

Legislative Council—No 97

As received from the House of Assembly and read a first time, 3 May 2011

South Australia

**Statutes Amendment (De Facto Relationships)
Bill 2011**

A BILL FOR

An Act to amend the *Criminal Assets Confiscation Act 2005*, the *Family Relationships Act 1975* and the *Stamp Duties Act 1923*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (De Facto Relationships) Act 2011*.

2—Commencement

- 5 (1) Subject to subsection (2), this Act will come into operation on the day on which it is assented to by the Governor.
- (2) Part 4 will be taken to have come into operation on 1 July 2010.

3—Amendment provisions

10 In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Criminal Assets Confiscation Act 2005*

4—Amendment of section 7—Meaning of proceeds and instrument of an offence

- 15 (1) Section 7(2)(c)(i)—after "marriage" insert:
or de facto relationship,
- (2) Section 7(2)(c)(ii)—after "financial agreement" insert:
or Part VIIIAB financial agreement

Part 3—Amendment of *Family Relationships Act 1975*

5—Amendment of section 11B—Declaration as to domestic partners

Section 11B(3)—after paragraph (f) insert:

- (fa) any Part VIIIAB financial agreement made under the *Family Law Act 1975* of the Commonwealth;

Part 4—Amendment of *Stamp Duties Act 1923*

6—Amendment of section 71CA—Exemption from duty in respect of Family Law instruments

- (1) Section 71CA(1)—before the definition of *Family Law agreement* insert:

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

- (2) Section 71CA(1), definition of *Family Law order*—after "VIII A" insert:

, VIIIAB

- (3) Section 71CA(1), definition of *financial agreement*—delete the definition and substitute:

financial agreement means a financial agreement made under Part VIII A or VIIIAB of the *Family Law Act 1975* of the Commonwealth (or taken to have been made under Part VIIIAB of that Act) that, under that Act, is binding on the parties to the agreement;

- (4) Section 71CA(2)(b)(iii)—delete subparagraph (iii) and substitute:

(iii) the agreement or order relates to—

(A) a marriage that has been dissolved or annulled; or

(B) a marriage or de facto relationship that the Commissioner is satisfied has broken down irretrievably; and

- (5) Section 71CA(2)(b)(iv)(A) and (B)—after "(or former marriage)" wherever occurring insert:

or former de facto relationship

- (6) Section 71CA(2)(b)(v)—after "married to" insert:

, or in a de facto relationship with,

- (7) Section 71CA(3)—delete subsection (3) and substitute:

(3) If an instrument was not exempt from stamp duty under this section by reason only that—

(a) in the case of an instrument relating to a marriage—

(i) the marriage of the 2 persons had not been dissolved or annulled; and

(ii) the Commissioner was not satisfied that the marriage of the 2 persons had broken down irretrievably; or

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(b) in the case of an instrument relating to a de facto relationship—the Commissioner was not satisfied that the relationship of the 2 persons had broken down irretrievably,

a party to the marriage or de facto relationship who paid stamp duty on the instrument is entitled to a refund of the duty—

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(c) if the marriage is subsequently dissolved or annulled; or

(d) if the Commissioner is subsequently satisfied that the marriage or de facto relationship has broken down irretrievably.