either of them;
- (b) in relation to the parties to a companion couple relationship—means any or all of the following matters:
- (i) the maintenance of 1 of the parties;
- 30 (ii) the distribution of the property of the parties or of either of them;

(iii) the distribution of any other financial resources of the parties or of either of them.

(2) Words or phrases in the definition of *financial matters* that are defined in the *Family Law Act 1975* of the Commonwealth have the meaning set out in that Act.

5 (3) This Act extends to de facto relationships that ended before the commencement of this Act.

4—References

10 (1) The following matters, to the extent to which they are not otherwise included in the legislative powers of the Parliament of the Commonwealth, are referred to the Parliament of the Commonwealth for a period commencing on the day on which this Act commences and ending on the day fixed, pursuant to section 5, as the day on which the references under this Act are to terminate, but no longer:

(a) financial matters relating to the parties to de facto relationships arising out of the breakdown (other than by reason of death) of those de facto relationships;

15 (b) financial matters relating to the parties to companion couple relationships arising out of the breakdown (other than by reason of death) of those companion couple relationships.

(2) The operation of each paragraph of subsection (1) is not affected by the other paragraph.

20 5—Termination of references

(1) The Governor may, at any time, by proclamation, fix a day as the day on which the references under this Act are to terminate.

25 (2) The day fixed under subsection (1) must be no earlier than the first day after the end of the period of 3 months beginning with the day on which the proclamation is made under that subsection.

(3) The Governor may, by proclamation, revoke a proclamation under subsection (1), in which case the revoked proclamation is taken (for the purposes of section 4) never to have been made.

30 (4) A revoking proclamation has effect only if made before the day fixed under subsection (1).

(5) The revocation of a proclamation under subsection (1) does not prevent a further proclamation being made under that subsection.