

House of Assembly

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South Australia

Statutes Amendment (Domestic Partners) Bill 2006

A BILL FOR

An Act to amend the *Family Relationships Act 1975* and various other Acts to provide for recognition of certain domestic relationships.

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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 (Domestic Partners) Act 2006*.

2—Commencement

- (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—Amendment provisions

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 *Family Relationships Act 1975*

4—Amendment of section 5—Interpretation

Section 5, definition of *the Court*—delete the definition and substitute:

Court means the Supreme Court, the District Court or the Magistrates Court;

5—Substitution of Part 3

Part 3—delete Part 3 and substitute:

Part 3—Domestic partners

11—Interpretation

In this Part—

close personal 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 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.

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

11A—Domestic partners

A person is, on a certain date, the *domestic partner* of another person if he or she is, on that date, living with that person in a close personal relationship and—

- (a) he or she—
 - (i) has so lived with that other person continuously for the period of 3 years immediately preceding that date; or
 - (ii) has during the period of 4 years immediately preceding that date so lived with that other person for periods aggregating not less than 3 years; or
- (b) a child, of whom he or she and the other person are the parents, has been born (whether or not the child is still living at that date).

11B—Declaration as to domestic partners

- (1) A person whose rights or obligations depend on whether—
 - (a) he or she and another person; or
 - (b) 2 other persons,were, on a certain date, domestic partners 1 of the other may apply to the Court for a declaration under this section.
- (2) If, on an application, the Court is satisfied that—
 - (a) the persons in relation to whom the declaration is sought were, on the date in question, domestic partners within the meaning of section 11A; or
 - (b) in any other case—
 - (i) the persons in relation to whom the declaration is sought were, on the date in question, living together in a close personal relationship; and
 - (ii) the interests of justice require that such a declaration be made,the Court must declare that the persons were, on the date in question, domestic partners 1 of the other.
- (3) When considering whether to make a declaration under this section, the Court must take into account all of the circumstances of the relationship between the persons in relation to whom the declaration is sought, including any 1 or more of the following matters as may be relevant in a particular case:
 - (a) the duration of the relationship;
 - (b) the nature and extent of common residence;
 - (c) the degree of financial dependence and interdependence, or arrangements for financial support;
 - (d) the ownership, use and acquisition of property;
 - (e) the degree of mutual commitment to a shared life;
 - (f) any domestic partnership agreement made under the *Domestic Partners Property Act 1996*;
 - (g) the care and support of children;
 - (h) the performance of household duties;
 - (i) the reputation and public aspects of the relationship.
- (4) A declaration may be made—
 - (a) whether or not 1 or both of the persons in relation to whom the declaration is sought are, or ever have been, domiciled in this State; or
 - (b) despite the fact that 1 or both of them are dead.

- (5) It must not be inferred from the fact that the Court has declared that 2 persons were domestic partners 1 of the other, on a certain date, that they were domestic partners as at any prior or subsequent date.
- (6) For the purpose of determining whether a person was, on a certain date, the domestic partner of another, circumstances occurring before or after the commencement of this Part may be taken into account.

6—Substitution of section 13

Section 13—delete the section and substitute:

13—Confidentiality of proceedings

- (1) **Protected information** is information relating to an application under this Act (including images) that identifies, or may lead to the identification of—
 - (a) an applicant; or
 - (b) a person who is related to, or associated with, an applicant or is, or is alleged to be, in any other way connected in the matter to which the application relates; or
 - (c) a witness in the hearing of the application.
- (2) A person who publishes protected information is guilty of an offence.
Maximum penalty: \$5 000 or imprisonment for 1 year.
- (3) A person who discloses protected information knowing that, in consequence of the disclosure, the information will, or is likely to, be published is guilty of an offence.
Maximum penalty: \$5 000 or imprisonment for 1 year.
- (4) This section does not apply to—
 - (a) the publication or disclosure of material—
 - (i) by the Court or an employee of the Courts Administration Authority (so long as such publication or disclosure is made in connection with the administrative functions of the Court); or
 - (ii) for purposes associated with the administration of this Act or another Act relevant to the application; or
 - (b) the publication in printed or electronic form of material that—
 - (i) consists solely or primarily of the reported judgments or decisions of the Court; or
 - (ii) is of a technical nature designed primarily for use by legal practitioners.

(5) In this section—

newspaper means a newspaper, journal, magazine or other publication that is published at periodic intervals;

publish means publish by newspaper, radio or television, or on the internet, or by some other similar means of communication to the public.

7—Transitional provision

If, before the commencement of this section, a declaration has been made under Part 3 of the *Family Relationships Act 1975* that a person was, on a certain date, the putative spouse of another, the declaration will, if the case requires, be taken to be that the person was, on that date, the domestic partner of the other.

Part 3—Amendment of *Adelaide Dolphin Sanctuary Act 2005*

8—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of *domestic activity* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

(2) Section 3(1)—after the definition of *Sanctuary* insert:

spouse—a person is the spouse of another if they are legally married;

(3) Section 3(2)(b)—after "spouse," insert:

domestic partner,

Part 4—Amendment of *Administration and Probate Act 1919*

9—Amendment of section 4—Interpretation

(1) Section 4—after the definition of *deliver* insert:

domestic partner, in relation to a deceased person, means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the deceased as at the date of his or her death;

(2) Section 4, definition of *lawful spouse*—delete the definition

(3) Section 4, definition of *putative spouse*—delete the definition

(4) Section 4, definition of *spouse*—delete the definition and substitute:

spouse, in relation to a deceased person, means a person who was legally married to the deceased as at the date of his or her death;

10—Amendment of section 37—If executor or administrator out of jurisdiction, special administrator may be appointed

Section 37—after "spouse" insert:

or domestic partner

11—Amendment of section 71—Payment without production of probate or letters of administration

- (1) Section 71(1)—after "spouse" insert:
or domestic partner
- (2) Section 71(1a)—after "spouse" insert:
or domestic partner

12—Amendment of section 72—Payment by ADI of sums not exceeding \$2 000

Section 72(1)—delete "widow or husband" wherever occurring and substitute in each case:
spouse or domestic partner

13—Amendment of section 72E—Presumption of survivorship not to apply

- (1) Section 72E—delete "his spouse" and substitute:
the intestate's spouse or domestic partner
- (2) Section 72E—after "the spouse" insert:
or domestic partner

14—Amendment of section 72F—Value of intestate estate

Section 72F(b)—after "spouse" insert:
or domestic partner

15—Amendment of section 72G—Distribution of intestate estate

Section 72G—after "spouse" wherever occurring insert in each case:
or domestic partner

16—Substitution of section 72H

Section 72H—delete the section and substitute:

72H—Division of estate when deceased is survived by spouse and/or domestic partner

- (1) If an intestate is survived by a spouse or domestic partner, the spouse or domestic partner (as the case may be) is entitled to any personal chattels of the intestate.
- (2) If an intestate is survived by a spouse and a domestic partner, each is entitled to an equal share of the property (including personal chattels of the intestate) that would have devolved on the spouse or domestic partner if the intestate had been survived only by a single spouse or domestic partner.
- (3) If a dispute arises between a surviving spouse and a domestic partner as to the division between them of personal chattels of an intestate, the administrator may sell the personal chattels and divide the proceeds of the sale equally between them.

17—Amendment of section 72K—Gifts to be brought into hotchpot

Section 72K(1)—after "spouse" wherever occurring insert in each case:
or domestic partner

18—Amendment of section 72L—Election by spouse or domestic partner to take dwellinghouse

- (1) Section 72L(1)—delete "his spouse" and substitute:
a spouse or domestic partner
- (2) Section 72L(1)—after "the spouse" wherever occurring insert in each case:
or domestic partner
- (3) Section 72L(2)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (4) Section 72L(3)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (5) Section 72L(4)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (6) Section 72L(5)—after "spouse" insert:
or domestic partner

19—Amendment of section 72M—Limitation on right of personal representative to sell interest in dwellinghouse

- (1) Section 72M(1)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (2) Section 72M(1)(b)(i)—delete subparagraph (i) and substitute:
 - (i) the dwellinghouse has ceased to be the ordinary place of residence of the spouse or domestic partner; or

20—Transitional provision

An amendment made by this Act to the *Administration and Probate Act 1919* applies only in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Part 5—Amendment of *Aged and Infirm Persons' Property Act 1940*

21—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *court* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1)—after the definition of *protected person* insert:

spouse—a person is the spouse of another if they are legally married.

22—Amendment of section 8—Application for protection order

Section 8(1)(b)—delete "husband or wife" and substitute:

spouse or domestic partner

23—Amendment of section 8A—Protection order on court's own initiative

Section 8A(4)(b)—delete "husband or wife" and substitute:

spouse or domestic partner

24—Amendment of section 10—Appointment of manager

Section 10(1)—delete "husband or wife" and substitute:

spouse, domestic partner

25—Amendment of section 12—Exemption of part of estate

Section 12(2)—delete "wife or husband" and substitute:

spouse, domestic partner

26—Amendment of section 13—Powers of manager

Section 13(1)4—delete "wife or husband" and substitute:

spouse or domestic partner

Part 6—Amendment of *Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981*

27—Amendment of section 25—Special provisions relating to Mintabie precious stones field

- (1) Section 25(2)(c)—delete "lawful or *de facto* spouse," and substitute:

spouse or domestic partner,

- (2) Section 25(9)—before the definition of *the designated officer* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (3) Section 25(9)—after the definition of *the designated officer* insert:

domestic partner—a person is the domestic partner of another if he or she lives with the other in a close personal relationship;

spouse—a person is the spouse of another if they are legally married.

Part 7—Amendment of *ANZAC Day Commemoration Act 2005*

28—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *Council* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3—after the definition of *RSL* insert:

spouse—a person is the spouse of another if they are legally married;

29—Amendment of section 16—Application of Fund

- (1) Section 16(1)(d)—after "spouses" insert:

, domestic partners

- (2) Section 16(1)(e)—delete "or including, veterans or the spouses," and substitute:

of or including, veterans or the spouses, domestic partners,

Part 8—Amendment of *Architects Act 1939*

30—Amendment of section 32A—Registration of company as architect

- (1) Section 32A(1)(f)—after "spouse" insert:

or domestic partner

- (2) Section 32A(1)(f)—delete "shall, upon the dissolution or annulment of his marriage with that person" and substitute:

will, on the occurrence of a prescribed event

- (3) Section 32A(2)—before the definition of *prescribed qualification* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

prescribed event means—

- (a) if the shareholder is married to a director or employee of the company—the dissolution or annulment of the marriage;
- (b) if the shareholder is the domestic partner of a director or employee of the company—the cessation of that relationship;

- (4) Section 32A(2), definition of *relative*—after "spouse," insert:

domestic partner,

- (5) Section 32A(2)—after the definition of *relative* insert:

spouse—a person is the spouse of another if they are legally married.

31—Transitional provision

From the commencement of this section, a reference to a *relative* or *spouse* in the memorandum and articles of association or constitution of a company that is registered as an architect under the *Architects Act 1939* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

Part 9—Amendment of *Associations Incorporation Act 1985*

32—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *the Commission* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *putative spouse*—delete the definition

- (3) Section 3(1)—after the definition of *special resolution* insert:

spouse—a person is the spouse of another if they are legally married;

- (4) Section 3(6)(b)—delete "putative spouse" and substitute:

domestic partner

33—Amendment of section 18—Eligibility for incorporation

Section 18(6)(b)—after "spouses," insert:

domestic partners,

Part 10—Amendment of *Authorised Betting Operations Act 2000*

34—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *compliance notice* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1)—after the definition of *racing distribution agreement* insert:

spouse—a person is the spouse of another if they are legally married;

35—Amendment of section 5—Close associates

Section 5(1)(a)—after "spouse," insert:

domestic partner,

Part 11—Amendment of *Carers Recognition Act 2005*

36—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *Carers Charter* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4—after the definition of *reporting organisation* insert:

spouse—a person is the spouse of another if they are legally married.

37—Amendment of section 5—Meaning of *carer*

- Section 5(3)(a)—delete "de facto partner" and substitute:

domestic partner

Part 12—Amendment of *Casino Act 1997*

38—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *compliance notice* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1)—after the definition of *police officer* insert:

spouse—a person is the spouse of another if they are legally married;

39—Amendment of section 4—Close associates

- Section 4(1)(a)—after "spouse," insert:

domestic partner,

Part 13—Amendment of *Chiropractic and Osteopathy Practice Act 2005*

40—Amendment of section 54—Interpretation

- (1) Section 54—before the definition of *health product* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 54, definition of *prescribed relative*—after "spouse," insert:

domestic partner,

- (3) Section 54, definitions of *putative spouse* and *spouse*—delete the definitions and substitute:

spouse—a person is the spouse of another if they are legally married.

Part 14—Amendment of *City of Adelaide Act 1998*

41—Amendment of Schedule 2—Register of interests—form of returns

- (1) Schedule 2, clause 1(1)—after the definition of *beneficial interest* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Schedule 2, clause 1(1), definition of *family*, (a)—after "spouse" insert:

or domestic partner
- (3) Schedule 2, clause 1(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

Part 15—Amendment of *Civil Liability Act 1936*

42—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *damages* insert:

domestic partner, in relation to any cause of action arising under this Act, means a person declared under the *Family Relationships Act 1975* to have been a domestic partner on the day on which the cause of action arose;
- (2) Section 3, definition of *putative spouse*—delete the definition
- (3) Section 3, definition of *spouse*—delete the definition and substitute:

spouse, in relation to any cause of action arising under this Act, means a person who was legally married to another on the day on which the cause of action arose;

43—Amendment of section 24—How to bring action etc

- (1) Section 24(1)—delete "wife, husband," and substitute:

spouse, domestic partner,
- (2) Section 24(4)—delete "legal spouse and a putative spouse" and substitute:

spouse and a domestic partner
- (3) Section 24(7)—delete "putative spouse" wherever occurring and substitute in each case:

domestic partner
- (4) Section 24(7)—delete "spouse" third occurring and substitute:

domestic partner

44—Amendment of section 29—Liability to surviving spouse or domestic partner of person wrongfully killed

- (1) Section 29(1)—after "spouse" wherever occurring insert in each case:

or domestic partner

- (2) Section 29(2)—delete "lawful"
- (3) Section 29(2)—delete "putative spouse" and substitute:
domestic partner
- (4) Section 29(2)—after "spouse" third occurring insert:
or domestic partner
- (5) Section 29(3)—delete "lawful spouse and a putative spouse" and substitute:
spouse and a domestic partner
- (6) Section 29(4)—delete subsection (4) and substitute:
 - (4) In proceedings for *solatium* by a spouse, it is not necessary for the court to inquire if the deceased was also survived by a domestic partner (but a domestic partner may, at any time before the proceedings are finally determined, apply to the court to be joined as a party to the proceedings).

45—Amendment of section 30—Further provisions as to solatium etc

Section 30(1)—delete "husband or wife" and substitute:
spouse or domestic partner

46—Amendment of section 53—Damages for mental harm

Section 53(1)(b)—after "spouse" insert:
, domestic partner

47—Amendment of section 58—Damages in respect of gratuitous services

Section 58—after "spouse" wherever occurring insert in each case:
, domestic partner

48—Amendment of heading to Part 9 Division 5

Heading to Part 9 Division 5—delete "husband and wife" and substitute:
spouses and domestic partners

49—Substitution of section 65

Section 65—delete the section and substitute:

65—Spouse or domestic partner may claim for loss or impairment of consortium

If a person causes injury to another by wrongful act, neglect or default, the person will (whether or not the injury results in death) be liable in damages to the spouse or domestic partner of the injured person for loss or injury suffered by the spouse or domestic partner as a result of the loss or impairment of consortium.

50—Amendment of section 66—Damages where injured spouse or domestic partner participated in business

- (1) Section 66(1)—delete "a husband and wife are engaged" and substitute:
spouses or domestic partners are jointly engaged
- (2) Section 66(1)—after "spouse" wherever occurring insert in each case:
or domestic partner (as the case may be)
- (3) Section 66(2), definition of *injury*—delete "the death of a spouse" and substitute:
death

51—Transitional provision

An amendment made by this Act to the *Civil Liability Act 1936* applies only in relation to a cause of action that arises after the commencement of this section.

Part 16—Amendment of *Community Titles Act 1996*

52—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *development lot* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3(1), definition of *relative*—delete "(whether legal or putative)" and substitute:
, domestic partner,
- (3) Section 3(1)—after the definition of *special resolution* insert:
spouse—a person is the spouse of another if they are legally married;

Part 17—Amendment of *Conveyancers Act 1994*

53—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *director* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3(1), definition of *prescribed relative*—after "spouse," insert:
domestic partner,
- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married.

54—Amendment of Schedule 2—Transitional provisions

- (1) Schedule 2, clause 2(1), definition of *spouse*—delete the definition

- (2) Schedule 2, clause 2(2)(b)—after "spouse," insert:
domestic partner,

55—Transitional provision

From the commencement of this section, a reference to a *prescribed relative*, *spouse* or *putative spouse* in the constitution of a company that is registered as a conveyancer under the *Conveyancers Act 1994* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

Part 18—Amendment of *Co-operatives Act 1997*

56—Amendment of section 4—Definitions

- (1) Section 4(1)—after the definition of *District Court* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 4(1)—after the definition of *share* insert:
spouse—a person is the spouse of another if they are legally married;

57—Amendment of section 153—Notice in respect of bonus shares

Section 153(d)—after "spouse" wherever occurring insert in each case:
or domestic partner

58—Amendment of section 226—Financial accommodation to directors and associates

Section 226(1), definition of *associate*—after "spouse" wherever occurring insert in each case:
or domestic partner

59—Amendment of section 270—Acquisition and disposal of assets

Section 270(1)(b)—after "spouse" insert:
or domestic partner

Part 19—Amendment of *Correctional Services Act 1982*

60—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *designated condition* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 4(1), definition of *immediate family*, (a)—delete paragraph (a) and substitute:
(a) a spouse or domestic partner;

- (3) Section 4(1)—after the definition of *sexual offence* insert:

spouse—a person is the spouse of another if they are legally married;

Part 20—Amendment of *Cremation Act 2000*

61—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *doctor* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4, definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married.

62—Amendment of section 7—Relatives etc may object to cremation in cases where cremation not directed by deceased person

Section 7—after "spouse," insert:

domestic partner,

Part 21—Amendment of *Criminal Assets Confiscation Act 2005*

63—Amendment of section 3—Interpretation

- (1) Section 3, definition of *dependant*, (a)—after "spouse" insert:

or domestic partner

- (2) Section 3—after the definition of *document* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (3) Section 3, definition of *putative spouse*—delete the definition

- (4) Section 3, definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

64—Amendment of section 131—Examination orders relating to restraining orders

Section 131(1)(c)—after "spouse" insert:

or domestic partner

65—Amendment of section 132—Examination orders relating to applications for confirmation of forfeiture

Section 132(1)(c)—after "spouse" insert:

or domestic partner

Part 22—Amendment of *Criminal Law Consolidation Act 1935*

66—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *court* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 5(1)—after the definition of *sexual intercourse* insert:

spouse—a person is the spouse of another if they are legally married;

67—Amendment of section 5AA—Aggravated offences

- (1) Section 5AA(1)(g)(ii) and (iii)—delete subparagraphs (ii) and (iii) and substitute:

- (ii) a domestic partner or former domestic partner of the offender; or
- (iii) a child of whom—
 - (A) the offender; or
 - (B) a spouse or former spouse of the offender; or
 - (C) a domestic partner or former domestic partner of the offender,

has custody as a parent or guardian; or

- (iv) a child who normally or regularly resides with—
 - (A) the offender; or
 - (B) a spouse or former spouse of the offender; or
 - (C) a domestic partner or former domestic partner of the offender;

- (2) Section 5AA(5), definition of *spouse*—delete the definition

68—Amendment of section 269A—Interpretation

Section 269A(1), definition of *next of kin*—delete "(or putative spouse)" and substitute:

, domestic partner

Part 23—Amendment of *Criminal Law (Forensic Procedures) Act 1998*

69—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *closest available next of kin*, (b)(i)—after "spouse" insert:

or domestic partner

- (2) Section 3(1)—after the definition of *criminal offence* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (3) Section 3(1)—after the definition of *serious offence* insert:

spouse—a person is the spouse of another if they are legally married;

Part 24—Amendment of *Criminal Law (Sentencing) Act 1988*

70—Amendment of section 9C—Sentencing of Aboriginal defendants

- (1) Section 9C(5)—after the definition of *Aboriginal Justice Officer* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

domestic partner—a person is the domestic partner of another if he or she lives with the other in a close personal relationship;

- (2) Section 9C(5), definition of *family*, (a)—delete "lawful spouse or de facto spouse" and substitute:

spouse or domestic partner

- (3) Section 9C(5)—after the definition of *family* insert:

spouse—a person is the spouse of another if they are legally married.

Part 25—Amendment of *Crown Lands Act 1929*

71—Amendment of section 78B—Life leases for certain shacks

- (1) Section 78B(2)(a)(ii) and (iii)—delete subparagraphs (ii) and (iii) and substitute:

- (ii) to an existing or surviving spouse or domestic partner of a person referred to in subparagraph (i) or a lessee under a lease granted under this section; or
- (iii) to any other person—
 - (A) whose use or enjoyment of the lands; or
 - (B) whose relationship with a person referred to in subparagraph (i) or a lessee under a lease granted under this section,

is such that the Minister is of the opinion that the person should be granted a lease under this section; and

(2) Section 78B—after subsection (4) insert:

(5) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 26—Amendment of *De Facto Relationships Act 1996*

72—Amendment of long title

Long title—delete "de facto relationships" and substitute:

domestic partnerships

73—Amendment of section 1—Short title

Section 1—delete "*De Facto Relationships Act 1996*" and substitute:

Domestic Partners Property Act 1996

74—Amendment of section 3—Interpretation

(1) Section 3, definition of *certificated agreement*—delete the definition and substitute:

certified domestic partnership agreement—see subsection (2);

(2) Section 3, definition of *child*, (a)—delete "de facto" and substitute:

domestic

(3) Section 3—after the definition of *child* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

(4) Section 3, definitions of *de facto partner* and *de facto relationship*—delete the definitions and substitute:

domestic partner means a person who lives in a close personal relationship and includes—

(a) a person who is about to enter a close personal relationship; and

(b) a person who has lived in a close personal relationship;

domestic partnership agreement means an agreement about—

- (a) the division of property on the termination of a domestic partnership;
or
 - (b) any other matter (financial or otherwise) related to a domestic partnership;
- (5) Section 3—after its present contents as amended by this section (now to be designated as subsection (1)) insert:
- (2) For the purposes of this Act, a domestic partnership agreement is a *certified domestic partnership agreement* if—
 - (a) the agreement contains a provision (the *warranty of asset disclosure*) under which each party to the agreement warrants that he or she has disclosed all relevant assets to the other; and
 - (b) —
 - (i) the signature of each party to the agreement is attested by a lawyer's certificate; and
 - (ii) each lawyer's certificate is given by a different lawyer.

75—Substitution of section 4

Section 4—delete the section and substitute:

4—Application of Act

- (1) This Act does not apply to—
 - (a) a domestic partnership (other than a domestic partnership that was a de facto relationship) that ended before the commencement of this section; or
 - (b) a de facto relationship that ended before 16 December 1996.

Note—

The Domestic Partners Property Act 1996 came into operation on 16 December 1996 as the *De Facto Relationships Act 1996*.

- (2) In this section—
de facto relationship means the relationship between a man and a woman, who although not legally married to each other, live together on a genuine domestic basis as husband and wife.

76—Substitution of heading to Part 2

Heading to Part 2—delete the heading and substitute:

Part 2—Domestic partnership agreements

77—Substitution of section 5

Section 5—delete the section and substitute:

5—Domestic partnership agreements

- (1) Domestic partners may make a domestic partnership agreement.
- (2) A domestic partnership agreement must—
 - (a) be in writing; and
 - (b) be signed by each party to the agreement.

78—Amendment of section 6—Domestic partnership agreement enforceable under law of contract

Section 6—delete "cohabitation" and substitute:

domestic partnership

79—Amendment of section 7—Consensual variation or revocation of domestic partnership agreement

- (1) Section 7(1)—delete "cohabitation" and substitute:
domestic partnership
- (2) Section 7(2)—delete subsection (2) and substitute:
 - (2) However, if a domestic partnership agreement is a certified domestic partnership agreement, it may only be varied by a certified domestic partnership agreement.

80—Amendment of section 8—Power to set aside or vary domestic partnership agreement

- (1) Section 8(1)—delete "cohabitation" and substitute:
domestic partnership
- (2) Section 8(2)(b)—delete "de facto partner" and substitute:
party to the domestic partnership agreement
- (3) Section 8(3)—delete "cohabitation" and substitute:
domestic partnership
- (4) Section 8(3)(b)—delete "certificated" and substitute:
certified domestic partnership

81—Amendment of section 9—Property adjustment order

- (1) Section 9(1)—delete subsection (1) and substitute:
 - (1) After a domestic partnership ends, either of the domestic partners may apply to a court for the division of property.
- (2) Section 9(2)(b)—delete "de facto partners" and substitute:
applicant and respondent

(3) Section 9(2)(c)—delete paragraph (c) and substitute:

- (c) the domestic partnership existed for at least 3 years or there is a child of the domestic partners.

82—Amendment of section 10—Power to make orders for division of property

(1) Section 10(1)—delete subsection (1) and substitute:

- (1) On an application for the division of property after the end of a domestic partnership, the court may make such orders as it considers necessary to divide between the domestic partners the property of either or both partners in a way that is just and equitable.

(2) Section 10(2)—delete "de facto" wherever occurring and substitute in each case:
domestic

83—Amendment of section 11—Matters for consideration by court

(1) Section 11(1)—delete "de facto" wherever occurring and substitute in each case:
domestic

(2) Section 11(1)(c)—delete "cohabitation" and substitute:
domestic partnership

(3) Section 11(2)—delete "cohabitation" and substitute:
domestic partnership

(4) Section 11(2)(a)—delete "certificated" and substitute:
certified domestic partnership

84—Amendment of section 12—Duty of court to resolve all outstanding questions

Section 12—delete "de facto" and substitute:
domestic

85—Amendment of section 15—Protection of purchaser in good faith, for value and without notice of claim

Section 15—delete "de facto" and substitute:
domestic

86—Transitional provision

After the commencement of this section, a reference to a *cohabitation agreement* or a *certificated agreement* will, where the context so admits or requires, be taken to be a reference to a *domestic partnership agreement* or a *certified domestic partnership agreement*.

Part 27—Amendment of *Dental Practice Act 2001*

87—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *director* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *prescribed relative*—after "spouse," insert:

domestic partner,

- (3) Section 3(1), definition of *putative spouse*—delete the definition

- (4) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

88—Amendment of section 33—Registration of companies

- (1) Section 33(2)(a)(vii)—after "spouse" first occurring insert:

or domestic partner

- (2) Section 33(2)(a)(vii)(B)—delete subparagraph (B) and substitute:

(B) in the case of a domestic partner—on the cessation of that relationship,

89—Transitional provision

From the commencement of this section, a reference to a *prescribed relative*, *spouse* or *putative spouse* in the memorandum and articles of association or constitution of a company that is registered as a dentist, advanced dental prosthetist, dental prosthetist or dental technician under the *Dental Practice Act 2001* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

Part 28—Amendment of *Development Act 1993*

90—Amendment of section 4—Definitions

- (1) Section 4(1)—after the definition of *document* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 4(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (4) Section 4(8)(a)—after "spouse" insert:

or domestic partner

- (5) Section 4(8)(b)(ii)—after "spouse" insert:

or domestic partner

- (6) Section 4(8)(c)—after "spouse" insert:

or domestic partner

91—Amendment of Schedule 2—Disclosure of financial interests

Schedule 2, clause 1(1), definition of *family*, (a)—after "spouse" insert:

or domestic partner

Part 29—Amendment of *Domestic Violence Act 1994*

92—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *child* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 3—after the definition of *defendant* insert:

domestic partner—a person is the domestic partner of a defendant if he or she lives with the defendant in a close personal relationship;

- (3) Section 3, definition of *member of the defendant's family*, (b) and (c)—delete paragraphs (b) and (c) and substitute:

- (b) a domestic partner or former domestic partner of the defendant; or
- (c) a child of whom—
 - (i) the defendant; or
 - (ii) a spouse or former spouse of the defendant; or
 - (iii) a domestic partner or former domestic partner of the defendant,

has custody as a parent or guardian; or

- (d) a child who normally or regularly resides with—
 - (i) the defendant; or
 - (ii) a spouse or former spouse of the defendant; or
 - (iii) a domestic partner or former domestic partner of the defendant;

- (4) Section 3, definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

Part 30—Amendment of *Electoral Act 1985*

93—Amendment of section 29—Entitlement to enrolment

- (1) Section 29(4)(b)(i)—after "spouse" insert:

, domestic partner

- (2) Section 29—after subsection (5) insert:

- (6) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 31—Amendment of *Environment Protection Act 1993*

94—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *domestic activity* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (3) Section 3(2)(b)—after "spouse," insert:

domestic partner,

Part 32—Amendment of *Equal Opportunity Act 1984*

95—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *detriment* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 5(1), definition of *near relative*—after "spouse," insert:

domestic partner,

- (3) Section 5(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

96—Amendment of section 50—Religious bodies

Section 50(2)—after "sexuality" insert:

, or cohabitation with another person of the same sex as a couple on a genuine domestic basis,

Part 33—Amendment of *Evidence Act 1929*

97—Amendment of section 21—Competence and compellability of witnesses

(1) Section 21(7), definition of *close relative*—after "spouse," insert:

domestic partner,

(2) Section 21(7), definition of *spouse*—delete the definition and substitute:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 34—Amendment of *Fair Work Act 1994*

98—Amendment of section 4—Interpretation

(1) Section 4(1)—after the definition of *determination* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

(2) Section 4(1), definition of *family*, (a)—after "spouse" insert:

or domestic partner

(3) Section 4(1)—after the definition of *single business* insert:

spouse—a person is the spouse of another if they are legally married;

99—Amendment of section 6—Application of Act to employment

Section 6(a)—after "spouse" insert:

, domestic partner

100—Amendment of section 77—Form and content of enterprise agreement

Section 77(1)(e)—after "spouse," insert:

domestic partner,

101—Amendment of Schedule 1—Transitional provisions

Schedule 1—after clause 16 insert:

17—Enterprise agreements and spouses and domestic partners

From the commencement of this clause, an enterprise agreement that provides that sick leave is available to an employee if the leave becomes necessary because of the sickness of a spouse, will be taken to provide that sick leave is available to an employee if the leave becomes necessary because of the sickness of a spouse or domestic partner (whether the agreement was entered into before or after the commencement of this clause).

102—Amendment of Schedule 5—Minimum standard for parental leave

- (1) Schedule 5, clause 1, definition of *adoption*—after "spouse" insert:
or domestic partner
- (2) Schedule 5, clause 1, definition of *spouse*—delete the definition
- (3) Schedule 5, clause 2—after "spouse" wherever occurring insert in each case:
or domestic partner
- (4) Schedule 5, clause 4—after "spouse" insert:
or domestic partner
- (5) Schedule 5, clause 5(1)—after "spouse" insert:
or domestic partner

Part 35—Amendment of *Fire and Emergency Services Act 2005*

103—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *District Court* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3(1), definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married;
- (3) Section 3(4)(a)—after "spouse" insert:
or domestic partner
- (4) Section 3(4)(b)(ii)—after "spouse" insert:
or domestic partner
- (5) Section 3(4)(c)—delete "or a body corporate referred to in subparagraph (ii)" and substitute:
or domestic partner, or a body corporate referred to in paragraph (b),

Part 36—Amendment of *Firearms Act 1977*

104—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *dealer's licence* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 5(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 5(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

Part 37—Amendment of *First Home Owner Grant Act 2000*

105—Amendment of section 3—Definitions

- (1) Section 3—after the definition of *building* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 3—after the definition of *corresponding law* insert:

domestic partner—see section 6;

106—Amendment of section 6—Spouses and domestic partners

Section 6—delete subsection (1) and substitute:

- (1) A person is the *spouse* of another if they are legally married.
- (1a) A person is the *domestic partner* of another if they live together in a close personal relationship.

107—Amendment of section 10—Criterion 3—Applicant (or applicant's spouse etc) must not have received earlier grant

- (1) Section 10(1)(a)—after "spouse" insert:

or domestic partner

- (2) Section 10(3)—after "spouse" insert:
or domestic partner

108—Amendment of section 11—Criterion 4—Applicant (or applicant's spouse etc) must not have had relevant interest in residential property

- (1) Section 11(1)—after "spouse" insert:
or domestic partner
- (2) Section 11(3)—after "spouse" insert:
or domestic partner

109—Amendment of section 41—Protection of confidential information

- Section 41(1), definition of *protected information*—after "spouse" insert:
or domestic partner

110—Transitional provision

An amendment made by this Act to the *First Home Owner Grant Act 2000* applies only in relation to an application for a first home owner grant made after the commencement of the amendment.

Part 38—Amendment of *Flinders University of South Australia Act 1966*

111—Amendment of section 18C—Duty of Council members with respect to conflict of interest

- (1) Section 18C(8)—delete "the member's spouse, or a relative of the member," and substitute:
a relative of the member
- (2) Section 18C(10)—delete subsection (10) and substitute:
(10) In this section—
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
relative of a member means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member;
spouse—a person is the spouse of another if they are legally married.

Part 39—Amendment of *Gaming Machines Act 1992*

112—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *criminal intelligence* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1)—after the definition of *special circumstances licence* insert:

spouse—a person is the spouse of another if they are legally married;

113—Amendment of section 39—Commissioner may approve agents of Board

Section 39(3)(f)—after "spouse," insert:

domestic partner,

114—Amendment of section 44A—Prohibition of links between dealers and other licensees

Section 44A(4)(b)(ii)—after "spouse" insert:

or domestic partner

Part 40—Amendment of *Genetically Modified Crops Management Act 2004*

115—Amendment of section 24—Orders on conviction for an offence

- (1) Section 24(2)(a)—delete "or in a defacto relationship" and substitute:

or domestic partners

- (2) Section 24—after subsection (3) insert:

- (4) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not.

Part 41—Amendment of *Governors' Pensions Act 1976*

116—Amendment of long title

Long title—after "spouses" insert:

or domestic partners

117—Amendment of section 2—Interpretation

- (1) Section 2—after the definition of *deceased Governor* insert:

domestic partner—

- (a) in relation to a deceased Governor—means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the Governor as at the date of the Governor's death;
- (b) in relation to a deceased former Governor—means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the former Governor as at the date of the former Governor's death;

- (2) Section 2, definition of *spouse*—delete the definition and substitute:

spouse—

- (a) in relation to a deceased Governor—means a person who was, as at the date of the Governor's death, legally married to the Governor;
- (b) in relation to a deceased former Governor—means a person who was, as at the date of the former Governor's death, legally married to the former Governor.

118—Amendment of section 3—Order for payment of pensions

Section 3(1)—after "spouse" wherever occurring insert in each case:
or domestic partner

119—Amendment of section 4—Amount of pension

- (1) Section 4(1)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (2) Section 4(3)—after "spouse" insert:
or domestic partner

120—Transitional provision

An amendment made by a provision of this Act to a provision of the *Governors' Pensions Act 1976* that provides for, or relates to, the payment of a pension to a person on the death of a Governor, or former Governor, applies only if the death occurs after the commencement of the amendment.

Part 42—Amendment of *Ground Water (Qualco-Sunlands) Control Act 2000*

121—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *disposal capacity of the Scheme* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *relative*—delete "(whether legal or putative)," and substitute:
 , domestic partner,
- (3) Section 3(1)—after the definition of *Scheme infrastructure* insert:
 spouse—a person is the spouse of another if they are legally married;

Part 43—Amendment of *Guardianship and Administration Act 1993*

122—Amendment of section 3—Interpretation

- (1) Section 3(1), after the definition of *dentist* insert:
 domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3(1), definition of *putative spouse*—delete the definition
- (3) Section 3(1), definition of *relative*, (a)—after "spouse" insert:
 or domestic partner
- (4) Section 3(1), definition of *spouse*—delete the definition and substitute:
 spouse—a person is the spouse of another if they are legally married;

123—Amendment of section 39—Powers and duties of administrator

- (1) Section 39(2)(c)—after "spouse" insert:
 , domestic partner
- (2) Section 39(2)(w)—after "spouse" insert:
 or domestic partner

124—Amendment of section 78—Medical practitioner, psychologist or other health professional cannot act under this Act in respect of a relative

Section 78—delete "putative spouse" and substitute:
 domestic partner

Part 44—Amendment of *Heritage Places Act 1993*

125—Amendment of section 38A—ERD Court orders

- (1) Section 38A(11)(b)—after "spouse," insert:
 domestic partner,
- (2) Section 38A(12)—delete subsection (12) and substitute:
 (12) In this section—
 beneficiary of a trust includes an object of a discretionary trust;

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 45—Amendment of *Hospitals Act 1934*

126—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *director-general* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4—after the definition of *public hospital* insert:

spouse—a person is the spouse of another if they are legally married;

127—Amendment of section 47—Maintenance of patients in public hospitals

Section 47(2)II—delete "husband or wife" and substitute:

spouse or domestic partner

Part 46—Amendment of *Housing and Urban Development (Administrative Arrangements) Act 1995*

128—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *Department* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (4) Section 3(2)—after "spouse" wherever occurring insert in each case:

or domestic partner

Part 47—Amendment of *Inheritance (Family Provision) Act 1972*

129—Amendment of section 4—Interpretation

Section 4, definition of *spouse*—delete the definition and substitute:

domestic partner, in relation to a deceased person, means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the deceased as at the date of his or her death, or at some earlier date;

spouse, in relation to a deceased person, means a person who was legally married to the deceased as at the date of his or her death;

130—Amendment of section 6—Persons entitled to claim under this Act

- (1) Section 6—after paragraph (b) insert:
 - (ba) the domestic partner of the deceased person;
- (2) Section 6(g)—after "spouse" insert:

or domestic partner

131—Transitional provision

An amendment made by this Act to the *Inheritance (Family Provision) Act 1972* applies only in relation to the estate of a deceased person whose death occurs after the commencement of the amendment.

Part 48—Amendment of *Judges' Pensions Act 1971*

132—Amendment of long title

Long title—delete "widows" and substitute:

surviving spouses or domestic partners

133—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *the Consumer Price Index* insert:

domestic partner—

 - (a) in relation to a deceased Judge—means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the Judge as at the date of the Judge's death;
 - (b) in relation to a deceased former Judge—means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the former Judge as at the date of the former Judge's death;
- (2) Section 4(1), definition of *eligible child*, (b)—after "spouse" insert:

or domestic partner
- (3) Section 4(1), definition of *notional pension*, (b)(i)—after "spouse" insert:

or domestic partner
- (4) Section 4(1), definition of *notional pension*, (b)(ii)—after "spouse" insert:

or domestic partner
- (5) Section 4(1)—after the definition of *salary* insert:

spouse—

 - (a) in relation to a deceased Judge—means a person who was, as at the date of the Judge's death, legally married to the Judge;

- (b) in relation to a deceased former Judge—means a person who was, as at the date of the former Judge's death, legally married to the former Judge.

134—Amendment of section 6A—Preservation of pensions on resignation before 60

Section 6A(3)—after "spouse" insert:
or domestic partner

135—Substitution of sections 8 and 9

Sections 8 and 9—delete the sections and substitute:

8—Death of Judge or former Judge

If a Judge or former Judge dies and is survived by a spouse or domestic partner, the spouse or domestic partner is entitled to a pension for life at the rate of two-thirds of the notional pension of the deceased Judge or former Judge.

9—Division of benefit where deceased Judge or former Judge is survived by spouse and domestic partner

- (1) If a deceased Judge, or deceased former Judge, is survived by a spouse and a domestic partner, any benefit to which a surviving spouse or domestic partner is entitled under this Act will be divided between them in a ratio determined by reference to the relative length of the periods for which each of them cohabited with the deceased as his or her spouse or domestic partner (as the case may be).
- (2) If a number of periods of cohabitation are to be aggregated for the purpose of determining an aggregate period of cohabitation for the purpose of subsection (1), any separate period of cohabitation of less than 3 months will be disregarded.
- (3) A surviving spouse or domestic partner must, at the request of the Treasurer, furnish the Treasurer with any information that the Treasurer requires for the purposes of making a division under subsection (1).
- (4) If—
 - (a) a deceased Judge, or deceased former Judge, is survived by a spouse and a domestic partner; and
 - (b) a benefit is paid to 1 of them on the assumption that he or she is the sole surviving spouse or domestic partner of the deceased,

the other spouse or domestic partner has no claim on the benefit insofar as it has already been paid unless that spouse or domestic partner gave the Treasurer notice of his or her claim before the date of payment.

136—Amendment of section 9A—Spouse entitlement subject to any Family Law determination

Section 9A—delete ", 8 or 9" and substitute:
or 8

137—Amendment of section 10C—Child benefit where no spouse or domestic partner pension payable

Section 10C(1)—after "spouse" insert:
or domestic partner

138—Amendment of section 10D—To whom child benefit payable

Section 10D(a)—after "spouse" insert:
or domestic partner

139—Amendment of section 15—Refund of certain contributions

Section 15(1)(b)—delete "widow" and substitute:
spouse, domestic partner

140—Amendment of section 17A—Commutation of pension to pay deferred superannuation contributions surcharge

- (1) Section 17A(3)—after "spouse" wherever occurring insert in each case:
or domestic partner
- (2) Section 17A(3)—delete "spouse's pension" and substitute:
pension of the spouse or domestic partner
- (3) Section 17A(5)—after "spouse" insert:
, domestic partner

141—Transitional provision

An amendment made by a provision of this Act to a provision of the *Judges' Pensions Act 1971* that provides for, or relates to, the payment of a pension to a person on the death of a Judge, or former Judge, applies only if the death occurs after the commencement of the amendment.

Part 49—Amendment of *Juries Act 1927*

142—Amendment of Schedule 3—Persons ineligible for jury service

- (1) Schedule 3—after the heading to the Schedule insert:

1—Interpretation

In this Schedule—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

- (2) Schedule 3, current contents—after "spouses" wherever occurring insert in each case:
or domestic partners
- (3) Schedule 3—before the current contents of the Schedule as amended by this section insert:

2—Persons ineligible for jury service

143—Transitional provision

An amendment made by this Act to the *Juries Act 1927* does not affect the eligibility of a person to serve on a jury empanelled before the commencement of the amendment.

Part 50—Amendment of *Land Tax Act 1936*

144—Amendment of section 5—Exemption or partial exemption of certain land from land tax

- (1) Section 5(13)—before the definition of *close relative* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 5(13), definition of *close relative*, (a)—after "spouses" insert:
or domestic partners
- (3) Section 5(13)—after the definition of *close relative* insert:
domestic partner—a person is the domestic partner of a person if he or she lives with the person in a close personal relationship;
- (4) Section 5(13), definition of *relative*, (a)—after "spouses" insert:
or domestic partners
- (5) Section 5(13), definition of *relative*—after "spouse" wherever occurring insert in each case:
or domestic partner
- (6) Section 5(13), definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married.

Part 51—Amendment of *Legal Practitioners Act 1981*

145—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *document* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 5(1)—after the definition of *solicitor* insert:

spouse—a person is the spouse of another if they are legally married;
- (3) Section 5(5)(f)—delete "or putative spouse (within the meaning of the *Family Relationships Act 1975*)" and substitute:

or domestic partner
- (4) Section 5(5)(f)—delete "or putative spouse" second occurring and substitute:

or domestic partner

146—Amendment of section 16—Issue of practising certificate

- (1) Section 16(2)(a)(vii)—after "the spouse" insert:

or domestic partner
- (2) Section 16(2)(a)(vii)(B)—delete subparagraph (B) and substitute:

(B) in the case of a domestic partner—on cessation of that relationship with the legal practitioner,
- (3) Section 16(6), definition of *prescribed relative*—delete "putative spouse" and substitute:

domestic partner
- (4) Section 16(6), definition of *putative spouse*—delete the definition

147—Transitional provision

From the commencement of this section, a reference to a *prescribed relative*, *spouse* or *putative spouse* in the memorandum and articles of association or constitution of a company that holds a practising certificate under the *Legal Practitioners Act 1981* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

Part 52—Amendment of *Liquor Licensing Act 1997*

148—Amendment of section 7—Close associates

- (1) Section 7(1)(a)—after "spouse," insert:

domestic partner,
- (2) Section 7(2)—delete "In" and substitute:

For the purposes of

- (3) Section 7(2)—before the definition of *prescribed financial market* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (4) Section 7(2)—after the definition of *prescribed financial market* insert:

spouse—a person is the spouse of another if they are legally married.

Part 53—Amendment of *Local Government Act 1999*

149—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *District Court* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4(1), definition of *independent living units*, (a)—after "spouses" insert:

or domestic partners

- (3) Section 4(1), definition of *relative*, (a)—after "spouse" insert:

or domestic partner

- (4) Section 4(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

150—Amendment of section 74—Members to disclose interests

Section 74(4a)(a)(i)—after "spouses" insert:

, domestic partners

151—Amendment of section 80—Insurance of members

Section 80—after "spouse" insert:

, domestic partner

152—Amendment of Schedule 3—Register of Interests—Form of returns

Schedule 3, clause 1, definition of *family*, (a)—after "spouse" insert:

or domestic partner

Part 54—Amendment of *Medical Practice Act 2004*

153—Amendment of section 68—Interpretation

- (1) Section 68—before the definition of *health product* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 68, definition of *prescribed relative*—after "spouse," insert:
domestic partner,
- (3) Section 68, definitions of *putative spouse* and *spouse*—delete the definitions and substitute:
spouse—a person is the spouse of another if they are legally married.

Part 55—Amendment of *Members of Parliament (Register of Interests) Act 1983*

154—Amendment of section 2—Interpretation

- (1) Section 2(1)—after the definition of *beneficial interest* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 2(1), definition of *family*, (a)—after "spouse" insert:
or domestic partner
- (3) Section 2(1), definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married;

Part 56—Amendment of *Mental Health Act 1993*

155—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *director* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3, definition of *putative spouse*—delete the definition
- (3) Section 3, definition of *relative*, (a)—after "spouse" insert:
or domestic partner
- (4) Section 3, definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married.

156—Amendment of section 32—Medical practitioner cannot act under Act in respect of relative

- Section 32—delete "putative spouse" and substitute:
domestic partner

Part 57—Amendment of *Natural Resources Management Act 2004*

157—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *domestic activity* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (3) Section 3(10)(b)—after "spouse," insert:

domestic partner,

Part 58—Amendment of *Occupational Therapy Practice Act 2005*

158—Amendment of section 51—Interpretation

- (1) Section 51—before the definition of *health product* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 51, definition of *prescribed relative*—after "spouse," insert:

domestic partner,

- (3) Section 51, definitions of *putative spouse* and *spouse*—delete the definitions and substitute:

spouse—a person is the spouse of another if they are legally married.

Part 59—Amendment of *Parliamentary Superannuation Act 1974*

159—Amendment of section 5—Interpretation

Section 5(1), definition of *putative spouse*—delete the definition and substitute:

putative spouse—see section 7A;

160—Amendment of section 7A—Putative spouses

Section 7A(1)—delete subsection (1) and substitute:

- (1) For the purposes of this Act, a person is, on a certain date, the *putative spouse* of another person if—
- (a) he or she is, on that date, cohabiting with the other person as his or her wife or husband de facto and—

- (i) the person—
 - (A) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (B) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years; or
 - (ii) a child, of whom both persons are the parents, has been born (whether or not the child is still living); or
- (b) where the 2 persons are of the same sex—he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person—
- (i) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (ii) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years.

161—Transitional provision

An amendment made by a provision of this Act to a provision of the *Parliamentary Superannuation Act 1974* that relates to the payment of a pension, lump sum or other benefit to a person on the death of a member, or former member, applies only if the death occurs after the commencement of the amendment.

Part 60—Amendment of *Partnership Act 1891*

162—Amendment of section 1B—Interpretation

- (1) Section 1B(1)—after the definition of *Court* insert:
- domestic partner* means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 1B(1)—after the definition of *registered particulars* insert:
- spouse*—a person is the spouse of another if they are legally married.

163—Amendment of section 2—Rules for determining existence of partnership

Section 2(1)(c)(iii)—after "spouse" insert:

, domestic partner

Part 61—Amendment of *Pastoral Land Management and Conservation Act 1989*

164—Amendment of section 16—Conflict of interest

- (1) Section 16(2)(f)—after "spouse," insert:

domestic partner,

- (2) Section 16—after subsection (7) insert:

- (8) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 62—Amendment of *Pharmacists Act 1991*

165—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *director* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4(1), definition of *prescribed relative*—delete "putative spouse" and substitute:

domestic partner

- (3) Section 4(1), definition of *putative spouse*—delete the definition

- (4) Section 4(1)—after the definition of *share* insert:

spouse—a person is the spouse of another if they are legally married.

166—Amendment of section 18—Qualifications for registration

- (1) Section 18(2)(a)(vii)—after "the spouse" insert:

or domestic partner

- (2) Section 18(2)(a)(vii)(B)—delete subsubparagraph (B) and substitute:

- (B) in the case of a domestic partner—on the cessation of that relationship,

167—Transitional provision

From the commencement of this section, a reference to a *prescribed relative*, *spouse* or *putative spouse* in the memorandum and articles of association or constitution of a company that is registered as a pharmacist under the *Pharmacists Act 1991* will, where the context so admits or requires, be taken to include a reference to a *domestic partner*.

Part 63—Amendment of *Phylloxera and Grape Industry Act 1995*

168—Amendment of section 9—Conflict of interest

- (1) Section 9(3)(f)—after "spouse," insert:

domestic partner,

- (2) Section 9—after subsection (7) insert:

- (8) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

Part 64—Amendment of *Physiotherapy Practice Act 2005*

169—Amendment of section 54—Interpretation

- (1) Section 54—before the definition of *health product* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 54, definition of *prescribed relative*—after "spouse," insert:

domestic partner,

- (3) Section 54, definitions of *putative spouse* and *spouse*—delete the definitions and substitute:

spouse—a person is the spouse of another if they are legally married.

Part 65—Amendment of *Podiatry Practice Act 2005*

170—Amendment of section 54—Interpretation

- (1) Section 54—before the definition of *health product* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 54, definition of *prescribed relative*—after "spouse," insert:

domestic partner,

- (3) Section 54, definitions of *putative spouse* and *spouse*—delete the definitions and substitute:

spouse—a person is the spouse of another if they are legally married.

Part 66—Amendment of *Police (Complaints and Disciplinary Proceedings) Act 1985*

171—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *breach of discipline* insert:

close relative of a person means a spouse, domestic partner, parent or child of the person;

- (2) Section 3(1)—after the definition of *conduct* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (3) Section 3(1)—after the definition of *prescribed officer or employee* insert:

spouse—a person is the spouse of another if they are legally married;

172—Amendment of section 25—Investigations by internal investigation branch

Section 25(11)—delete subsection (11)

173—Amendment of section 28—Investigation of matters by Authority

Section 28(14)—delete subsection (14)

Part 67—Amendment of *Police Superannuation Act 1990*

174—Amendment of section 4—Interpretation

Section 4(1), definition of *putative spouse*—delete the definition and substitute:

putative spouse—see section 4A;

175—Amendment of section 4A—Putative spouses

Section 4A(1)—delete subsection (1) and substitute:

- (1) For the purposes of this Act, a person is, on a certain date, the *putative spouse* of another person if—
- (a) he or she is, on that date, cohabiting with the other person as his or her wife or husband de facto and—
 - (i) the person—
 - (A) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (B) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years; or

- (ii) a child, of whom both persons are the parents, has been born (whether or not the child is still living); or
- (b) where the 2 persons are of the same sex—he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person—
 - (i) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (ii) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years.

176—Amendment of section 32—Benefits payable on contributor's death

- (1) Section 32(1)(a)—delete "a person referred to in subsection (1aa)" and substitute:
the contributor's spouse
- (2) Section 32(1aa)—delete subsection (1aa)

177—Transitional provision

An amendment made by a provision of this Act to a provision of the *Police Superannuation Act 1990* that relates to the payment of a pension, lump sum or other benefit to a person on the death of a contributor applies only if the death occurs after the commencement of the amendment.

Part 68—Amendment of *Problem Gambling Family Protection Orders Act 2004*

178—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *child* insert:
close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 3(1)—after the definition of *Department* insert:

domestic partner—a person is the domestic partner of a respondent if he or she lives with the respondent in a close personal relationship;

- (3) Section 3(1), definition of *family member*, (b) and (c)—delete paragraphs (b) and (c) and substitute:

(b) a domestic partner or former domestic partner of the respondent;

(c) a child of whom—

(i) the respondent; or

(ii) a spouse or former spouse of the respondent; or

(iii) a domestic partner or former domestic partner of the respondent,

has care and control;

(d) a child who normally or regularly resides with—

(i) the respondent; or

(ii) a spouse or former spouse of the respondent; or

(iii) a domestic partner or former domestic partner of the respondent;

- (4) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of a respondent if the person is legally married to the respondent.

Part 69—Amendment of *Public Corporations Act 1993*

179—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *dividend* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (4) Section 3(2)—after "spouse" wherever occurring insert in each case:

or domestic partner

Part 70—Amendment of *Public Intoxication Act 1984*

180—Amendment of section 4—Interpretation

- (1) Section 4—after the definition of *child* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

domestic partner—a person is the domestic partner of another if he or she lives with the other in a close personal relationship;

- (2) Section 4, definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 4, definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married.

Part 71—Amendment of *Public Sector Management Act 1995*

181—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *debenture* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (4) Section 3(1a)—after "spouse" wherever occurring insert in each case:

or domestic partner

Part 72—Amendment of *Public Trustee Act 1995*

182—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *deliver property* insert:

domestic partner, in relation to a deceased person, means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the deceased as at the date of his or her death;

- (2) Section 3—after the definition of *Public Trustee* insert:

spouse, in relation to a deceased person, means a person who was legally married to the deceased as at the date of his or her death;

183—Amendment of section 9—Administration of deceased estate

- (1) Section 9(1)(b)—after "spouse" insert:

, domestic partner

- (2) Section 9(1)(g)(ii)—after "spouse" insert:

, domestic partner

184—Amendment of section 35—Powers of Public Trustee as manager

Section 35(1)(b)—after "spouse" insert:

, domestic partner

Part 73—Amendment of *Racing (Proprietary Business Licensing) Act 2000*

185—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *compliance notice* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1)—after the definition of *race* or *racing* insert:

spouse—a person is the spouse of another if they are legally married;

186—Amendment of section 5—Close associates

Section 5(a)—after "spouse," insert:

domestic partner,

Part 74—Amendment of *Renmark Irrigation Trust Act 1936*

187—Amendment of section 5—Interpretation

- (1) Section 5—after the definition of *district* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 5—after the definition of *ratepayer* insert:

relative of a person includes someone who is the person's domestic partner;

Part 75—Amendment of *Retirement Villages Act 1987*

188—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *community retirement village* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *resident*—after "spouse" insert:

or domestic partner

- (3) Section 3(1), definition of *retirement village scheme*—after "spouses" wherever occurring insert in each case:

or domestic partners

- (4) Section 3(1)—after the definition of *special resolution* insert:

spouse—a person is the spouse of another if they are legally married;

Part 76—Amendment of *River Murray Act 2003*

189—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *domestic activity* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (3) Section 3(2)(b)—after "spouse," insert:

domestic partner,

Part 77—Amendment of *Road Traffic Act 1961*

190—Amendment of section 9—Associates

- (1) Section 9(1)(a)—after "spouse," insert:
domestic partner,
- (2) Section 9(2)—delete subsection (2) and substitute:
 - (2) For the purposes of subsection (1)—
beneficiary of a trust includes an object of a discretionary trust;
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
spouse—a person is the spouse of another if they are legally married.

Part 78—Amendment of *South Australian Health Commission Act 1976*

191—Amendment of section 6—Interpretation

- (1) Section 6—after the definition of *Department* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 6—after the definition of *recognised hospital* insert:
spouse—a person is the spouse of another if they are legally married.

192—Amendment of section 39—Fixing of fees

Section 39(2)(b)—after "spouse" insert:
or domestic partner

193—Amendment of section 57A—Fixing of fees

Section 57A(2)(b)—after "spouse" insert:
or domestic partner

Part 79—Amendment of *South Australian Housing Trust Act 1995*

194—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *Department* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *relative*—after "spouse," insert:
domestic partner,
- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married;
- (4) Section 3(2)—after "spouse" wherever occurring insert in each case:
or domestic partner

Part 80—Amendment of *South Eastern Water Conservation and Drainage Act 1992*

195—Amendment of section 16—Conflict of interest

- (1) Section 16(3)(f)—after "spouse," insert:
domestic partner,
- (2) Section 16—after subsection (7) insert:
 - (8) In this section—
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
spouse—a person is the spouse of another if they are legally married.

Part 81—Amendment of *Southern State Superannuation Act 1994*

196—Amendment of section 3—Interpretation

- Section 3(1), definition of *putative spouse*—delete the definition and substitute:
putative spouse—see section 3A;

197—Amendment of section 3A—Putative spouses

- Section 3A(1)—delete subsection (1) and substitute:
 - (1) For the purposes of this Act, a person is, on a certain date, the *putative spouse* of another person if—
 - (a) he or she is, on that date, cohabiting with the other person as his or her wife or husband de facto and—
 - (i) the person—
 - (A) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (B) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years; or

- (ii) a child, of whom both persons are the parents, has been born (whether or not the child is still living);
or
- (b) where the 2 persons are of the same sex—he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person—
 - (i) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (ii) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years.

198—Transitional provision

An amendment made by a provision of this Act to a provision of the *Southern State Superannuation Act 1994* that relates to the payment of a lump sum or other benefit to a person on the death of a member applies only if the death occurs after the commencement of the amendment.

Part 82—Amendment of *Stamp Duties Act 1923*

199—Amendment of section 2—Interpretation

- (1) Section 2(1)—after the definition of *discretionary trust* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 2(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

200—Amendment of section 60A—Value of property conveyed or transferred

Section 60A(6)(a)(ii)—after "spouse" insert:
or domestic partner

201—Amendment of section 71CB—Exemption from duty in respect of certain transfers between spouses etc or former spouses etc

- (1) Section 71CB(1)—delete subsection (1) and substitute:
 - (1) In this section—

shared residence means—
 - (a) in relation to spouses or domestic partners—their principal place of residence of which both or either of them is owner;

- (b) in relation to former spouses or domestic partners—their last principal place of residence of which both or either of them was owner,
- but does not include premises that form part of industrial or commercial premises.
- (2) Section 71CB(2)(a)(i)—delete "the matrimonial home" and substitute:
a shared residence
- (3) Section 71CB(2)(a)—after "or former spouses" insert:
, or domestic partners or former domestic partners
- (4) Section 71CB(2)(b)—after "or former spouse" insert:
, or domestic partner or former domestic partner,
- (5) Section 71CB(3)—after "former spouses" insert:
or former domestic partners
- (6) Section 71CB(3)—delete "de facto"
- (7) Section 71CB(4)—delete "de facto" wherever occurring

202—Amendment of section 71CBA—Exemption from duty in respect of domestic partnership agreements or property adjustment orders

- (1) Section 71CBA(1), definitions of *certificated cohabitation agreement* and *cohabitation agreement*—delete the definitions and substitute:
- certified domestic partnership agreement* has the same meaning as in the *Domestic Partners Property Act 1996*;
- domestic partner* has the same meaning as in the *Domestic Partners Property Act 1996*;
- domestic relationship* means the relationship between domestic partners;
- (2) Section 71CBA(1), definition of *property adjustment order*—delete "*De Facto Relationships Act 1996*" and substitute:
Domestic Partners Property Act 1996
- (3) Section 71CBA(2)(a)—delete "certificated cohabitation agreement" and substitute:
certified domestic partnership agreement
- (4) Section 71CBA(2)(b)(i)—delete "certificated cohabitation agreement" and substitute:
certified domestic partnership agreement
- (5) Section 71CBA(2)(b)(iii)(A)—delete "de facto" and substitute:
domestic
- (6) Section 71CBA(2)(b)(iii)(B)—delete subparagraph (B) and substitute:
- (B) that the domestic partners lived together continuously as domestic partners for at least 3 years; and

- (7) Section 71CBA(2)(b)(iv)—delete "de facto" wherever occurring and substitute in each case:

domestic

- (8) Section 71CBA(2)(b)(v)—delete "de facto" and substitute:

domestic

- (9) Section 71CBA(2)(c)(i)—delete "certificated cohabitation agreement" and substitute:

certified domestic partnership agreement

- (10) Section 71CBA(3)—delete "de facto" wherever occurring and substitute in each case:

domestic

- (11) Section 71CBA(5)(a)—delete "certificated cohabitation agreement" and substitute:

certified domestic partnership agreement

203—Amendment of section 71CC—Interfamilial transfer of farming property

- (1) Section 71CC(1)(b)(ii)—after "spouse" insert:

or domestic partner

- (2) Section 71CC(5), definition of *relative*—after "spouse" wherever occurring insert in each case:

or domestic partner

204—Amendment of section 91—Interpretation

- (1) Section 91(1)—after the definition of *associate* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 91(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (3) Section 91(4)(a)—delete "relationship of de facto marriage" and substitute:

close personal relationship

205—Transitional provision

An amendment made by this Act to the *Stamp Duties Act 1923* applies only in relation to instruments executed after the commencement of the amendment.

Part 83—Amendment of *Superannuation Act 1988*

206—Amendment of section 4—Interpretation

Section 4(1), definition of *putative spouse*—delete the definition and substitute:

putative spouse—see section 4A;

207—Amendment of section 4A—Putative spouses

Section 4A(1)—delete subsection (1) and substitute:

- (1) For the purposes of this Act, a person is, on a certain date, the *putative spouse* of another person if—
 - (a) he or she is, on that date, cohabiting with the other person as his or her wife or husband de facto and—
 - (i) the person—
 - (A) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (B) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years; or
 - (ii) a child, of whom both persons are the parents, has been born (whether or not the child is still living); or
 - (b) where the 2 persons are of the same sex—he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person—
 - (i) has been so cohabiting with the other person continuously for the preceding period of 3 years; or
 - (ii) has during the preceding period of 4 years so cohabited with the other person for periods aggregating not less than 3 years.

208—Amendment of section 38—Death of contributor

- (1) Section 38(1)(a)—delete "a person referred to in subsection (1a)" and substitute:
if the contributor is survived by a spouse—the spouse
- (2) Section 38(1a)—delete subsection (1a)

209—Transitional provision

An amendment made by a provision of this Act to a provision of the *Superannuation Act 1988* that relates to the payment of a pension, lump sum or other benefit to a person on the death of a contributor applies only if the death occurs after the commencement of the amendment.

Part 84—Amendment of *Superannuation Funds Management Corporation of South Australia Act 1995*

210—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *director* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3(1), definition of *relative*, (a)—delete "or a parent" and substitute:

, domestic partner, a parent
- (3) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;
- (4) Section 3(2)—after "spouse" wherever occurring insert in each case:

or domestic partner

Part 85—Amendment of *Supported Residential Facilities Act 1992*

211—Amendment of section 3—Interpretation

- (1) Section 3—after the definition of *District Court* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 3, definition of *immediate family*, (a)—delete paragraph (a) and substitute:

(a) a spouse or domestic partner;
- (3) Section 3—after the definition of *residential-only premises* insert:

spouse—a person is the spouse of another if they are legally married;

Part 86—Amendment of *Supreme Court Act 1935*

212—Amendment of section 13H—Pre-retirement leave

- (1) Section 13H(4c)—after the definition of *dependants* insert:

domestic partner, in relation to a deceased judge or master, means a person declared under the *Family Relationships Act 1975* to have been the domestic partner of that judge or master (as the case may be) as at the date of his or her death;
- (2) Section 13H(4c), definition of *members of the family*—delete "wife or husband," and substitute:

spouse, domestic partner,
- (3) Section 13H(4c)—after the definition of *members of the family* insert:

spouse—a person is the spouse of another if they are legally married.

Part 87—Amendment of *Transplantation and Anatomy Act 1983*

213—Amendment of section 5—Interpretation

- (1) Section 5(1)—after the definition of *designated officer* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (2) Section 5(1), definition of *senior available next of kin*, (b)(i)—after "spouse" insert:

or domestic partner
- (3) Section 5(1)—after the definition of *senior available next of kin* insert:

spouse—a person is the spouse of another if they are legally married;

Part 88—Amendment of *University of Adelaide Act 1971*

214—Amendment of section 17—Duty of Council members with respect to conflict of interest

- (1) Section 17(8)—delete "the member's spouse, or a relative of the member," and substitute:

a relative of the member
- (2) Section 17(10)—delete subsection (10) and substitute:
 - (10) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

relative of a member means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member;

spouse—a person is the spouse of another if they are legally married.

Part 89—Amendment of *University of South Australia Act 1990*

215—Amendment of section 15C—Duty of Council members with respect to conflict of interest

- (1) Section 15C(8)—delete "the member's spouse, or a relative of the member," and substitute:

a relative of the member

- (2) Section 15C(10)—delete subsection (10) and substitute:

(10) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

relative of a member means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member;

spouse—a person is the spouse of another if they are legally married.

Part 90—Amendment of *Upper South East Dryland Salinity and Flood Management Act 2002*

216—Amendment of section 3—Interpretation

- (1) Section 3(1)—after the definition of *Crown land* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

- (3) Section 3(2)(b)—after "spouse," insert:

domestic partner,

Part 91—Amendment of *Veterinary Practice Act 2003*

217—Amendment of section 46—Interpretation

- (1) Section 46(1)—after the definition of *benefit* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 46(1), definition of *prescribed relative*—after "spouse," insert:
domestic partner,
- (3) Section 46(1), definitions of *putative spouse* and *spouse*—delete the definitions and substitute:
spouse—a person is the spouse of another if they are legally married;

Part 92—Amendment of *Victims of Crime Act 2001*

218—Amendment of section 4—Interpretation

- (1) Section 4, definition of *dependants*—after "spouse," insert:
domestic partner,
- (2) Section 4—after the definition of *dependants* insert:
domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;
- (3) Section 4, definition of *immediate family*, (a)—after "spouse" insert:
or domestic partner
- (4) Section 4, definition of *spouse*—delete the definition and substitute:
spouse—a person is the spouse of another if they are legally married;

219—Amendment of section 17—Eligibility to make claim

Section 17(2)(a)—after "spouse" insert:
or domestic partner

220—Amendment of section 20—Orders for compensation

- (1) Section 20(1)(c)—after "spouse" insert:
or domestic partner
- (2) Section 20(3)(b)(i)—delete "putative spouse" and substitute:
domestic partner

221—Amendment of section 23—Joint offences

- (1) Section 23(1)—after "spouse" insert:
, domestic partner
- (2) Section 23(2)—after "spouse" insert:
, domestic partner

222—Amendment of Schedule 1—Repeal and transitional provisions

Schedule 1—after clause 2 insert:

3—Operation of certain amendments

An amendment made by a provision of the *Statutes Amendment (Domestic Partners) Act 2006* to this Act applies only in relation to a claim for statutory compensation for an injury caused by an offence committed after the commencement of the amendment.

Part 93—Amendment of *Wills Act 1936*

223—Insertion of section 7A

Before section 8 insert:

7A—Interpretation

In this Division—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

spouse—a person is the spouse of another if they are legally married.

224—Amendment of section 17—Gifts to an attesting witness

Section 17—after "spouse" insert:

or domestic partner

225—Amendment of section 18—Creditor attesting to be admitted a witness

Section 18—delete "wife or husband" and substitute:

spouse or domestic partner

Part 94—Amendment of *Workers Rehabilitation and Compensation Act 1986*

226—Amendment of section 3—Interpretation

(1) Section 3(1)—after the definition of *child* insert:

close personal 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 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;

Note—

Two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.

- (2) Section 3(1)—after the definition of *disease* insert:

domestic partner—a person is the domestic partner of a worker if he or she lives with the worker in a close personal relationship and—

(a) the person—

- (i) has been so living with the worker continuously for the preceding period of 3 years; or
- (ii) has during the preceding period of 4 years so lived with the worker for periods aggregating not less than 3 years; or
- (iii) has been living with the worker for a substantial part of a period referred to in subparagraph (i) or (ii) and the Corporation considers that it is fair and reasonable that the person be regarded as the domestic partner of the worker for the purposes of this Act; or

(b) a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living);

- (3) Section 3(1), definition of *relative*—after "spouse," insert:

domestic partner,

- (4) Section 3(1), definition of *spouse*—delete the definition and substitute:

spouse—a person is the spouse of another if they are legally married;

227—Amendment of section 44—Compensation payable on death

- (1) Section 44 (1)(b)—after "spouse" wherever occurring insert in each case:

or domestic partner

- (2) Section 44(1)(e)—after "spouse" insert:

, domestic partner

- (3) Section 44(3)—after "spouse" wherever occurring insert in each case:

or domestic partner

- (4) Section 44(4)—after "spouse" wherever occurring insert in each case:

or domestic partner

- (5) Section 44(5)—after "spouse" wherever occurring insert in each case:

or domestic partner

- (6) Section 44(6)—after "spouse" wherever occurring insert in each case:

, domestic partner

- (7) Section 44(11)—after "spouse" insert:

or domestic partner

228—Amendment of Schedule 1—Transitional provisions

Schedule 1—after clause 5C insert:

5D—Compensation payable to domestic partner on death of worker

An amendment made by a provision of the *Statutes Amendment (Domestic Partners) Act 2006* to a provision of this Act that provides for, or relates to, the payment of a lump sum or weekly payments to a person on the death of a worker, applies only if the death occurs after the commencement of the amendment.