

Queensland



DISCRIMINATION LAW AMENDMENT ACT 2002

Act No. 74 of 2002

Queensland



DISCRIMINATION LAW AMENDMENT ACT 2002

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Queensland



Discrimination Law Amendment Act 2002

Act No. 74 of 2002

An Act to amend the *Anti-Discrimination Act 1991*, and for other purposes

[Assented to 13 December 2002]

Parliament's reasons for enacting this Act are—

1. To acknowledge the changing nature of social and family relationships in contemporary society.

2. To reflect the principles that—

- (a) respect for our neighbours and tolerating people's differences contribute to a better quality of life for all Queenslanders; and
- (b) Queensland's laws should protect and support its cultural and social diversity.

3. To recognise the importance of enduring and committed relationships of traditional marriage, while acknowledging that the rights and responsibilities inherent in other forms of respectful loving relationships should also be upheld.

4. To engender fairness and respect in relationships which are the foundation of the family unit and assert the importance of the stability of family life to the community.

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

1 Short title

This Act may be cited as the *Discrimination Law Amendment Act 2002*.

2 Commencement

This Act commences on a day to be fixed by proclamation.

PART 2—AMENDMENT OF ACTS INTERPRETATION ACT 1954

3 Act amended in pt 2

This part amends the *Acts Interpretation Act 1954*.

4 Insertion of new s 32DA

After section 32D—

insert—

‘32DA Meaning of “de facto partner”

‘(1) In an Act, a reference to a “**de facto partner**” is a reference to either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family.

‘(2) In deciding whether 2 persons are living together as a couple on a genuine domestic basis, any of their circumstances may be taken into account, including, for example, any of the following circumstances—

- (a) the nature and extent of their common residence;
- (b) the length of their relationship;

- (c) whether or not a sexual relationship exists or existed;
- (d) the degree of financial dependence or interdependence, and any arrangement for financial support;
- (e) their ownership, use and acquisition of property;
- (f) the degree of mutual commitment to a shared life, including the care and support of each other;
- (g) the care and support of children;
- (h) the performance of household tasks;
- (i) the reputation and public aspects of their relationship.

‘(3) No particular finding in relation to any circumstance is to be regarded as necessary in deciding whether 2 persons are living together as a couple on a genuine domestic basis.

‘(4) Two persons are not to be regarded as living together as a couple on a genuine domestic basis only because they have a common residence.

‘(5) For subsection (1)—

- (a) the gender of the persons is not relevant; and
- (b) a person is related by family to another person if the person and the other person would be within a prohibited relationship within the meaning of the *Marriage Act 1961* (Cwlth), section 23B, if they were parties to a marriage to which that section applies.¹

‘(6) In an Act enacted before the commencement of this section, a reference to a spouse includes a reference to a de facto partner as defined in this section unless the Act expressly provides to the contrary.’.

5 Amendment of s 36 (Meaning of commonly used words and expressions)

Section 36—

insert—

‘**“de facto partner”** see section 32DA.

¹ *Marriage Act 1961* (Cwlth), section 23B (Grounds on which marriages are void)

“**de facto relationship**” means the relationship existing between 2 persons as a couple because each is the de facto partner of the other.

“**spouse**” includes de facto partner.’.

PART 3—AMENDMENT OF ADOPTION OF CHILDREN ACT 1964

6 Act amended in pt 3

This part amends the *Adoption of Children Act 1964*.

7 Amendment of s 6 (Definitions)

Section 6—

insert—

‘**“adoption entry”**, of an adopted person, means the particulars about the adopted person that are—

- (a) stated in a schedule to an adoption order for, or a schedule to a memorandum or copy of an adoption order for, the adopted person, and entered in the Adopted Children Register; or
- (b) if there is no schedule to an adoption order for, or no schedule to a memorandum or copy of an adoption order for, the adopted person—
 - (i) stated in the adoption order, memorandum or copy; and
 - (ii) entered in the Adopted Children Register; or
- (c) stated in the register kept by the registrar general titled ‘Record of Children whose Births have been registered in the State of Queensland and who have been transferred under Deed of Adoption’.’.

8 Amendment of s 39C (Entitlement to certain records etc.)

(1) Section 39C(b)(i), ‘amended birth entry’—

omit, insert—

‘adoption entry’.

(2) Section 39C(b)—

insert—

‘(iii) if the adopted person’s adoption has been reregistered under the *Registration of Births, Deaths and Marriages Act 1962* and 1 or more changes of the person’s name have been entered in the Adopted Children Register after the reregistration—a certified copy of the reregistered adoption entry.’.

(3) Section 39C—

insert—

‘(2) Subsection (1)(b)(i) applies even if the adoption entry is closed under the *Registration of Births, Deaths and Marriages Act 1962*, section 29B(2)(b)(i) or (4)(b) or 29C(6)(a), and access to it is restricted under section 55A of this Act.²’.

9 Insertion of new s 47A

After section 47—

insert—

‘47A Use of certified copy or extract

‘(1) This section applies if the adoption of a person (the “**reregistered person**”) has been reregistered under the *Registration of Births, Deaths and Marriages Act 1962*, section 29B(4).³

‘(2) A person, whether or not the reregistered person, who is aware of the reregistration must not produce to another person, for a purpose (the “**relevant purpose**”) of a law of another State or of the Commonwealth, a certified copy or extract obtained under this Act that shows the reregistered person’s sex as recorded in the Adopted Children Register after the reregistration unless—

2 Section 55A (Certified copy or extract)

3 *Registration of Births, Deaths and Marriages Act 1962*, section 29B (Changing particulars in register of births or adopted children register)

- (a) the laws of the other State or of the Commonwealth expressly allow the certified copy or extract to be produced for the relevant purpose; or
- (b) the person, when producing the certified copy or extract, informs the person to whom it is produced that a change of the reregistered person's sex has been entered in the Adopted Children Register.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘(3) The reregistered person must not, with intent to deceive, produce to another person a certified copy or extract obtained under this Act, or another document, however obtained, showing the reregistered person's sex as recorded in the Adopted Children Register before the reregistration.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘(4) In this section—

“certified copy or extract”, obtained under this Act, includes a copy of the certified copy or extract.’.

10 Insertion of new s 55A

After section 55—

insert—

‘55A Certified copy or extract

‘(1) After the reregistration of the adoption of a person (the “**relevant person**”) under the *Registration of Births, Deaths and Marriages Act 1962*, section 29B(4), a certified copy or extract obtained under this Act from the registrar general—

- (a) must show the relevant person's sex in accordance with the reregistration; and
- (b) must not include a statement or other clear indication to the effect that a change of the relevant person's sex has been entered in the Adopted Children Register.

‘(2) However, any of the following persons may, on payment of the appropriate fee prescribed under the *Registration of Births, Deaths and Marriages Act 1962*, apply to the registrar general for a certified copy from the adoption entry of the relevant person that was closed on the reregistration—

- (a) the relevant person;
- (b) a child of the relevant person;
- (c) a parent of the relevant person, if the relevant person is a child;
- (d) a person prescribed under a regulation.’.

PART 4—AMENDMENT OF ANTI-DISCRIMINATION ACT 1991

11 Act amended in pt 4

This part amends the *Anti-Discrimination Act 1991*.

12 Amendment of s 4 (Definitions)

(1) Section 4—

insert—

‘ **“de facto partner”** see section 4B.

“family responsibilities”, of a person, means the person’s responsibilities to care for or support—

- (a) a dependant child of the person; or
- (b) any other member of the person’s immediate family who is in need of care or support.

“gender identity”, in relation to a person, means that the person—

- (a) identifies, or has identified, as a member of the opposite sex by living or seeking to live as a member of that sex; or
- (b) is of indeterminate sex and seeks to live as a member of a particular sex.

“immediate family” see section 4C.

“lawful sexual activity” means a person’s status as a lawfully employed sex worker, whether or not self-employed.

“religious activity” means engaging in, not engaging in or refusing to engage in a lawful religious activity.

“**religious belief**” means holding or not holding a religious belief.

“**sexuality**” means heterosexuality, homosexuality or bisexuality.’.

(2) Section 4, ‘In this Act—’—

omit, insert—

‘The dictionary in the schedule defines particular words used in this Act.’.

(3) Section 4, definitions, as amended—

relocate to the schedule, as inserted by this part.

13 Insertion of new ss 4B–4C

After section 4A—

insert—

‘4B Meaning of “de facto partner”

‘(1) In this Act, a reference to a “**de facto partner**” is a reference to either 1 of 2 persons who are living together as a couple on a genuine domestic basis but who are not married to each other or related by family.

‘(2) In deciding whether 2 persons are living together as a couple on a genuine domestic basis, any of their circumstances may be taken into account, including, for example, any of the following circumstances—

- (a) the nature and extent of their common residence;
- (b) the length of their relationship;
- (c) whether or not a sexual relationship exists or existed;
- (d) the degree of financial dependence or interdependence, and any arrangement for financial support;
- (e) their ownership, use and acquisition of property;
- (f) the degree of mutual commitment to a shared life, including the care and support of each other;
- (g) the care and support of children;
- (h) the performance of household tasks;
- (i) the reputation and public aspects of their relationship.

‘(3) No particular finding in relation to any circumstance is to be regarded as necessary in deciding whether 2 persons are living together as a couple on a genuine domestic basis.

‘(4) Two persons are not to be regarded as living together as a couple on a genuine domestic basis only because they have a common residence.

‘(5) For subsection (1)—

- (a) the gender of the persons is not relevant; and
- (b) a person is related by family to another person if the person and the other person would be within a prohibited relationship within the meaning of the *Marriage Act 1961* (Cwlth), section 23B, if they were parties to a marriage to which that section applies.⁴

‘4C Meaning of “immediate family”

‘(1) For this Act, the following persons are members of the “**immediate family**” of a person—

- (a) the person’s spouse;
- (b) a child of the person or the person’s spouse, including an exnuptial child, stepchild, adopted child, or past or present foster child of the person or the person’s spouse;
- (c) a parent, grandparent, grandchild or sibling of the person or the person’s spouse.

‘(2) In this section—

“**spouse**”, of a person, includes—

- (a) a former spouse of the person; and
- (a) a de facto partner of the person.’.

14 Amendment of s 7 (Discrimination on the basis of certain attributes prohibited)

(1) Section 7(1)(i)—

omit, insert—

- ‘(i) religious belief or religious activity;’.

4 *Marriage Act 1961* (Cwlth), section 23B (Grounds on which marriages are void)

(2) Section 7(1)(m)—
renumber as section 7(p).

(3) Section 7(1)—

insert—

- ‘(m) gender identity;
- (n) sexuality;
- (o) family responsibilities;’.

(4) Section 7(2)—

omit.

15 Amendment of s 25 (Genuine occupational requirements)

(1) Section 25, after example 3—

insert—

‘Example 4—

Employing persons of a particular religion to teach in a school established for students of the particular religion.

‘(2) Subsection (3) applies in relation to—

- (a) work for an educational institution (an “**employer**”) under the direction or control of a body established for religious purposes; or
- (b) any other work for a body established for religious purposes (also an “**employer**”) if the work genuinely and necessarily involves adhering to and communicating the body’s religious beliefs.

‘(3) It is not unlawful for an employer to discriminate with respect to a matter that is otherwise prohibited under section 14 or 15, in a way that is not unreasonable, against a person if—

- (a) the person openly acts in a way that the person knows or ought reasonably to know is contrary to the employer’s religious beliefs—
 - (i) during a selection process; or
 - (ii) in the course of the person’s work; or
 - (iii) in doing something connected with the person’s work; and

Example for paragraph (a)—

A staff member openly acts in a way contrary to a requirement imposed by the staff member's employer in his or her contract of employment, that the staff member abstain from acting in a way openly contrary to the employer's religious beliefs in the course of, or in connection with the staff member's employment.

- (b) it is a genuine occupational requirement of the employer that the person, in the course of, or in connection with, the person's work, act in a way consistent with the employer's religious beliefs.

'(4) Subsection (3) does not authorise the seeking of information contrary to section 124.⁵

'(5) For subsection (3), whether the discrimination is not unreasonable depends on all the circumstances of the case, including, for example, the following—

- (a) whether the action taken or proposed to be taken by the employer is harsh or unjust or disproportionate to the person's actions;
- (b) the consequences for both the person and the employer should the discrimination happen or not happen.

'(6) Subsection (3) does not apply to discrimination on the basis of age, race or impairment.

'(7) To remove any doubt, it is declared that subsection (3) does not affect a provision of an agreement with respect to work to which subsection (3) applies, under which the employer agrees not to discriminate in a particular way.

'(8) In this section—

“religion” includes religious affiliation, beliefs and activities.

“selection process” means a process the purpose of which is to consider whether to offer a person work.'

16 Amendment of s 28 (Work with children)

(1) Section 28, after 'lawful sexual activity'—

insert—

'or gender identity'.

⁵ Section 124 (Unnecessary information)

(2) Section 28—

insert—

‘(2) It is not unlawful to discriminate against a person with respect to a matter that is otherwise prohibited under subdivision 1 if—

- (a) the work involves the care or instruction of minors; and
- (b) whether before or after the commencement of this subsection, the person has been—
 - (i) convicted in Queensland or elsewhere of an offence of a sexual nature involving a child; or
 - (ii) disqualified from working with children under an Act of a State or of the Commonwealth.’

17 Omission of s 29 (Educational or health-related institution with religious purposes)

Section 29—

omit.

18 Omission of s 42 (Non-State school authority)

Section 42—

omit.

19 Insertion of new s 45A

After section 45—

insert—

‘45A Non-application of s 46 to provision of assisted reproductive technology services

‘(1) Section 46 does not apply to the provision of assisted reproductive technology services if the discrimination is on the basis of marital status or sexuality.

‘(2) In this section—

“assisted reproductive technology services” means—

- (a) services provided in the course of, or for the purpose of, any of the following—
 - (i) in-vitro fertilisation;
 - (ii) artificial insemination;
 - (iii) gamete, zygote or embryo transfer; or
- (b) any other services provided for the purpose of assisting in artificial fertilisation.’.

20 Amendment of s 109 (Religious bodies)

(1) Section 109(d), ‘section 29 (Educational or health-related institution with religious purposes) or’—

omit.

(2) Section 109—

insert—

‘(2) An exemption under subsection (1)(d) does not apply in the work or work related area or in the education area.’.

21 Amendment of s 111 (Sport)

(1) Section 111(3)—

renumber as section 111(4).

(2) Section 111—

insert—

‘(3) Subsection (1) does not stop participation in a competitive sporting activity being restricted on the basis of gender identity, if the restriction is reasonable having regard to the strength, stamina or physique requirements of the activity.’.

22 Amendment of s 124A (Racial or religious vilification unlawful)

(1) Section 124A, heading—

omit, insert—

‘124A Vilification on grounds of race, religion, sexuality or gender identity unlawful’.

(2) Section 124A(1), ‘race or religion’—

omit, insert—

‘race, religion, sexuality or gender identity’.

23 Amendment of s 130 (Meaning of victimisation)

Section 130(1)(a)(ii), ‘, for the purposes of a proceeding under the Act,’—

omit.

24 Amendment of s 131A (Offence of serious racial or religious vilification)

(1) Section 131A, heading, ‘**racial or religious**’—

omit, insert—

‘racial, religious, sexuality or gender identity’.

(2) Section 131A(1), ‘race or religion’—

omit, insert—

‘race, religion, sexuality or gender identity’.

25 Amendment of s 134 (Who may complain)

Section 134—

insert—

‘(3) A relevant entity may complain to the commissioner about a relevant alleged contravention.

‘(4) However, the commissioner may accept the relevant entity’s complaint under section 141⁶ only if the commissioner is satisfied that—

(a) the complaint is made in good faith; and

6 Section 141 (Time limit on acceptance or rejection of complaints)

- (b) the relevant alleged contravention is about conduct that has affected or is likely to affect relevant persons for the relevant entity; and
- (c) it is in the interests of justice to accept the complaint.

‘(5) In this section—

“**relevant alleged contravention**” means an alleged contravention of section 124A.⁷

“**relevant entity**” means a body corporate or an unincorporated body, a primary purpose of which is the promotion of the interests or welfare of persons of a particular race, religion, sexuality or gender identity.

“**relevant persons**”, for a relevant entity, means persons the promotion of whose interests or welfare is a primary purpose of the relevant entity.’.

26 Amendment of s 136 (Making a complaint)

(1) Section 136(c)—

renumber as section 136(d).

(2) Section 136—

insert—

‘(c) state the complainant’s address for service; and’.

27 Amendment of s 143 (Respondent is to be notified of accepted complaint)

Section 143—

insert—

‘(2) The notice to the respondent must also state the following—

- (a) the complainant’s address for service;
- (b) that the respondent must advise the commissioner of the respondent’s address for service;
- (c) that the respondent may give a written response to the allegations included in the complaint;

⁷ Section 124A (Vilification on grounds of race, religion, sexuality or gender identity unlawful)

- (d) that within 28 days after the respondent receives the notice, the respondent must, if giving a written response—
 - (i) give the written response to the commissioner; and
 - (ii) give a copy of the written response to the complainant;
- (e) that the respondent must include, with the written response given to the commissioner, advice as to whether it has been given to the complainant;
- (f) that the respondent may ask the commissioner for an early conciliation conference whether or not the respondent gives a written response;
- (g) that if the respondent does not, within the 28 days mentioned in paragraph (d), give the commissioner a written response or ask the commission to arrange for an early conciliation conference, a conciliation conference will be held on a date stated in the notice.

‘(3) If the respondent does not, within the 28 days mentioned in subsection (2)(d), give the commissioner a written response or ask the commission to arrange for an early conciliation conference, the notice has effect as a direction under section 159(1)⁸ to the respondent to take part in a conciliation conference on the date stated in the notice under subsection (2)(g).

‘(4) The giving of the notice to the respondent does not stop the commissioner from exercising, at any time, the commissioner’s power under section 159(1) to direct the complainant and the respondent to take part in a conciliation conference—

- (a) whether or not the 28 days mentioned in subsection (2)(d) has expired; and
- (b) whether or not the commissioner has received any communication from the respondent.

‘(5) The stated date for subsection (2)(g) must be not more than 14 days after the 28 days mentioned in subsection (2)(d).’.

28 Amendment of s 153 (Dismissed worker lodges complaint first)

Section 153(b), after ‘complaint’—

8 Section 159 (Attendance at conciliation conference)

insert—

‘and being notified under section 141 that the complaint has been accepted’.

29 Insertion of new s 154A

Chapter 7, part 1, division 2—

insert—

‘154A Investigation of complaint

‘The commissioner may investigate a complaint accepted under section 141.⁹’.

30 Amendment of s 155 (Investigation of complaints)

(1) Section 155, heading—

omit, insert—

‘155 Requirement to initiate investigation’.

(2) Section 155(1)(c)—

omit.

(3) Section 155(4)—

omit.

(4) Section 155(5) and (6)—

renumber as section 155(4) and (5).

(5) Section 155(4), as renumbered, ‘If the matter’—

omit, insert—

‘If a matter’.

(6) Section 155(5), as renumbered, ‘subsection (5)’—

omit, insert—

‘subsection (4)’.

(7) Section 155—

9 Section 141 (Time limit on acceptance or rejection of complaints)

insert—

‘(6) This section does not apply to complaints accepted under section 141.’.

31 Insertion of new s 164A

Chapter 7, part 1, division 4—

insert—

‘164A Right of complainant to seek referral to tribunal after conciliation conference

‘(1) This section applies if—

- (a) a conciliation conference has been held under division 3 in relation to a complaint; and
- (b) the complaint has not been resolved by conciliation.

‘(2) The complainant may give the commissioner a written notice requiring the commissioner to refer the complaint to the tribunal.

‘(3) The commissioner must promptly—

- (a) refer the complaint to the tribunal; and
- (b) give the respondent a copy of the complaint.

‘(4) However the commissioner is not required to act under subsection (3) if the commissioner decides to act under section 168¹⁰ in relation to the complaint.

‘(5) If the complainant acts under subsection (2), sections 165 to 167 stop applying in relation to the complaint.’.

32 Amendment of s 188 (Tribunal to refer complaint for conciliation)

Section 188(b), after ‘commissioner’—

insert—

‘or the registrar’.

¹⁰ Section 168 (Frivolous etc. complaint lapses)

33 Amendment of s 201 (Tribunal's powers relating to attendance at hearing and evidence)

Section 201—

insert—

‘(6) The reference to any person in subsection (1) includes a reference to any person the tribunal considers should attend the hearing, whether or not a party to the hearing requires the person as a witness.’.

34 Amendment of s 208 (Evaluation of evidence)

(1) Section 208(1)(c) to (i)—

renumber as section 208(e) to (k).

(2) Section 208(1)(a) and (b)—

omit, insert—

- ‘(a) must have regard to the reasons for the enactment of this Act as stated in the preamble; and
- (b) may inform itself on any matter as it considers appropriate; and
- (c) must act according to equity, good conscience and the substantial merits of the case without regard to technicalities and legal forms; and
- (d) must conduct itself in a way that will enable costs or delay to be reduced and will help to achieve a prompt hearing of the matters at issue between the parties; and’.

35 Amendment of s 209 (Orders the tribunal may make if complaint is proven)

(1) Section 209(1)(d)—

renumber as section 209(1)(h).

(2) Section 209(1)—

insert—

- ‘(d) an order requiring the respondent to make a private apology or retraction;

- (e) an order requiring the respondent to make a public apology or retraction by publishing the apology or retraction in the way, and in the form, stated in the order;
 - (f) an order requiring the respondent to implement programs to eliminate unlawful discrimination;
 - (g) an order requiring a party to pay interest on an amount of compensation;’.
- (3) Section 209(2), ‘subsection (1)(a), (b) or (c)’—
omit, insert—
 ‘subsection (1)(a), (b), (c), (d), (e), (f) or (g)’.

36 Amendment of s 213 (Costs)

Section 213—

insert—

‘(2) However, costs must be assessed using the scale of costs for the District Court under the *Uniform Civil Procedure Rules 1999* unless the tribunal is satisfied that, because of the complexity of the matter, or because of another reason, costs should be assessed using a higher scale.

‘(3) In deciding whether to order a party to pay costs, the tribunal may have regard to—

- (a) the reasons for the enactment of this Act as stated in the preamble, and whether these reasons would be compromised or defeated in ordering the party to pay costs; and
- (b) the fairness of a costs order, having regard to the following—
 - (i) whether a party has conducted the proceeding in a way that unnecessarily disadvantaged another party to the proceeding, including, for example, by—
 - (A) failing to comply with an order or direction of the tribunal without reasonable excuse; or
 - (B) failing to comply with this Act; or
 - (C) asking for an adjournment as a result of subsubparagraph (A) or (B); or
 - (D) causing an adjournment; or

- (E) attempting to deceive another party or the tribunal; or
- (F) vexatiously conducting the proceeding;
- (ii) whether a party has been responsible for prolonging unreasonably the time taken to complete the proceeding;
- (iii) the relative strengths of the claims made by each of the parties;
- (iv) whether a party reasonably believed there had been a contravention of this Act;
- (v) the nature and complexity of the proceeding;
- (vi) any other matter the tribunal considers relevant.

‘(4) Subsection (3) does not limit subsection (1).

Example of operation of this section—

The tribunal may consider it not to be appropriate to order costs if the subject matter involves issues of particular complexity or if the decision may establish important precedents in the interpretation or application of this Act.’

37 Insertion of new ch 7, pt 2, div 3A

Chapter 7, part 2—

insert—

‘Division 3A—Offers to settle

‘213A Presumption of order for costs if offer to settle is rejected

‘(1) This section applies if—

- (a) a party to a proceeding before the tribunal gives another party an offer in writing to settle the proceeding; and
- (b) the other party does not accept the offer while the offer is open; and
- (c) the offer complies with any requirements of this division for an offer to settle; and
- (d) in the tribunal’s opinion, the orders made by the tribunal in the proceeding are not more favourable to the other party than the offer.

‘(2) If the tribunal considers it reasonable to do so, it may make an order in favour of the party who made the offer requiring the other party to pay all costs incurred by the offering party after the offer was made.

‘(3) In making an order under subsection (2), the tribunal may have regard to the matters mentioned in section 213(3).

‘(4) In deciding whether its orders are or are not more favourable to a party than an offer, the tribunal—

- (a) must take into account any costs it would have ordered on the date the offer was made; and
- (b) must disregard any interest or costs it orders for any period after the date the offer was received.

‘213B Offer to settle

‘(1) An offer to settle is taken to have been made without prejudice.

‘(2) The tribunal is not able to be told of the making of the offer to settle until after it has made its orders under section 209 or 210.¹¹

‘(3) A party may give more than 1 offer to settle.

‘(4) If an offer to settle provides for the payment of money, the offer must state when the money is to be paid.

‘213C Acceptance of offer to settle

‘(1) An offer to settle must be open for acceptance until immediately before the tribunal makes any order under section 209 or 210, or until the expiry of a stated period after the offer is made, whichever happens first.

‘(2) The stated period must be at least 14 days.

‘(3) Without the permission of the tribunal, an offer to settle can not be withdrawn, whether or not to make a new offer, while it is open for acceptance.

‘(4) For the decision of whether to give permission under subsection (3)—

11 Section 209 (Orders the tribunal may make if complaint is proven) or 210 (Tribunal may dismiss complaint)

- (a) the tribunal must be constituted by a member who is not the member constituting the tribunal for the proceeding generally; and
- (b) the tribunal may examine the offer to settle.

‘(5) A party can only accept an offer to settle by giving the party who made it a signed notice of acceptance.

‘(6) A party may accept an offer to settle even though it has made a counteroffer.

‘213D Consequences if accepted offer is not complied with

‘If an offer to settle is accepted, but the party who made the offer does not comply with its terms, the tribunal, on the application of the party who accepted the offer, may—

- (a) make an order giving effect to the terms of the offer; or
- (c) if the party who accepted the offer is the complainant—make orders it could have made under section 209 if the proceeding had been finished; or
- (b) if the party making the offer was the complainant—dismiss the complaint.’.

38 Insertion of new s 215A

Chapter 7, part 2, division 4—

insert—

‘215A Tribunal may dismiss frivolous and other complaints

‘(1) If, at any stage of a proceeding, the tribunal is satisfied that a complaint is frivolous, vexatious, misconceived or lacking in substance, or that for any other reason the complaint should not be further considered, it may dismiss the complaint.

‘(2) The tribunal may act under subsection (1) on its own initiative or on the application of a party to the proceeding.’.

39 Replacement of s 216 (Supreme Court opinions)

Section 216—

omit, insert—

‘216 Supreme Court opinion

‘(1) The tribunal may, at any stage of a proceeding, and on the terms it considers appropriate, state a written case for the opinion of the Supreme Court on a question of law relevant to the proceeding.

‘(2) The court may—

- (a) hear and decide the matter raised by the case stated; and
- (b) remit the case, with its opinion, to the tribunal.

‘(3) The tribunal must give effect to the court’s opinion.’.

40 Amendment of s 236 (Commissioner’s powers)

Section 236—

insert—

‘(3) If the commissioner, in exercising its powers, asks a person to give the commissioner a document or other material, the commissioner may include with the request a requirement that the giving of the document or other material be done within the time stated in the requirement.’.

41 Amendment of ch 10

Chapter 10, before section 264—

insert—

‘PART 1—SERVICE

‘263A Definitions for pt 1

‘In this part—

“**document**” includes a copy of a document.

“**give**” includes provide.

“**relevant party**”, for a complaint, means the complainant or respondent in relation to the complaint.

‘263B Operation of pt 1

‘This part, and not the *Acts Interpretation Act 1954*, section 39,¹² applies for the giving of documents under this Act to a relevant party for a complaint.

‘263C General requirement for address of service

‘The address for service of a relevant party for a complaint as advised to the commissioner or the tribunal must be a residential or business address or a post office box address.

‘263D Advice to tribunal of address for service

‘(1) An address for service of a relevant party for a complaint, as notified to the commissioner, may be used by both the commissioner and the tribunal as the relevant party’s address for service for the complaint.

‘(2) However, if a relevant party for a complaint has not given the commissioner the party’s address for service, the relevant party must advise the tribunal of the relevant party’s address for service if the complaint is referred to the tribunal.

‘263E Change of address for service

‘(1) A relevant party for a complaint may, at any time before the complaint is finally dealt with by the commissioner, give written notice to the commissioner of a change in the relevant party’s address for service.

‘(2) A relevant party for a complaint may, at any time before the complaint is finally dealt with by the tribunal, advise the tribunal of a change in the relevant party’s address for service.

‘(3) A relevant party for a complaint—

- (a) must give all other relevant parties for the complaint a copy of a written notice given under subsection (1) or (2); and
- (b) must give the commissioner a copy of a written notice given under subsection (2).

12 *Acts Interpretation Act 1954*, section 39 (Service of documents)

‘263F Use of address for service

‘(1) For a complaint, the address for service of a relevant party for the complaint is the relevant party’s address for service—

- (a) for the commissioner or the tribunal—as most recently notified to the commissioner or the tribunal; or
- (b) for another relevant party for the complaint—as most recently notified to the other relevant party.

‘(2) If a document is required or permitted to be given to a relevant party for a complaint, the document is taken to be given to the relevant party if 1 of the following applies—

- (a) the relevant party is an individual, and the document is handed to the relevant party personally;
- (b) the document is posted to the relevant party’s address for service;
- (c) the relevant party’s address for service is a residential address, and the document is left with someone apparently living at the address who is apparently at least 16 years;
- (d) the relevant party is a body corporate, its address for service is a business address, and the document is left at the address for service.

‘(3) Despite subsection (2)(c) and (d), if the relevant party’s address for service is a residential or business address and is a place in a building or area to which a person delivering a document is denied access, the document is taken to be given to the relevant party if it is left at the building or area in a position where it is reasonably likely to come to the attention of the relevant party.

‘(4) Subsection (2)(b) does not stop the relevant party from establishing that the relevant party was not given the document by proving that the document was not delivered to the address for service.

‘(5) If the document is given to a relevant party under subsection (2)(c) or (d) or (3), the giving of the document is taken to have been effected on the business day after the document is left in the way required.

‘263G Communication effected by giving of document

‘(1) This section applies if the commissioner or tribunal is required or permitted under this Act, in relation to a complaint, to communicate with a

relevant party for the complaint including, for example, by doing any of the following—

- (a) notifying the relevant party of something, whether or not in writing;
- (b) asking or telling the relevant party something, whether or not in writing;
- (c) giving the relevant party reasons for something, whether or not in writing;
- (d) giving the relevant party a direction, or otherwise ordering the relevant party to do something, whether or not in writing;
- (e) writing to the relevant party to tell the relevant party something.

‘(2) The commissioner or tribunal may effect the communication by—

- (a) putting the substance of the communication into a document; and
- (b) giving the document to the relevant party in a way provided for under this part for the giving of a document to a relevant party for a complaint.

Example—

Section 169(1)¹³ includes a requirement for the commissioner to tell a complainant in writing that a complaint will lapse unless the complainant indicates that the complainant wishes to continue with it. The commissioner may tell the complainant about the lapsing of the complaint by including the information in a document and posting the document to the complainant’s address for service.

‘263H No address for service advised

‘(1) This section applies if the address for service of a relevant party for a complaint is not known—

- (a) because of the relevant party’s failure to comply with a requirement for advising an address for service; or
- (b) because the relevant party is a respondent, and has not yet been notified under section 143.¹⁴

‘(2) The relevant party’s address for service is taken to be—

13 Section 169 (Complaint may lapse if complainant loses interest)

14 Section 143 (Respondent is to be notified of accepted complaint)

- (a) for an individual—the individual’s last known place of business or residence; or
- (b) for a body corporate—the body corporate’s head office or its principal or registered office.

‘(3) For subsection (1)(a), a relevant party’s failure to comply with a requirement for advising an address for service includes a respondent’s failure to advise the commissioner of the respondent’s address for service after receiving a notice under section 143.

‘263I Email or fax address

‘(1) A relevant party for a complaint may, as well as advising the relevant party’s address for service, also advise an email address or fax number for the relevant party.

‘(2) If a relevant party for a complaint, in advising an address for service, has also advised an email address or fax number and has stated a preference for the use of the email address or fax number for the service of documents, a document to be given to the relevant party in relation to the complaint may be, but is not required to be, given to the relevant party by using the email address or fax number.

‘PART 2—OTHER MATTERS’.

42 Insertion of new ch 11 and pt hdg

Before section 268—

insert—

‘CHAPTER 11—TRANSITIONAL PROVISIONS

‘PART 1—TRANSITIONAL PROVISION FOR ACT NO. 29 OF 1994’.

43 Insertion of new ch 11, pt 2 and sch heading

After section 268—

insert—

**‘PART 2—TRANSITIONAL PROVISIONS FOR
DISCRIMINATION LAW AMENDMENT ACT 2002**

**‘269 Application of amendments made by Discrimination Law
Amendment Act 2002**

‘(1) The following provisions of this Act, as inserted, or to the extent amended, by the *Discrimination Law Amendment Act 2002*, do not apply for the purposes of a complaint received by the commissioner before the commencement of this section—

- (a) section 136;
- (b) section 143(2) to (5);
- (c) section 153;
- (d) section 154A;
- (e) section 155;
- (f) section 164A.

‘(2) The following provisions of this Act, as inserted, or to the extent amended, by the *Discrimination Law Amendment Act 2002*, apply for the purposes of a complaint, whether the complaint was received by the commissioner before or after the commencement of this section—

- (a) section 188;
- (b) section 201;
- (c) section 208;
- (d) section 209;
- (e) section 213;
- (f) chapter 7, part 2, division 3A;
- (g) section 215A;
- (h) section 216;
- (i) section 236;
- (j) chapter 10, part 1.

‘270 Operation of service provisions for complaints received before commencement

‘(1) This section provides for the application of chapter 10, part 1 to a complaint received by the commissioner before the commencement of this section.

‘(2) Despite section 269(2), nothing in chapter 10, part 1 requires a relevant party for the complaint to advise the commissioner, the tribunal or another relevant party for the complaint of the relevant party’s address for service.

‘(3) However—

- (a) a relevant party for the complaint may at any time advise an address for service in the same way a relevant party for a complaint may advise a change of the relevant party’s address for service under section 263E;¹⁵ and
- (b) if a relevant party for the complaint has not advised an address for service, the relevant party’s address for service is taken to be the address mentioned for the party in section 263H(2).¹⁶

‘(4) In this section—

“**relevant party**”, for a complaint, means the complainant or respondent in relation to the complaint.

‘SCHEDULE**‘DICTIONARY**

section 4’.

15 Section 263E (Change of address for service)

16 Section 263H (No address for service advised)

PART 5—AMENDMENT OF GUARDIANSHIP AND ADMINISTRATION ACT 2000

44 Act amended in pt 5

This part amends the *Guardianship and Administration Act 2000*.

45 Insertion of new ch 12, pt 5

After section 262A—

insert—

‘PART 5—TRANSITIONAL PROVISION FOR DISCRIMINATION LAW AMENDMENT ACT 2002

‘262B Application of amendments made by Discrimination Law Amendment Act 2002

‘(1) This section applies for the reference to a community visitor’s spouse in section 231(7) if—

- (a) the community visitor was appointed before the commencement of the *Acts Interpretation Act 1954*, section 32DA¹⁷ (“**section 32DA**”); and
- (b) the spouse was, immediately before the commencement, a de facto partner of the person as defined under section 32DA.

‘(2) While the spouse continues to be a de facto partner of the person, section 231(7) does not apply for the spouse.

‘(3) However, subsection (2) applies only for the person’s term of holding office as a community visitor that was current at the commencement of section 32DA.’.

17 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

PART 6—AMENDMENT OF JUDGES (PENSIONS AND LONG LEAVE) ACT 1957

46 Act amended in pt 6

This part amends the *Judges (Pensions and Long Leave) Act 1957*.

47 Amendment of s 2 (Definitions)

Section 2—

insert—

‘**“live together as a couple”** means live together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA.¹⁸’.

48 Amendment of s 7 (Pension of spouse on death of judge)

Section 7—

insert—

‘(2) However—

- (a) if the spouse is a de facto partner, the spouse is entitled to a pension under subsection (1) only if the judge and the spouse had lived together as a couple—
 - (i) for a continuous period of at least 2 years ending on the death; or
 - (ii) for a shorter period ending on the death, if the circumstances of the de facto relationship of the judge and the spouse evidenced a clear intention that the relationship be a long term, committed relationship; and
- (b) if the judge died leaving more than 1 spouse—
 - (i) the pensions of all the spouses are limited to the pension (the **“total pension”**) that would have been payable had the judge died leaving only 1 spouse; and

18 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

- (ii) the total pension must be apportioned between the spouses in the way the Minister considers appropriate.

‘(3) Subsection (2)(a) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’

49 Amendment of s 8 (Pension of spouse on death of retired judge)

(1) Section 8, ‘whose marriage to the judge happened before the retirement’—

omit.

(2) Section 8—

insert—

‘(2) However—

- (a) if the spouse is a husband or wife, the spouse is entitled to a pension under subsection (1) only if his or her marriage to the retired judge happened before the judge’s retirement; and
- (b) if the spouse is a de facto partner, the spouse is entitled to a pension under subsection (1) only if—
 - (i) the spouse was a spouse of the retired judge both when the judge retired and when the judge died; and
 - (ii) the retired judge and the spouse had lived together as a couple—
 - (A) for a continuous period of at least 2 years ending on the death; or
 - (B) for a shorter period ending on the death, if the circumstances of the de facto relationship of the judge and the spouse evidenced a clear intention that the relationship be a long term, committed relationship; and
- (c) if the retired judge died leaving more than 1 spouse—
 - (i) the pensions of all the spouses are limited to the pension (the “**total pension**”) that would have been payable had the judge died leaving only 1 spouse; and
 - (ii) the total pension must be apportioned between the spouses in the way the Minister considers appropriate.

‘(3) Subsection (2)(b) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

50 Amendment of s 8A (Pension for children of deceased judge)

(1) Section 8A(1), definitions “eligible child” and “spouse”—

omit.

(2) Section 8A(1)—

insert—

‘“**eligible child**”, of a judge, means—

- (a) if the judge died before retirement—a person who is under 16 years or, if the person is receiving full-time education at a school, college or university, is under 25 years and who—
 - (i) is a child of the judge; or
 - (ii) when the judge died, was a child of a person who, on the death of the judge, became a person entitled to receive a pension under section 7; or
- (b) if the judge died after retirement—a person who is under 16 years or, if the person is receiving full-time education at a school, college or university, is under 25 years and who—
 - (i) is a child of the judge; or
 - (ii) when the judge retired, was a child of a person who, on the death of the judge, became a person entitled to receive a pension under section 8.’.

PART 7—AMENDMENT OF LAND TAX ACT 1915

51 Act amended in pt 7

This part amends the *Land Tax Act 1915*.

52 Amendment of s 3 (Definitions)

insert—

‘ “spouse” see section 3BA.’.

53 Insertion of new s 3BA

After section 3B—

insert—

‘3BA Meaning of “spouse”

‘(1) A person’s “spouse” is the person’s—

- (a) husband or wife; or
- (b) de facto partner.¹⁹

‘(2) However, for subsection (1)(b), a person is a de facto partner of another person only if they are living together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA, and, for at least 2 years, have so lived together as a couple.

‘(3) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

54 Amendment of s 11 (Taxable value)

Section 11(6F), ‘husband, wife’—

omit, insert—

‘spouse’.

55 Amendment of s 11B (Provisions relating to land comprised in a building units plan etc.)

Section 11B(3B), ‘husband, wife’—

omit, insert—

‘spouse’.

¹⁹ See the *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”).

56 Amendment of s 11BA (Provisions relating to scheme land for a community titles scheme)

Section 11BA(5), ‘husband, wife’—

omit, insert—

‘spouse’.

57 Amendment of s 11C (Deduction—home unit companies)

Section 11C(2A) and (2B), ‘husband, wife’—

omit, insert—

‘spouse’.

PART 8—AMENDMENT OF PROPERTY LAW ACT 1974**58 Act amended in pt 8**

This part amends the *Property Law Act 1974*.

59 Replacement of s 260 (Meaning of “de facto spouse”)

Section 260—

omit, insert—

‘260 Extended meaning of “de facto partner” for pt 19

‘(1) A reference to a “**de facto partner**” is a reference to either 1 of 2 persons who—

- (a) are, under the *Acts Interpretation Act 1954*, section 32DA (“**section 32DA**”),²⁰ de facto partners of each other; or
- (b) have been, or would have been had section 32DA been in force, de facto partners of each other, but who are no longer living together as a couple on a genuine domestic basis within the meaning of section 32DA.

²⁰ *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

‘(2) Subsection (1)(b) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

60 Amendment of s 323 (Effect of declaration)

(1) Section 323(2), after ‘de facto relationship’—
insert—

‘and to have been or not to have been de facto partners for this part and the *Acts Interpretation Act 1954*, section 32DA (“**section 32DA**”),²¹’.

(2) Section 323(3)—
omit, insert—

‘(3) The declaration—

- (a) only has effect for the persons, and for the date or during the period, stated in it; and
- (b) has effect for the purposes of another Act only to establish whether the persons were, on the stated date or during the stated period, de facto partners of each other, as defined in section 32DA.²².

PART 9—AMENDMENT OF PUBLIC TRUSTEE ACT 1978

61 Act amended in pt 9

This part amends the *Public Trustee Act 1978*.

62 Amendment of s 54 (Where residue may be paid to spouse)

Section 54—
insert—

21 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

22 See the example and note for section 316 (Purpose of div 5).

‘(3) For subsections (1) and (2), the spouse of the intestate includes a de facto partner of the intestate only if the intestate and the de facto partner had lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA²³ for a continuous period of at least 2 years ending on the intestate’s death.

‘(4) Subsection (3) applies despite the *Acts Interpretation Act 1954*, sections 32DA(6).’.

63 Amendment of s 88 (Disposal of property on death where value under \$50 000)

(1) Section 88(1)(d), ‘husband, wife’—

omit, insert—

‘spouse’.

(2) Section 88—

insert—

‘(4) For subsection (1)(d), the spouse of the incapacitated person includes a de facto partner of the person only if the person and the de facto partner had lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA²⁴ for a continuous period of at least 2 years ending on the person’s death.

‘(5) Subsection (4) applies despite the *Acts Interpretation Act 1954*, sections 32DA(6).’.

64 Amendment of s 94 (Powers of public trustee)

Section 94—

insert—

‘(5) The reference in subsection (1)(d) to the prisoner’s spouse includes a reference to—

- (a) if the prisoner was already imprisoned when this subsection commenced—a person who would have been, immediately before the prisoner was imprisoned, the prisoner’s de facto

23 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

24 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

partner had the *Acts Interpretation Act 1954*, section 32DA²⁵ been in force; or

- (b) otherwise—a person who was, immediately before the prisoner was imprisoned, the prisoner’s de facto partner.’.

65 Amendment of s 107 (Powers as administrator of unclaimed property)

Section 107—

insert—

‘(5) The reference in subsection (1)(c) to the spouse of the owner includes a reference to—

- (a) if the last known contact with the owner happened before this subsection commenced—a person who would have been, when the last known contact happened, the owner’s de facto partner had the *Acts Interpretation Act 1954*, section 32DA²⁶ been in force; or
- (b) otherwise—a person who was, immediately before the last known contact with the owner happened, the owner’s de facto partner.’.

66 Insertion of new pt 10, div 3

After section 148—

insert—

‘Division 3—Transitional provision for Discrimination Law Amendment Act 2002

‘149 Application of amendments made by Discrimination Law Amendment Act 2002

‘The amendments of this Act and the *Acts Interpretation Act 1954* made by the *Discrimination Law Amendment Act 2002* do not apply in relation to this Act for—

25 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

26 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

- (a) a will executed before the amendments commenced; or
- (b) the estate of a person who died before the amendments commenced.’.

PART 10—AMENDMENT OF REGISTRATION OF BIRTHS, DEATHS AND MARRIAGES ACT 1962

67 Act amended in pt 10

This part amends the *Registration of Births, Deaths and Marriages Act 1962*.

68 Amendment of s 5 (Interpretation)

Section 5(1)—

insert—

‘ **“adopted children register”** means the Adopted Children Register kept under the *Adoption of Children Act 1964*.

“recognition certificate” means a certificate issued under the law of another State that identifies the person who is the subject of the certificate as having undergone sexual reassignment surgery and as being the sex stated in the certificate.

“sexual reassignment surgery” means a surgical procedure involving the alteration of a person’s reproductive organs carried out—

- (a) to help the person to be considered to be a member of the opposite sex; or
- (b) to correct or eliminate ambiguities about the sex of the person.’.

69 Amendment of s 22 (Searches and copies)

Section 22—

insert—

‘(3E) After the reregistration of the birth of a person (the “**relevant person**”) under section 29B(4), a certificate or extract obtained from the registrar general under subsection (1)—

- (a) must show the relevant person’s sex in accordance with the reregistration; and
- (b) must not include a statement or other clear indication to the effect that a change of the relevant person’s sex has been entered in the register of births.

‘(3F) However, any of the following persons may, on payment of the prescribed fee, apply to the registrar general for a certificate from the entry for the relevant person that was closed on the reregistration—

- (a) the relevant person;
- (b) a child of the relevant person;
- (c) a parent of the relevant person, if the relevant person is a child;
- (d) a person prescribed under a regulation.’

70 Amendment of s 28 (Registration of name after registration of birth)

(1) Section 28, heading, after ‘**birth**’—

insert—

‘**or adoption**’.

(2) Section 28(2), ‘the register’—

omit, insert—

‘a register’.

(3) Section 28(2), after ‘birth registration’—

insert—

‘or registration entered in the adopted children register’.

(4) Section 28(3), ‘the register’—

omit, insert—

‘a register’.

(5) Section 28(3), after ‘under subsection (1)’—

insert—

‘unless the altered or additional entry is made in conjunction with the entering of a change of sex for the child under section 28D.²⁷’.

(6) Section 28(4)(b), after ‘register of births’—

insert—

‘or adopted children register’.

71 Amendment of s 28A (Entry of change of surname of child)

(1) Section 28A(1)(a), after ‘Act’—

insert—

‘or whose adoption has been registered under the *Adoption of Children Act 1964*’.

(2) Section 28A(1)(f), ‘kept under the *Adoption of Children Act 1964*’—

omit.

72 Insertion of new ss 28B–28D

After section 28A—

insert—

‘28B Application to record change of sex

‘(1) A person whose birth has been registered under this Act or whose adoption has been registered under the *Adoption of Children Act 1964* may apply to the registrar general—

- (a) to enter a change of the person’s sex in the register of births or adopted children register; and
- (b) to reregister the person’s birth or adoption.

‘(2) A person may make an application under subsection (1) only if the person—

- (a) is 18 years or more; and
- (b) has undergone sexual reassignment surgery; and
- (c) is not married.

27 Section 28D (Change of register and reregistration)

‘(3) The parents or guardian of a child whose birth has been registered under this Act or whose adoption has been registered under the *Adoption of Children Act 1964* may apply to the registrar general—

- (a) to enter a change of the child’s sex in the register of births or adopted children register; and
- (b) to reregister the child’s birth or adoption.

‘(4) A person may make an application under subsection (3) only if the child—

- (a) has undergone sexual reassignment surgery; and
- (b) is not married.

‘(5) An application under subsection (1) or (3) must be in the prescribed form.

‘(6) An application under subsection (3) may be made by 1 parent if—

- (a) the applicant is the sole parent named in the registration of the child’s birth or adoption; or
- (b) the other parent is dead; or
- (c) the registrar general is satisfied that—
 - (i) the other parent’s whereabouts are unknown; or
 - (ii) the other parent is unable to sign the application; or
 - (ii) there is another reason that justifies the making of the application by 1 parent.

‘(7) An application under this section must be for both entering the change of sex and the reregistration of the birth or adoption.

‘28C Requirements for application

‘(1) An application under section 28B must be accompanied by—

- (a) either—
 - (i) statutory declarations by 2 doctors verifying that the person the subject of the application has undergone sexual reassignment surgery; or
 - (ii) a recognition certificate for the person the subject of the application; and

(b) other documents and information prescribed under a regulation.

‘(2) In this section—

“**doctor**” includes a person registered as a medical practitioner under a law of another State or New Zealand corresponding to the *Medical Practitioners Registration Act 2001*.

‘28D Change of register and reregistration

‘(1) The registrar general must decide an application under section 28B by—

- (a) entering the change of sex in the register of births or adopted children register and reregistering the birth or adoption; or
- (b) refusing to enter the change of sex in the register of births or adopted children register and reregister the birth or adoption.

‘(2) However, before the registrar general decides whether to enter the change of sex in the register of births or adopted children register and reregister the birth or adoption, the applicant must give the registrar general any further information and documents the registrar general reasonably requires.

‘(3) The registrar general must refuse to enter the change of sex in the register of births or adopted children register and reregister the birth or adoption if the person the subject of the application is married.’

73 Amendment of s 29B (Changing particulars in register of births)

(1) Section 29B, heading, after ‘**births**’—

insert—

‘**or adopted children register**’.

(2) Section 29B(1)—

omit, insert—

‘(1) Subsection (2) applies if the registrar general proposes to enter—

- (a) in the register of births—
 - (i) a change of a child’s surname under section 27B(1), 27C(1), 27D(1)(c) or 28A(1)(e); or

- (ii) a change of a person's name by deed poll or other legal process under section 28(4); or
- (b) in the adopted children register—
 - (i) a change of a child's surname under section 28A(1)(f); or
 - (ii) a change of a person's name by deed poll or other legal process under section 28(4).'
- (3)** Section 29B(2)(b), after 'birth'—
insert—
 'or adoption'.
- (4)** Section 29B—
insert—
 '(3) Subsection (4) applies if the registrar general proposes—
 - (a) on an application under section 28B(1)—
 - (i) to enter a change of a person's sex in the register of births or adopted children register; and
 - (ii) to reregister the person's birth or adoption; or
 - (b) on an application under section 28B(3)—
 - (i) to enter a change of a child's sex in the register of births or adopted children register; and
 - (ii) to reregister the child's birth or adoption.
- (4)** The registrar general must—
 - (a) enter the change of sex by making a note in the margin, or in the place set aside for notes, in the relevant entry in the register of births or adopted children register; and
 - (b) close the relevant entry in the way the registrar general considers appropriate; and
 - (c) reregister the birth or adoption.'

74 Amendment of s 29C (Application for reregistration of birth)

- (1)** Section 29C, after 'birth'—
insert—

‘or adoption’.

(2) Section 29C(1)(a) and (2), after ‘register of births’—

insert—

‘or adopted children register’.

75 Amendment of s 29D (Notes about reregistration of births)

(1) Section 29D, heading, ‘births’—

omit, insert—

‘**birth or adoption**’.

(2) Section 29D(1), after ‘birth’—

insert—

‘or adoption’.

76 Amendment of s 29E (Commemorative birth certificates)

Section 29E(2), definition “**adopted children register**”—

omit.

77 Insertion of new ss 43A–43C

After section 43—

insert—

‘43A Use of certificate or extract

‘(1) This section applies if the birth of a person (the “**reregistered person**”) has been reregistered under section 29B(4).²⁸

‘(2) A person, whether or not the reregistered person, who is aware of the reregistration must not produce to another person, for a purpose (the “**relevant purpose**”) of a law of another State or of the Commonwealth, a certificate or extract obtained from the registrar general under section 22²⁹ that shows the reregistered person’s sex as recorded in the register of births after the reregistration unless—

28 Section 29B (Changing particulars in register of births or adopted children register)

29 Section 22 (Searches and copies)

- (a) the laws of the other State or of the Commonwealth expressly allow the certificate or extract to be produced for the relevant purpose; or
- (b) the person, when producing the certificate or extract, informs the person to whom it is produced that a change of the reregistered person's sex has been entered in the register of births.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘(3) The reregistered person must not, with intent to deceive, produce to another person a certificate or extract obtained from the registrar general under section 22, or another document, however obtained, showing the reregistered person's sex as recorded in the register of births before the reregistration.

Maximum penalty—100 penalty units or 2 years imprisonment.

‘(4) In this section—

“**certificate or extract**”, obtained under this Act, includes a copy of the certificate or extract.

‘43B Effect of reregistration

‘(1) A person whose birth or adoption has been reregistered under section 29B(4) is taken to be, for the purposes of, but subject to, the laws of Queensland, a person of the sex as recorded in the register of births or adopted children register after the reregistration.

‘(2) If, under the law of another State, a person's change of sex has been entered in a corresponding register, the person is taken to be, for the purposes of, but subject to, the laws of Queensland, a person of the sex as recorded in the corresponding register after the entry of the change.

‘(3) In this section—

“**corresponding register**” means a register kept under the law of another State that corresponds to the register of births or adopted children register.

‘43C Effect of recognition certificate

‘(1) A person who is the subject of a recognition certificate is taken to be, for the purposes of, but subject to, the laws of Queensland, a person of the sex as stated in the recognition certificate.

‘(2) Despite subsection (1), the requirements of sections 28B to 28D³⁰ must be complied with if a recognised person wishes to have the recognised person’s change of sex entered in the register of births or adopted children register and the person’s birth or adoption reregistered.

‘(3) In the section—

“**recognised person**” means a person—

- (a) who is the subject of a recognition certificate; and
- (b) whose birth has been registered under this Act, or whose adoption has been registered under the *Adoption of Children Act 1964*’.

PART 11—AMENDMENT OF SUCCESSION ACT 1981

78 Act amended in pt 11

This part amends the *Succession Act 1981*.

79 Insertion of new s 5AA

After section 5—

insert—

‘5AA Who is a person’s “spouse”

‘(1) Generally, a person’s “**spouse**” is the person’s—

- (a) husband or wife; or
- (b) de facto partner, as defined in the *Acts Interpretation Act 1954* (the “**AIA**”), section 32DA.³¹

‘(2) However, a person is a “**spouse**” of a deceased person only if, on the deceased’s death—

- (a) the person was the deceased’s husband or wife; or

30 Sections 28B (Application to record change of sex), 28C (Requirements for application) and 28D (Change of register and reregistration)

31 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

- (b) the following applied to the person—
- (i) the person was the deceased’s de facto partner, as defined in the AIA, section 32DA;
 - (ii) the person and the deceased had lived together as a couple on a genuine domestic basis within the meaning of the AIA, section 32DA for a continuous period of at least 2 years ending on the deceased’s death; or
- (c) for part 4,³² the person was—
- (i) a person mentioned in paragraph (a) or (b); or
 - (ii) the deceased’s dependant former husband or wife.

‘(3) Subsection (2) applies—

- (a) despite the AIA, section 32DA(6) and section 36, definition “spouse”; and
- (b) whether the deceased died testate or intestate.

‘(4) In this section—

“dependant former husband or wife”, of a deceased person, means a person who—

- (a) was divorced by or from the deceased at any time, whether before or after the commencement of this Act; and
- (b) had not remarried before the deceased’s death; and
- (c) was on the deceased’s death receiving, or entitled to receive, maintenance from the deceased.’.

80 Insertion of new pt 7, div 2

After section 73—

insert—

‘Division 2—Transitional provision for Discrimination Law Amendment Act 2002

‘74 Application of amendments made by Discrimination Law Amendment Act 2002

‘The amendments of this Act and the *Acts Interpretation Act 1954* made by the *Discrimination Law Amendment Act 2002* do not apply in relation to this Act for—

- (a) a will executed before the amendments commenced; or
- (b) the estate of a person who died before the amendments commenced.’

81 Amendment of sch 2 (Distribution of residual estate upon intestacy)

Schedule 2, part 1—

omit, insert—

‘PART 1—INTESTATE SURVIVED BY SPOUSE

Circumstance	Way in which the intestate’s residuary estate is to be distributed
<p>1. If the intestate is not survived by issue</p>	<p>1. If there is only 1 surviving spouse, the spouse is entitled to the whole of the residuary estate.</p> <p>2. If there is more than 1 surviving spouse, they are entitled to the whole of the residuary estate in accordance with section 36.¹</p>
<p>2. If the intestate is survived by issue</p>	<p>1. If there is only 1 surviving spouse, the spouse is entitled to—</p> <ul style="list-style-type: none"> (a) \$150 000 and the household chattels; and (b) the following part of the residuary estate then remaining—

- (i) if there is only 1 child of the intestate who survived, or who did not survive but left issue who survived, the intestate— $\frac{1}{2}$;
- (ii) otherwise— $\frac{1}{3}$.

2. If there is more than 1 surviving spouse, they are entitled, in accordance with section 36, to—

- (a) \$150 000 and the household chattels; and
- (b) the following part of the residuary estate then remaining—
 - (i) if there is only 1 child of the intestate who survived, or who did not survive but left issue who survived, the intestate— $\frac{1}{2}$;
 - (ii) otherwise— $\frac{1}{3}$.

3. The issue of the intestate are entitled to the balance of the residuary estate in accordance with section 36A.¹.

¹ For when there may be more than 1 surviving spouse, see section 5AA (Who is a person's "spouse").

PART 12—AMENDMENT OF SUPREME COURT ACT 1995

82 Act amended in pt 12

This part amends the *Supreme Court Act 1995*.

83 Amendment of s 18 (Actions how brought)

(1) Section 18(3)—

renumber as section 18(4).

(2) Section 18(2)—

omit, insert—

‘(2) For subsection (1), the spouse of a deceased person includes a de facto partner of the deceased only if the deceased and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—³³

(a) generally—

(i) for a continuous period of at least 2 years ending on the deceased’s death; or

(ii) for a shorter period ending on the deceased’s death, if the circumstances of the de facto relationship of the deceased and the de facto partner evidenced a clear intention that the relationship be a long term, committed relationship; or

(b) if the deceased left a dependant who is a child of the relationship—immediately before the deceased’s death.

‘(3) Subsection (2) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

(3) Section 18(4) as renumbered, ‘For subsection (2)’—

omit, insert—

‘In this section’.

(4) Section 18(4) as renumbered, definition “child of the relationship”, ‘other person’—

omit, insert—

‘de facto partner’.

84 Amendment of s 81 (Property in possession of any codefendant or husband or wife)

(1) Section 81, heading, ‘husband or wife’—

33 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

omit, insert—

‘spouse’.

(2) Section 81, ‘husband wife’—

omit, insert—

‘spouse’.

85 Insertion of new s 303

After section 302—

insert—

‘303 Transitional provision for Discrimination Law Amendment Act 2002

‘(1) This section applies in relation to a death of a person that happens in the period of 1 year after the commencement of this section.

‘(2) For applying section 18(1), the spouse of the deceased person includes a person who, although not legally married to the deceased person—

- (a) lived with the person as the person’s husband or wife for a continuous period of at least 1 year immediately before the commencement of this section; and
- (b) continued to live with the person as the person’s husband or wife until the deceased person died.’.

PART 13—AMENDMENT OF WORKCOVER QUEENSLAND ACT 1996

86 Act amended in pt 13

This part amends the *WorkCover Queensland Act 1996*.

87 Replacement of s 31 (Meaning of “spouse”)

Section 31—

omit, insert—

‘31 Who is the “spouse” of a deceased worker

‘(1) The **“spouse”**, of a deceased worker, includes the worker’s de facto partner only if the worker and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA—³⁴

(a) generally—

- (i) for a continuous period of at least 2 years ending on the worker’s death; or
- (ii) for a shorter period ending on the deceased’s death, if the circumstances of the de facto relationship of the deceased and the de facto partner evidenced a clear intention that the relationship be a long term, committed relationship; or

(b) if the deceased left a dependant who is a child of the relationship—immediately before the worker’s death.

‘(2) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).

‘(3) In this section—

“child of the relationship” means a child of the worker and the de facto partner, and includes a child born after the worker’s death.

“dependant” includes a child born after the worker’s death who would have been completely or partly dependent on the worker’s earnings after the child’s birth if the worker had not died.’.

88 Insertion of new ch 15

After section 590—

insert—

34 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

‘CHAPTER 15—TRANSITIONAL PROVISION FOR DISCRIMINATION LAW AMENDMENT ACT 2002

‘591 Spouse of worker dying within 1 year

‘(1) This section applies in relation to a death of a worker that happens in the period of 1 year after the commencement of this section.

‘(2) For this Act, the spouse of the deceased worker includes a person who, although not legally married to the deceased worker—

- (a) lived with the worker as the worker’s husband or wife for a continuous period of at least 1 year immediately before the commencement of this section; and
- (b) continued to live with the worker as the worker’s husband or wife until the worker died.’.

89 Amendment of sch 3 (Dictionary)

Schedule 3, definition “**spouse**”—

omit, insert—

‘“**spouse**”, of a deceased worker, see section 31.’.

PART 14—OTHER AMENDMENT OF ACTS

90 Amendments in schedule

The schedule amends the Acts mentioned in it.

SCHEDULE

AMENDMENTS

section 90

ABORIGINAL LAND ACT 1991

- 1 Sections 39(3)(a) and 76(3)(a), ‘spouse or former spouse’—**
omit, insert—
‘husband or wife, or former husband or wife.’

ADOPTION OF CHILDREN ACT 1964

- 1 Section 6—**
insert—
‘“spouse” see section 67A.’.
- 2 Part 6, after section 67—**
insert—
‘67A Meaning of “spouse”
‘(1) The *Acts Interpretation Act 1954*, section 32DA(6)³⁵ does not apply to a reference to a spouse in this Act.
‘(2) Also, the *Acts Interpretation Act 1954*, section 36, definition “spouse” does not apply for this Act.’.

35 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

SCHEDULE (continued)

**AGRICULTURAL CHEMICALS DISTRIBUTION
CONTROL ACT 1966**

- 1 Section 6, definition, “relative”, paragraph (a)—**
omit, insert—
‘(a) spouse;’.

AMBULANCE SERVICE ACT 1991

- 1 Section 49(2)(b), before ‘senior’—**
insert—
‘spouse or’.
- 2 Section 49(2)(c)(iv), ‘of the patient’—**
omit, insert—
‘, including a spouse, of the person’.

ANTI-DISCRIMINATION ACT 1991

- 1 Sections 4B and 4C—**
omit.
- 2 Section 7(b)—**
omit, insert—
‘(b) relationship status;’.

SCHEDULE (continued)

- 3 Section 31(1), ‘marital status’—**
omit, insert—
‘relationship status’.
- 4 Section 31(1)(f), after ‘married couple’—**
insert—
‘or by 2 persons each of whom is the de facto partner of the other’.
- 5 Section 31(2)—**
omit.
- 6 Section 45A(1), ‘marital status’—**
omit, insert—
‘relationship status’.
- 7 Section 59, ‘marital status’—**
omit, insert—
‘relationship status’.
- 8 Section 91, ‘marital status’—**
omit, insert—
‘relationship status’.
- 9 Schedule, definitions “de facto partner”, “de facto spouse”,
“immediate family” and “marital status”—**
omit.

SCHEDULE (continued)

10 Schedule—*insert—*‘**“immediate family”**, of a person, means—

- (a) the person’s spouse or former spouse; or
- (b) a child of the person or the person’s spouse or former spouse, including an exnuptial child, stepchild, adopted child, or past or present foster child of the person or the person’s spouse or former spouse; or
- (c) a parent, grandparent, grandchild or sibling of the person or the person’s spouse or former spouse.

“relationship status” means whether a person is—

- (a) single; or
- (b) married; or
- (c) married to another person, but living separately and apart from the other person; or
- (d) divorced; or
- (e) widowed; or
- (f) a de facto partner.’.

BURIALS ASSISTANCE ACT 1965**1 Section 2—***omit.***2 Section 4(2A) and (3)—***renumber* as section 4(3) and (4).**3 Section 4—***insert—*

SCHEDULE (continued)

‘(5) In this section—

‘**“relative”**, of a deceased person, means—

- (a) for an adult—the person’s spouse; or
- (b) for a child—the person’s parents.’.

CHILD CARE ACT 2002

1 Schedule 2, definitions “de facto spouse” and “spouse”—
omit.

CHILD PROTECTION ACT 1999

1 Section 131(3)—
omit, insert—

‘(3) A person living with his or her spouse may only hold a certificate jointly with the spouse.’.

CORRECTIVE SERVICES ACT 2000

1 Schedule 3—
insert—

‘**“relative”**, of a prisoner, includes a person who—

- (a) if the prisoner was already imprisoned when this definition commenced—would have been, immediately before the prisoner was imprisoned, the prisoner’s de facto partner had the *Acts Interpretation Act 1954*, section 32DA³⁶ been in force; or
- (b) otherwise—was, immediately before the prisoner was imprisoned, the prisoner’s de facto partner.’.

36 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

SCHEDULE (continued)

CRIMINAL CODE

1 Section 119A(1)(a), ‘, including a de facto partner,’—
omit.

2 Section 119A(2)—
omit.

3 Section 119A(3)—
renumber as section 119A(2).

4 Section 219(1), ‘spouse’—
omit, insert—
‘husband or wife’.

5 Section 442C(1) and (2), headings, ‘wife’—
omit, insert—
‘spouse’.

6 Section 442C(1) and (2), ‘husband, wife’—
omit, insert—
‘spouse’.

**DOMESTIC AND FAMILY VIOLENCE PROTECTION
ACT 1989**

1 Section 12(2), (3) and (4)—
omit, insert—

SCHEDULE (continued)

(2) A “spouse” includes—

- (a) a former spouse; and
- (b) either 1 of the biological parents of a child.

(3) For subsection (2)(b), it is irrelevant whether there is or was any relationship between the biological parents of the child.’.

2 Schedule, definition “spouse”, ‘to (4)’—

omit, insert—

‘and (3)’.

DUTIES ACT 2001

1 Section 3—

insert—

(2) The definition “spouse” in schedule 6 applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

2 Sections 423 and 425(2), ‘spouses’—

omit, insert—

‘partners’.

3 Section 425(1)(a)(ii), ‘spouse’—

omit, insert—

‘partner’.

4 Schedule 6, definitions, “de facto relationship”, “de facto spouse” and “spouse”—

omit.

SCHEDULE (continued)

5 Schedule 6—

insert—

‘**“de facto partner”**’ means 1 of 2 persons who is a de facto partner within the meaning of the *Acts Interpretation Act 1954*, section 32DA, if the persons are living, and for at least 2 years have lived, together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA, or have so lived together as a couple for at least 2 years.

“de facto relationship” means the relationship between de facto partners.

“spouse” includes a de facto partner.’.

EDUCATION (TEACHER REGISTRATION) ACT 1988**1 Section 84(b), ‘his widow or her widower’—**

omit, insert—

‘his or her surviving spouse’.

FIRE AND RESCUE SERVICE ACT 1990**1 Schedule 4, section 9(2)(d), ‘, or lives’ to ‘a person,’—**

omit.

FIRST HOME OWNER GRANT ACT 2000**1 Section 9(1), ‘subsections (4) and (5)’—**

insert—

‘subsections (2) to (6)’.

SCHEDULE (continued)

2 Section 9(1)(b)—

omit, insert—

‘(b) a de facto partner.³⁷’.

3 Section 9(2) and (3)—

omit, insert—

‘(2) A person is a de facto partner of another person only if they are living together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA, and, for at least 2 years, have so lived together as a couple.’.

4 Section 9(4), ‘Subsection (5)’—

omit, insert—

‘Subsection (4)’.

5 Section 9(6), ‘Subsection (7)’—

omit, insert—

‘Subsection (6)’.

6 Section 9(6)(a), ‘subsection (2)’—

omit, insert—

‘this section’.

7 Section 9(6)(a), ‘spouse’—

omit, insert—

‘partner’.

³⁷ See the *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”).

SCHEDULE (continued)

8 Section 9(6)(b)—

omit, insert—

‘(b) they intend to again live together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA.’.

9 Section 9—

insert—

‘(8) This section applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

10 Section 9(4) to (8)—

renumber as section 9(3) to (7).

FOSSICKING ACT 1994**1 Section 6(4)(a)—**

omit, insert—

‘(a) the licensee’s spouse; or’.

HEALTH SERVICES ACT 1991**1 Section 63(2)(b), from ‘if that’—**

omit, insert—

‘if the person has died, with the consent of the person’s spouse or, if the spouse is not reasonably available, the senior available next of kin of the person; or’.

SCHEDULE (continued)

2 Section 63(2)(c)(ii), after ‘relative’—*insert—*

‘, including a spouse.’

INDUSTRIAL RELATIONS ACT 1999**1 Schedule 5, definition “spouse”—***omit, insert—*

‘“spouse”, of an employee, includes a former spouse of the employee.’

**INTERACTIVE GAMBLING (PLAYER PROTECTION)
ACT 1998****1 Schedule 3, definition “spouse”—***omit.***LAW REFORM ACT 1995****1 Section 2(2), ‘spouses’—***omit, insert—*

‘persons whose relationship is husband and wife’.

2 Section 8, definition “spouse”—*omit, insert—*

‘“spouse” has the meaning given by section 18 of the 1995 Act and includes a spouse as provided for under section 303 of that Act.’

SCHEDULE (continued)

3 Parts 4 and 7, heading, ‘SPOUSES’—*omit, insert—***‘PERSONS WHOSE RELATIONSHIP IS HUSBAND AND WIFE’.****4 Section 18, heading—***omit, insert—***‘18 Capacity’.****5 Section 18(1), ‘spouse’—***omit, insert—*

‘husband or wife’.

MAINTENANCE ACT 1965**1 Section 112, ‘spouse’—***omit, insert—*

‘husband or wife’.

MENTAL HEALTH ACT 2000**1 Schedule 2, definitions “de facto spouse” and “spouse”—***omit.***MOBILE HOMES ACT 1989****1 Section 3, definition “spouse”—***omit.*

SCHEDULE (continued)

2 Schedule 1, part 1, section 7(2)(b)—

omit, insert—

- ‘(b) a child or grandchild of the occupier; and
- (c) a child of the spouse of the occupier.’.

**PARLIAMENTARY CONTRIBUTORY
SUPERANNUATION ACT 1970****1 Section 5B—**

omit, insert—

‘5B Meaning of “widow”

‘(1) A person is the **“widow”** of a member if the person was the member’s spouse on the day the member died.

‘(2) A person is the **“widow”** of a former member if the person was the former member’s spouse on both of the following days—

- (a) the day the former member ceased to be a member;
- (b) the day the former member died.

‘(3) For this section, the gender of the member, former member or other person is not relevant.

‘(4) For this section, the spouse of a person on the day the person died includes a de facto partner of the person on the day of the death only if the person and the de facto partner lived together as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA³⁸—

- (a) for a continuous period of at least 2 years ending on the day of the death; or
- (b) for a shorter period ending on the day of the death, if the circumstances of the de facto relationship of the person and the de facto partner evidenced a clear intention that the relationship be a long term, committed relationship.

38 *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

SCHEDULE (continued)

(5) Subsection (4) applies despite the *Acts Interpretation Act 1954*, section 32DA(6).’.

2 Section 21(4), after ‘a person’—

insert—

‘, or of a de facto relationship entered into by a person,’.

PARTNERSHIP ACT 1891**1 Section 6(c)(iii), ‘the widower, widow or child of a deceased partner’—**

omit, insert—

‘a deceased partner’s child or spouse’.

POWERS OF ATTORNEY ACT 1998**1 Section 52, ‘spouse’—**

omit, insert—

‘husband or wife’.

2 Schedule 3, definitions “de facto spouse” and “spouse”—

omit.

PROPERTY AGENTS AND MOTOR DEALERS ACT 2000**1 Schedule 3, definition “associate”—**

omit, insert—

‘“associate”, of a person, means—

SCHEDULE (continued)

- (a) a spouse, parent, brother, sister or child of the person; or
- (b) a child of the person's spouse.'

PROPERTY LAW ACT 1974

- 1 Sections 255, 256, 259, definition "child", 261, 264(1)(a), 265(1)(a), 266, 269, 270, 275, 276, 277, 278, 279, 280, 282, 283, 284, 286, 287, 288, 290, 291, 292, 293, 294, 295, 297, 298, 299, 300, 303, 304, 306, 310, 311, 322, 327, 333(1)(i), 334, 337 and schedule 6, definition "child", 'spouses'—**

omit, insert—

'partners'.

- 2 Sections 258, 259, definition "child", 266, 273, 280, 283, 287, 290, 294, 295, 299, 300, 301, 302, 304, 307, 308, 311, 314, 322 and 333, 'spouse'—**

omit, insert—

'partner'.

- 3 Sections 259, definition "child", 262, 264(1)(b), 265(1)(b) and 333(1)(h), 'spouses'—**

omit, insert—

'partners'.

- 4 Sections 259 and schedule 6, definition "de facto spouse", 'spouse'—**

omit, insert—

'partner'.

SCHEDULE (continued)

- 5 Part 19, division 2, subdivision 2, heading—**
omit, insert—
‘Subdivision 2—De facto partner and relationship concepts’.
- 6 Sections 266, 273 and 311, ‘spouse’s’—**
omit, insert—
‘partner’s’.
- 7 Part 19, division 3, heading—**
omit, insert—
‘Division 3—Resolution of financial matters by de facto partners’.
- 8 Section 316(2), example—**
omit.

**QUEENSLAND INVESTMENT CORPORATION ACT
1991**

- 1 Section 3, definition “spouse”—**
omit.

**REGISTRATION OF BIRTHS, DEATHS AND
MARRIAGES ACT 1962**

- 1 Section 30, ‘(including a relative by marriage)’—**
omit.

SCHEDULE (continued)

2 Section 30—*insert—*‘**(4)** In this section—

“**relative**”, of the deceased, includes a spouse and a relative by marriage of the deceased.’.

REPRINTS ACT 1992**1 Section 24, examples 2 and 3—***omit.***2 Section 24, examples 4 and 5—***renumber* as section 24, examples 2 and 3.**RESIDENTIAL TENANCIES ACT 1994****1 Schedule 3, definition “spouse”—***omit.***RETIREMENT VILLAGES ACT 1999****1 Section 89(2)(a), ‘relative’—***omit, insert—*‘*spouse or other relative*’.

SCHEDULE (continued)

SOUTH BANK CORPORATION ACT 1989**1 Section 37I(3)(b)—***omit, insert—*

‘(b) is the child’s spouse; or’.

**STATE DEVELOPMENT AND PUBLIC WORKS
ORGANISATION ACT 1971****1 Section 119(4)(d), ‘, or lives in a de facto relationship with a person,’—***omit.***STATE HOUSING ACT 1945****1 Sections 23(2)(c), 24(2)(b) and 26(1A)(b), ‘wife or husband’—***omit, insert—*

‘spouse’.

2 Section 25, heading before subsection (2)—*omit.***3 Section 25(2), ‘husband or wife thereof’—***omit, insert—*

‘person’s spouse’.

SCHEDULE (continued)

- 4 Section 25B(3), ‘widow’—**
omit, insert—
‘spouse’.
- 5 Section 25B(3), from ‘or, where’ to ‘widower,’ first mention—**
omit.
- 6 Section 25B(3), from ‘or leaving’ to ‘widower,’ second mention—**
omit.
- 7 Section 26(3)(b), ‘husband or wife’—**
omit, insert—
‘spouse’.
- 8 Section 30A, ‘wife or husband of the applicant, as the case may be,’ first mention—**
omit, insert—
‘applicant’s spouse’.
- 9 Section 30A, ‘wife or husband of the applicant, as the case may be,’ second mention—**
omit, insert—
‘applicant’s spouse, even though married to each other.’
- 10 Section 30A, ‘as husband and wife’—**
omit, insert—

SCHEDULE (continued)

‘as a couple on a genuine domestic basis within the meaning of the *Acts Interpretation Act 1954*, section 32DA(2) to (4)³⁹’.

11 Section 33(10), ‘husband, wife’—

omit, insert—

‘spouse’.

12 Before the schedule—

insert—

‘52 Transitional provision for Discrimination Law Amendment Act 2002

‘Despite the amendment of section 25B made by the *Discrimination Law Amendment Act 2002*, that section as in force immediately before the commencement of this section continues to apply in relation to any insurance cover provided under that section before the commencement.’

13 Schedule, section 1(1), ‘wife, husband, widow or widower’—

omit, insert—

‘spouse, surviving spouse’.

14 Schedule, section 26, ‘husband or wife’—

omit, insert—

‘spouse’.

³⁹ *Acts Interpretation Act 1954*, section 32DA (Meaning of “de facto partner”)

SCHEDULE (continued)

STATUS OF CHILDREN ACT 1978**1 Section 14A(2), ‘spouse’—***omit, insert—*

‘husband or wife’.

SUCCESSION ACT 1981**1 Section 5, definition “de facto spouse”***omit.***2 Section 5—***insert—*

‘“spouse” see section 5AA.’.

3 Section 18, ‘spouse’—*omit, insert—*

‘former husband or wife’.

4 Sections 34, 34B and 39A to 39D and part 3, division 3, heading, ‘matrimonial home’—*omit, insert—*

‘shared home’.

5 Section 36, heading—*omit, insert—***‘36 Distribution of entitlement if more than 1 spouse’.**

SCHEDULE (continued)

6 Section 36(1), ‘a spouse and a de facto spouse’—

omit, insert—

‘more than 1 spouse’.

7 Section 36(1)(a), (b) and (c), ‘spouse and de facto spouse’—

omit, insert—

‘spouses’.

8 Section 36(3)—

omit, insert—

‘(3) The personal representative may give the spouses a notice stating the personal representative may be entitled to distribute any entitlement of the spouses equally if they do not, within 3 months after the notice is given—

- (a) enter into a written agreement about distributing the entitlement between them and give the personal representative written notice of the agreement; or
- (b) apply to the court for an order distributing the entitlement between them and give the personal representative written notice of the application.’.

9 Section 36(4), ‘a spouse or de facto spouse’—

omit, insert—

‘any of the spouses’.

10 Section 36(5), ‘, de facto spouse’—

omit.

SCHEDULE (continued)

11 Section 36(9), ‘a spouse or solely to a de facto spouse’—*omit, insert—*

‘1 of the spouses’.

12 Section 36(12), ‘a spouse and de facto spouse’—*omit, insert—*

‘the spouses’.

13 Sections 39A to 39D—

‘or de facto spouse’—

*omit.***14 Section 40, definition “dependant”, paragraph (c), ‘; or’—***omit, insert—*

‘.40’.

15 Section 40, definition “dependant”, paragraph (d)—*omit.***16 Section 40, definition “spouse”—***omit.***17 Section 44(1), ‘wife, husband’—***omit, insert—*

‘spouse’.

40 For the extended meaning of “spouse” for this part, see section 5AA(2)(c) (Who is a person’s spouse).

SCHEDULE (continued)

18 After section 72—*insert—***‘PART 7—TRANSITIONAL PROVISIONS***‘Division 1—Transitional provision for Succession Amendment Act 1997’.***19 Schedule 2, part 2, heading—***omit, insert—***‘PART 2—INTESTATE NOT SURVIVED BY ANY SPOUSE’.****SUPERANNUATION (PUBLIC EMPLOYEES PORTABILITY) ACT 1985****1 Section 4(1), definition “relict”—***omit.***SUPERANNUATION (STATE PUBLIC SECTOR) ACT 1990****1 Section 13—***insert—*

‘(6A) A notice under subsection (6)(a) may be limited in its application to particular classes of spouse or by reference to factors stated in the notice.

SCHEDULE (continued)

‘(6B) Subsection (6A) does not limit the *Statutory Instruments Act 1992*, section 24 or 25.⁴¹’.

2 Section 13(11), definition “spouse”—

omit.

SUPREME COURT OF QUEENSLAND ACT 1991

1 Schedule 2, definition “remuneration”, ‘widow, widower,’—

omit, insert—

‘surviving spouse,’.

TORRES STRAIT ISLANDER LAND ACT 1991

1 Sections 36(3)(a) and 73(3)(a), ‘spouse or former spouse’—

omit, insert—

‘husband or wife, or former husband or wife,’.

TOURISM QUEENSLAND ACT 1979

1 Section 17(2)(b), ‘widow or widower’—

omit, insert—

‘surviving spouse’.

41 *Statutory Instruments Act 1992*, sections 24 (Statutory instrument may be of general or limited application) and 25 (Statutory instrument may make different provision for different categories)

SCHEDULE (continued)

TRAINING AND EMPLOYMENT ACT 2000**1 Section 121(6), definition “impairment”, ‘section 4’—***omit, insert—**‘schedule’.***TRANSPLANTATION AND ANATOMY ACT 1979****1 Section 4—***insert—*

(4) If more than 1 person is a spouse of a deceased person, only the person who most recently became the deceased person’s spouse is the deceased person’s spouse for the definition “senior available next of kin”.

WATER ACT 2000**1 Schedule 4, definitions, “de facto spouse” and “spouse”—***omit.***2 Schedule 4, definition, “indirect financial or personal interest”,
‘, partner’—***omit.*