



New South Wales

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.

Overview of Bill

The object of this Bill is to amend certain Acts, Regulations and other instruments to make further provision in relation to their application to de facto relationships within the meaning of the *Property (Relationships) Act 1984* (**the PR Act**). In particular, this Bill:

- (a) amends the *Anti-Discrimination Act 1977* to rename the “marital status” ground of discrimination as “marital or domestic status” and extend that ground to include the status or condition of being in a de facto relationship, within the meaning of the PR Act, between same sex partners, and
- (b) amends the *Status of Children Act 1996* to extend to same sex partners of birth mothers the parenting presumptions applying under that Act in relation to children born as a result of a pregnancy achieved by a fertilisation procedure, and
- (c) amends various Acts and instruments as a consequence of the amendments to the *Status of Children Act 1996*, including the *Births, Deaths and Marriages Registration Act 1995*, the *Industrial Relations Act 1996* and the PR Act, and

- (d) extends to de facto relationships, within the meaning of the PR Act, provisions in Acts, Regulations and other instruments that currently apply in relation to spouses, and
- (e) clarifies that existing references in Acts, Regulations and other instruments to de facto relationships are references to de facto relationships within the meaning of the PR Act, and
- (f) clarifies that references to the partner of a person in a number of instruments are references to the partner of the person, whether of the same or the opposite sex.

For the purposes of the PR Act, a de facto relationship is a relationship between two adult persons:

- (a) who live together as a couple, and
- (b) who are not married to one another or related by family.

A de facto relationship can be an opposite or a same sex relationship.

In determining whether two persons are in a de facto relationship, all the circumstances of the relationship are to be taken into account, including certain matters specified in section 4 (2) of the PR Act.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 is a formal provision that gives effect to the amendments to the *Anti-Discrimination Act 1977* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *Status of Children Act 1996* set out in Schedule 2.

Clause 5 is a formal provision that gives effect to the amendments to the other Acts and instruments set out in Schedule 3.

Clause 6 makes it clear that the explanatory notes contained in the Schedules do not form part of the proposed Act.

Clause 7 provides for the repeal of the proposed Act after all the amendments made by the proposed Act have commenced. Once the amendments have commenced the proposed Act will be spent and section 30 of the *Interpretation Act 1987* provides that the repeal of an amending Act does not affect the amendments made by that Act.

Schedule 1 Amendment of Anti-Discrimination Act 1977 No 48

The amendments to this Act are explained in detail in the explanatory note set out in Schedule 1.

Schedule 2 Amendment of Status of Children Act 1996 No 76

The amendments to this Act are explained in detail in the explanatory note set out in Schedule 2.

Schedule 3 Amendment of other Acts and instruments

Schedule 3 makes amendments to the following Acts and instruments:

Aboriginal Land Rights Act 1983

Agricultural Industry Services Act 1998

Apprenticeship and Traineeship Act 2001

Bail Regulation 1999

Births, Deaths and Marriages Registration Act 1995

Births, Deaths and Marriages Registration Regulation 2006

Central Coast Water Corporation Act 2006

Charles Sturt University Act 1989

Charles Sturt University By-law 2005

Commercial Agents and Private Inquiry Agents Act 2004

Commercial Agents and Private Inquiry Agents Regulation 2006

Constitution (Disclosures by Members) Regulation 1983

Contaminated Land Management Act 1997

Co-operative Housing and Starr-Bowkett Societies Act 1998

Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Crimes (Administration of Sentences) Regulation 2001

Criminal Procedure Regulation 2005

Day Procedure Centres Regulation 1996

Drug and Alcohol Treatment Act 2007

Farm Produce Act 1983

Fire Brigades Regulation 2003

Greyhound and Harness Racing Administration Act 2004

Greyhound Racing Act 2002

Growth Centres (Development Corporations) Act 1974

Harness Racing Act 2002

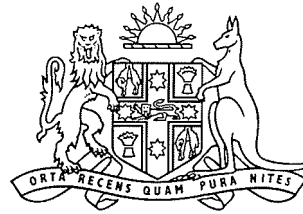
Home Building Act 1989

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

Explanatory note

Industrial Relations Act 1996
Irrigation Areas (Reduction of Rents) Act 1974
Liquor Act 1982
Local Government Act 1993
Local Government (General) Regulation 2005
Lotteries and Art Unions Regulation 2007
Macquarie University Act 1989
Pre-Trial Diversion of Offenders Act 1985
Privacy and Personal Information Protection Act 1998
Private Hospitals Regulation 1996
Property (Relationships) Act 1984
Property, Stock and Business Agents Act 2002
Public Sector Employment and Management Act 2002
Road Transport (General) Act 2005
Rural Lands Protection Act 1998
Southern Cross University Act 1993
State Owned Corporations Act 1989
Supreme Court Act 1970
Sydney Cricket and Sports Ground Act 1978
Sydney Cricket Ground and Sydney Football Stadium By-law 2004
Thoroughbred Racing Act 1996
University of New England Act 1993
University of New South Wales Act 1989
University of Newcastle Act 1989
University of Sydney Act 1989
University of Technology, Sydney, Act 1989
University of Western Sydney Act 1997
University of Wollongong Act 1989
Water Industry Competition Act 2006

The amendments to each Act and instrument are explained in detail in the explanatory note relating to the Act or instrument concerned set out in Schedule 3.



New South Wales

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

Contents

	Page
1 Name of Act	2
2 Commencement	2
3 Amendment of Anti-Discrimination Act 1977 No 48	2
4 Amendment of Status of Children Act 1996 No 76	2
5 Amendment of other Acts and instruments	2
6 Explanatory notes	2
7 Repeal of Act	2
Schedule 1 Amendment of Anti-Discrimination Act 1977 No 48	3
Schedule 2 Amendment of Status of Children Act 1996 No 76	5
Schedule 3 Amendment of other Acts and instruments	8



New South Wales

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

No. , 2008

A Bill for

An Act to amend various Acts and instruments to make further provision in relation to same sex and other de facto relationships.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> .	3 4
2 Commencement	5
This Act commences on a day or days to be appointed by proclamation.	6
3 Amendment of Anti-Discrimination Act 1977 No 48	7
The <i>Anti-Discrimination Act 1977</i> is amended as set out in Schedule 1.	8
4 Amendment of Status of Children Act 1996 No 76	9
The <i>Status of Children Act 1996</i> is amended as set out in Schedule 2.	10
5 Amendment of other Acts and instruments	11
The Acts and instruments specified in Schedule 3 are amended as set out in that Schedule.	12 13
6 Explanatory notes	14
The matter appearing under the heading “Explanatory note” in any of the Schedules does not form part of this Act.	15 16
7 Repeal of Act	17
(1) This Act is repealed on the day following the day on which all of the provisions of this Act have commenced.	18 19
(2) The repeal of this Act does not, because of the operation of section 30 of the <i>Interpretation Act 1987</i> , affect any amendment made by this Act.	20 21

Schedule 1	Amendment of Anti-Discrimination Act 1977 No 48	1 2
	(Section 3)	3
[1] Section 4 Definitions		4
	Insert in alphabetical order in section 4 (1):	5
	<i>de facto partner</i> of a person means the other party to a de facto relationship with the person.	6 7
	<i>de facto relationship</i> has the same meaning as in the <i>Property (Relationships) Act 1984</i> .	8 9
	<i>marital or domestic status</i> means the status or condition of being:	10
	(a) single, or	11
	(b) married, or	12
	(c) married but living separately and apart from one's spouse, or	13 14
	(d) divorced, or	15
	(e) widowed, or	16
	(f) in a de facto relationship.	17
[2] Section 4 (1), definition of "marital status"	Omit the definition.	18 19
[3] Section 4 (1), definition of "near relative"	Insert ", de facto partner" after "spouse".	20 21
[4] Section 4 (1), definition of "relative"	Insert ", or the de facto partner of the person" after "adoption".	22 23
[5] Sections 24 (2) (b), 39, 40 (1) and (2), 41, 42, 42A, 42B, 43, 44, 45, 46, 46A (1) and (2), 47, 48 (1) and (2), 48A, 49, 59 and 122C (a)	Insert "or domestic" after "marital" wherever occurring.	24 25 26
[6] Part 4, heading	Insert "or domestic" after "marital".	27 28

[7] Section 49S Meaning of “responsibilities as a carer”	1
Omit the definition of <i>de facto relationship</i> from section 49S (3).	2
Explanatory note	3
Part 4 of the <i>Anti-Discrimination Act 1977 (the Act)</i> prohibits discrimination against a person, in the circumstances described in that Part, on the ground of the person’s marital status.	4 5 6
Item [1] of the proposed amendments to the Act, together with item [2] of those amendments, replaces the term <i>marital status</i> with the term <i>marital or domestic status</i> .	7 8 9
Currently, the term <i>marital status</i> extends to the status or condition of being in cohabitation, otherwise than in marriage, with a person of the opposite sex. The proposed new term of <i>marital or domestic status</i> , when read with the proposed definition of <i>de facto relationship</i> inserted by item [1], extends to the status or condition of being in a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	10 11 12 13 14 15
Item [1] also inserts a new definition of <i>de facto partner</i> .	16
Items [5] and [6] of the proposed amendments are consequential on the replacement of the term <i>marital status</i> with the term <i>marital or domestic status</i> by items [1] and [2].	17 18 19
Item [7] of the proposed amendments is consequential on the insertion of the new definition of <i>de facto relationship</i> by item [1].	20 21
The Act prohibits discrimination of various kinds (for example, discrimination on the ground of race, sex or marital status) in a number of different areas, including in the provision of accommodation. However, it is not unlawful to discriminate in the provision of accommodation if (among other things) a near relative of the person providing that accommodation resides on those premises. The term <i>near relative</i> of a person is defined to include the spouse of the person. Item [3] of the proposed amendments, when read with the proposed new definitions of <i>de facto partner</i> and <i>de facto relationship</i> , extends the term <i>near relative</i> to include the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	22 23 24 25 26 27 28 29 30 31
The Act makes discrimination against a person unlawful on the ground of the race, sex, marital status, disability, homosexuality or age of a relative of the person or on the ground that the relative is a transgender person. The term <i>relative</i> of a person is defined to include a person who is related by marriage to the person. Item [4] of the proposed amendments extends that term to include the de facto partner of the person.	32 33 34 35 36

**Schedule 2 Amendment of Status of Children Act
1996 No 76**

	(Section 4)	3
[1] Section 14 Presumptions of parentage arising out of use of fertilisation procedures		4
Insert after section 14 (1):		5
		6
(1A) When a woman who is in a de facto relationship with another woman has undergone a fertilisation procedure as a result of which she becomes pregnant:		7
		8
(a) the other woman is presumed to be a parent of any child born as a result of the pregnancy, but only if the other woman consented to the procedure, and		9
		10
(b) the woman who has become pregnant is presumed to be the mother of any child born as a result of the pregnancy even if she did not provide the ovum used in the procedure.		11
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[2] Section 14 (3)		16
Insert “This subsection does not affect the presumption arising under subsection (1A) (a).” at the end of the subsection.		17
		18
[3] Section 14 (5A)		19
Insert after section 14 (5):		20
(5A) In any proceedings in which the operation of subsection (1A) is relevant, the consent of a woman to the carrying out of a fertilisation procedure that results in the pregnancy of her de facto partner is presumed.		21
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		23
		24
[4] Section 14 (6) (a)		25
Omit “living with a man as his wife on a bona fide domestic basis although not married to him”.		26
		27
Insert instead “in a de facto relationship with a man”.		28
[5] Section 14 (6) (b) (i)		29
Omit “living with another person of the opposite sex as his or her spouse on a bona fide domestic basis although not married to the other person”.		30
		31
Insert instead “in a de facto relationship with a person of the opposite sex”.		32

[6] Section 14 (7)	1
Insert after section 14 (6):	2
(7) In this section:	3
<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship with the person.	4
<i>de facto relationship</i> has the same meaning as in the <i>Property (Relationships) Act 1984</i> .	5
	6
	7
[7] Schedule 2 Savings and transitional provisions	8
Insert at the end of clause 1 (1):	9
<i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> , but only to the extent that it amends this Act	10
	11
[8] Schedule 2, Part 3	12
Insert after Part 2:	13
Part 3 Provision consequent on enactment of Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008	14
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7 Parentage presumption to apply in relation to fertilisation procedures occurring before commencement	17
	18
(1) The presumptions arising under section 14 (1A) in relation to a child born as the result of a fertilisation procedure, as inserted by the <i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> , extend to a procedure undertaken, and a consent given, before the commencement of that subsection. This subclause applies even though at the time the consent was given the presumptions did not apply.	19
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(2) However, those presumptions do not apply so as to affect:	26
(a) the previous operation of this or any other Act or law, or	27
(b) any will executed before the commencement of section 14 (1A), or	28
(c) the vesting in possession or in interest of any property before the commencement of section 14 (1A).	29
	30
	31
(3) In this clause:	32
<i>will</i> includes a codicil and any other testamentary disposition.	33

Explanatory note

Section 14 of the *Status of Children Act 1996 (the Act)* set out a number of irrebuttable presumptions as to the parentage of a child born as a result of a fertilisation procedure. One of those presumptions is that a man who consents to his wife or de facto partner undergoing a fertilisation procedure, even if the procedure involves the use of another man's sperm, is presumed to be the father of any child born as a result of any pregnancy arising from the procedure (see section 14 (1) (a) and (6)). Another of the presumptions is that a woman who is married to, or in a de facto relationship with, a man and becomes pregnant as a result of the use of another woman's ovum is presumed to be the mother of any child born as a result of the pregnancy (see section 14 (1) (b) and (6)).

Item [1] of the proposed amendments to the Act provides for the extension of both of those irrebuttable presumptions to a child born in the context of a de facto relationship involving 2 women. Firstly, it provides that a woman who consents to her female de facto partner undergoing a fertilisation procedure is presumed to be a parent of any child born as a result of any pregnancy arising from the procedure. Secondly, it provides that a woman who is in a de facto relationship with a woman and becomes pregnant as a result of the use of an ovum other than her own is presumed to be the mother of any child born as a result of the pregnancy. Items [2] and [3] of the proposed amendments make consequential amendments.

Item [6] of the proposed amendments inserts definitions of **de facto partner** and **de facto relationship** for the purposes of section 14. The term **de facto relationship** is defined to have the same meaning as in the *Property (Relationships) Act 1984*. Items [4] and [5] of the proposed amendments make consequential amendments.

Item [7] of the proposed amendments enables savings and transitional regulations to be made as a consequence of the enactment of the proposed Act (but only to the extent that it amends the *Status of Children Act 1996*).

Item [8] of the proposed amendments provides for the proposed parentage presumptions set out in item [1] to extend to a fertilisation procedure undertaken, and a consent given, before the commencement of the proposed amendments, but not so as to affect:

- (a) the previous operation of any Act or other law, or
- (b) any will executed before that commencement, or
- (c) the vesting in possession or in interest of any property before that commencement.

Schedule 3	Amendment of other Acts and instruments	1
		2
	(Section 5)	3
3.1	Aboriginal Land Rights Act 1983 No 42	4
[1]	Section 4 Definitions	5
	Insert in alphabetical order in section 4 (1):	6
	<i>de facto partner</i> of a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	7
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		9
[2]	Section 4 (1), definition of “relative”	10
	Insert “or de facto partner” after “spouse” in paragraph (a).	11
	Explanatory note	12
	For the purposes of Part 10 (Honesty and disclosure of interests) of the <i>Aboriginal Land Rights Act 1983 (the Act)</i> , a person is taken to have a pecuniary interest in a matter if the person’s spouse, de facto partner, relative or certain other persons associated with the person have a pecuniary interest in the matter.	13
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		16
	Item [1] of the proposed amendments to the Act inserts a definition of <i>de facto partner</i> into the Act that makes it clear that the term applies to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> .	17
		18
		19
	Item [2] of the proposed amendments extends the definition of <i>relative</i> of a person to include the de facto partners of those relatives of the person who are listed in paragraph (a) of the definition. The de facto partner of the person is already included in paragraph (b) of the definition.	20
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3.2	Agricultural Industry Services Act 1998 No 45	24
	Section 48 Disclosure and misuse of information	25
	Insert after section 48 (2):	26
	(3) In this section:	27
	<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	28
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	Explanatory note	31
	The proposed amendment to section 48 of the <i>Agricultural Industry Services Act 1998</i> inserts a definition of <i>de facto partner</i> for the purposes of that section. Section 48 (2) of that Act makes it an offence for a person to use certain information, acquired by the person in the administration or execution of that Act, for the purpose of gaining an advantage for the person or certain other associates of the person, including the person’s spouse or de facto partner. The information concerned is information that is not generally known but if generally known might reasonably be expected to materially affect the market value or price of any primary product.	32
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3.3 Apprenticeship and Traineeship Act 2001 No 80	1
[1] Section 25 Juniors not to be employed in recognised trade vocations unless apprentices or qualified tradespersons	2 3
Insert “, de facto partner” after “spouse” in section 25 (2) (b).	4
[2] Section 25 (3)	5
Insert after section 25 (2):	6
(3) In this section:	7
<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	8 9 10
Explanatory note	11
Section 25 (1) of the <i>Apprenticeship and Traineeship Act 2001 (the Act)</i> makes it an offence for an employer to employ a junior in a recognised trade vocation, within the meaning of the Act, unless the junior is an apprentice or qualified tradesperson in that vocation. Section 25 (2) (b) of the Act provides that this offence does not apply to the employment of a person by a spouse. Items [1] and [2] of the proposed amendments extend the circumstances in which the offence does not apply to the employment of a person who is in a de facto relationship, within the meaning of the <i>Property (Relationships) Act 1984</i> , with the employer.	12 13 14 15 16 17 18 19
3.4 Bail Regulation 1999	20
[1] Clause 3 Definitions	21
Insert in alphabetical order in clause 3 (1):	22
<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	23 24 25
[2] Clause 8 Manner of application in relation to bail: sec 22	26
Omit “(lawful or de facto)” from clause 8 (2).	27
Insert instead “, de facto partner”.	28
[3] Clause 11 Notice of bail decisions in cases of alleged sexual assault and personal violence offences	29 30
Omit “domestic” from paragraph (a) of the definition of <i>personal violence offence</i> in clause 11 (4).	31 32
Insert instead “personal”.	33
[4] Clause 11 (5)	34
Omit “domestic”. Insert instead “personal”.	35

[5] Schedule 1 Forms	1
Insert “ <i>de facto partner</i> ,” after “ <i>spouse</i> ,” in the matter appearing under the heading “ Acknowledgment ” in Form 6.	2 3
Explanatory note	4
Item [1] of the proposed amendments to the <i>Bail Regulation 1999 (the Regulation)</i> inserts a definition of de facto partner into the Regulation that refers to a party to a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	5 6 7
The proposed amendment by item [2] to clause 8 of the Regulation, when read with the new definition of de facto partner inserted by item [1], makes it clear that an application for bail may be signed on behalf of an accused person by that person’s de facto partner, whether or not of the same sex.	8 9 10 11
The proposed new definition of de facto partner will also operate in clause 11 of the Regulation, clarifying that notice of a bail decision in respect of an offence under section 61 of the <i>Crimes Act 1900</i> (Common assault prosecuted by indictment) must be given to an alleged victim who is in a de facto relationship, within the meaning of the <i>Property (Relationships) Act 1984</i> , with the accused.	12 13 14 15 16
The proposed amendment by item [5] to Form 6 in Schedule 1 to the Regulation includes the de facto partner of an accused person in a list of examples of persons who (if regarded as acceptable persons) may acknowledge, as a condition of bail, their acquaintance with the accused and that the accused person is likely to comply with his or her bail undertaking.	17 18 19 20 21
Items [3] and [4] of the proposed amendments make amendments to clause 11 of the Regulation, by way of statute law revision. Clause 11 (5) of the Regulation defines the term domestic relationship for the purposes of paragraph (a) of the definition of personal violence offence in clause 11 (4). A different definition of domestic relationship appears in section 4 of the <i>Bail Act 1978</i> . Items [3] and [4] change the term domestic relationship to personal relationship to avoid potential confusion.	22 23 24 25 26 27
3.5 Births, Deaths and Marriages Registration Act 1995 No 62	28
[1] Section 12 Notification of births	29
Insert “birth” before “mother” in section 12 (4).	30
[2] Section 12 (5), definition of “responsible person”	31
Insert “birth” before “mother” in paragraph (b).	32
[3] Section 18 Registration of parentage details	33
Omit “the father and mother” from section 18 (a).	34
Insert instead “both parents”.	35
[4] Schedule 3 Savings, transitional and other provisions	36
Insert at the end of clause 1 (1):	37
<i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> (but only to the extent that it relates to this Act or amendments to the <i>Status of Children Act 1996</i> that affect the operation of this Act)	38 39 40 41

[5] Schedule 3, Part 4	1
Insert after clause 16:	2
Part 4 Provision consequent on enactment of Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008	3 4 5
17 Application to alter register as consequence of amendment of Status of Children Act 1996	6 7
(1) In this clause:	8
<i>relevant provisions</i> means section 14 (1A) (a) of, and clause 7 of Schedule 2 to, the <i>Status of Children Act 1996</i> , as inserted by the <i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> .	9 10 11 12
(2) An application may be made to the Registrar for the addition of registrable information, about the identity of a woman who is presumed to be a parent of the child under the relevant provisions, in the birth registration of a child born before the commencement of those provisions.	13 14 15 16 17
(3) The Registrar is to determine the application by making the addition or refusing to make the addition.	18 19
(4) The Registrar must not add registrable information in the child's birth registration about the identity of the woman as a parent of the child unless:	20 21 22
(a) the application is made jointly by that woman and the birth mother, and	23 24
(b) if the child's birth registration already includes registrable information that purports to identify a person as the father of the child:	25 26 27
(i) that person has given his consent to the removal of the particulars from the birth registration that identify him as the father of the child (or a court or the regulations authorise their removal because the person is not the father by operation of law or otherwise), and	28 29 30 31 32 33
(ii) the Registrar removes those particulars from the birth registration, and	34 35
(c) if the Registrar requires verification of the information contained in the application—the application is accompanied by a statutory declaration verifying the	36 37 38

information contained in the application and any other evidence that the Registrar may require.	1 2
(5) An application made under this clause must be in a form approved by the Registrar.	3 4
(6) This clause has effect despite sections 18 and 20 of this Act and clause 7 (2) of Schedule 2 to the <i>Status of Children Act 1996</i> .	5 6
Explanatory note	7
Items [1]–[3] of the proposed amendments to the <i>Births, Deaths and Marriages Registration Act 1995 (the Act)</i> are consequential on the amendments made to the parentage presumptions under the <i>Status of Children Act 1996 (the SOC Act)</i> that are set out in Schedule 2.	8 9 10 11
Item [4] of the proposed amendments enables savings and transitional regulations to be made as a consequence of the proposed Act (but only to the extent that it amends the Act or amendments to the SOC Act that affect the operation of the Act).	12 13 14
Item [5] of the proposed amendments is a transitional provision that is consequent on the enactment of the amendments to the SOC Act that are set out in Schedule 2. The provision enables the Registrar of Births, Deaths and Marriages to amend the information relating to parentage of a child, born before the commencement of relevant amendments to the SOC Act, on the child’s birth registration. In particular, the Registrar may:	15 16 17 18 19 20
(a) add information to the child’s birth registration about the identity of a woman who is presumed to be a parent, in the circumstances set out in those amendments to the SOC Act, as the de facto partner of the birth mother of the child, and	21 22 23 24
(b) where relevant, remove information that purports to identify a person as the father of the child.	25 26
The Registrar may only alter the child’s birth registration on the joint application of the birth mother and the woman who is presumed to be a parent as the birth mother’s de facto partner. Where the child’s birth registration contains information that purports to identify a person as the father of the child, that person’s consent will also be required to the removal of the identifying particulars from the registration (unless a court or the regulations authorise their removal because the person is not the father by operation of law or otherwise).	27 28 29 30 31 32 33
The removal of information purporting to identify a person as the father of the child covers circumstances in which a child’s birth registration contains information that purports to identify a sperm donor as the father of the child. The SOC Act provides for an irrebuttable presumption that a sperm donor can only be the father in those circumstances where he is the husband or de facto partner of the birth mother.	34 35 36 37 38
3.6 Births, Deaths and Marriages Registration Regulation 2006	39
[1] Clause 3 Definitions	40
Insert in alphabetical order in clause 3 (1):	41
<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	42 43 44

[2] Clause 4 Notification of birth	1
Omit clause 4 (e). Insert instead:	2
(e) the full name, maiden family name, date of birth and (at the time of delivery) usual place of residence of the birth mother of the child,	3 4 5
[3] Clause 5 Registration of birth	6
Insert “birth” before “mother” in clause 5 (1) (b).	7
[4] Clause 5 (1) (e)	8
Omit clause 5 (1) (e)–(h). Insert instead:	9
(e) the full name, maiden family name (if any), date of birth (or age), place of birth, occupation and (at the time of delivery) usual place of residence of each parent of the child,	10 11 12 13
[5] Clause 5 (1) (j)	14
Insert “birth” before “mother”.	15
[6] Clause 5 (1) (k)	16
Omit “the mother or father”. Insert instead “either of the parents”.	17
[7] Clause 10 Persons who may apply for old birth certificate	18
Insert “or de facto partner” after “spouse” wherever occurring in clause 10 (1) (c).	19 20
[8] Clause 12 (ia)	21
Insert after clause 12 (i):	22
(ia) the full name and maiden family name (if any) of any de facto partner of the deceased,	23 24
[9] Clause 12 (k)	25
Omit clause 12 (k) and (l). Insert instead:	26
(k) the full name, maiden family name (if any) and occupation of each parent of the deceased.	27 28
[10] Clause 13 (ka)	29
Insert after clause 13 (k):	30
(ka) the full name and maiden family name (if any) of any de facto partner of the deceased,	31 32

[11] Clause 13 (m)	1
Omit clause 13 (m) and (n). Insert instead:	2
(m) the full name, maiden family name (if any) and occupation of each parent of the deceased.	3 4
[12] Clause 14 (ha)	5
Insert after clause 14 (h):	6
(ha) the full name and maiden family name (if any) of any de facto partner of the deceased,	7 8
[13] Clause 14 (j)	9
Omit clause 14 (j) and (k). Insert instead:	10
(j) the full name, maiden family name (if any) and occupation of each parent of the deceased.	11 12
Explanatory note	13
Items [2]–[6], [9], [11] and [13] of the proposed amendments to the <i>Births, Deaths and Marriages Registration Regulation 2006 (the Regulation)</i> are consequential on the amendments made to the parentage presumptions under the <i>Status of Children Act 1996</i> that are set out in Schedule 2.	14 15 16 17
Items [7], [8], [10] and [12] of the proposed amendments extend provisions that currently apply in relation to spouses to persons in de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> . For this purpose, item [1] of the proposed amendments inserts a definition of de facto partner into the Regulation that refers to such relationships.	18 19 20 21 22
Item [7] of the proposed amendments will ensure that a de facto partner of a transgender person is among the persons who may apply for a birth certificate showing the sex of a transgender person before the record of the transgender person's sex was altered under Part 5A of the <i>Births, Deaths and Marriages Registration Act 1995</i> .	23 24 25 26
Clauses 12–14 of the Regulation require funeral directors or others arranging the disposal, or having custody, of human remains to provide certain particulars about the deceased to the Registrar of Births, Deaths and Marriages, including particulars of any spouse of the deceased. Items [8], [10] and [12] of the proposed amendments will ensure that particulars relating to any de facto partner of the deceased are also required to be provided to the Registrar.	27 28 29 30 31 32
3.7 Central Coast Water Corporation Act 2006 No 105	33
[1] Schedule 6 Duties and liabilities of directors and other officers	34
Insert “or de facto partner” after “a spouse” wherever occurring in clause 4 (1).	35
[2] Schedule 6, clause 4 (1)	36
Omit “or spouse” wherever occurring.	37
Insert instead “, spouse or de facto partner”.	38

[3] Schedule 6, clause 4 (4)	1
Insert in alphabetical order:	2
<i>de facto partner</i> , in relation to a director, means the other party	3
to a de facto relationship (within the meaning of the <i>Property</i>	4
<i>(Relationships) Act 1984</i>) with the director.	5
Explanatory note	6
Clause 4 of Schedule 6 to the <i>Central Coast Water Corporation Act 2006</i> prohibits the	7
Central Coast Water Corporation making a loan to a director, a spouse of a director or	8
a relative of a director or spouse. That clause also prohibits the Corporation giving a	9
guarantee or providing security in connection with a loan made to any of those persons.	10
The proposed amendments to that clause extend those prohibitions to apply to a loan	11
made, guarantee given or security provided to a de facto partner of a director or a	12
relative of any such de facto partner (whether of the same or the opposite sex).	13
3.8 Charles Sturt University Act 1989 No 76	14
Schedule 3 Duties of Council members	15
Insert in alphabetical order in clause 5 (10):	16
<i>de facto partner</i> , in relation to a member or other person, means	17
the other party to a de facto relationship (within the meaning of	18
the <i>Property (Relationships) Act 1984</i>) with the member or other	19
person.	20
Explanatory note	21
Among other things, clause 5 of Schedule 3 to the <i>Charles Sturt University Act 1989</i>	22
(the Act) requires a member of the Council of Charles Sturt University to disclose a	23
material interest that the member has in a matter under consideration by the Council	24
where the interest appears to raise a conflict with the proper performance of the	25
member's duties in the consideration of the matter. A member has a material interest	26
in a matter if a determination of the Council in the matter may result in a detriment to,	27
or a benefit for, the member or an associate of the member. Associate of a member is	28
defined to include the de facto partner of the member and the de facto partner of certain	29
other persons defined as associates of the member, such as a parent, business partner	30
or friend.	31
The proposed amendment to the Act makes it clear that, for the purposes of clause 5	32
of Schedule 3, the term de facto partner refers to a party to a de facto relationship	33
within the meaning of the <i>Property (Relationships) Act 1984</i> .	34
Parallel amendments are proposed to the following Acts:	35
(a) the <i>Macquarie University Act 1989</i> (see Schedule 3.33),	36
(b) the <i>Southern Cross University Act 1993</i> (see Schedule 3.42),	37
(c) the <i>University of New England Act 1993</i> (see Schedule 3.48),	38
(d) the <i>University of New South Wales Act 1989</i> (see Schedule 3.49),	39
(e) the <i>University of Newcastle Act 1989</i> (see Schedule 3.50),	40
(f) the <i>University of Sydney Act 1989</i> (see Schedule 3.51),	41

(g) the <i>University of Technology, Sydney, Act 1989</i> (see Schedule 3.52),	1
(h) the <i>University of Western Sydney Act 1997</i> (see Schedule 3.53),	2
(i) the <i>University of Wollongong Act 1989</i> (see Schedule 3.54).	3
3.9 Charles Sturt University By-law 2005	4
Clause 2 Definitions	5
Insert in alphabetical order in clause 2 (1):	6
<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	7 8 9
Explanatory note	10
The proposed amendment to the <i>Charles Sturt University By-law 2005 (the By-law)</i> will make it clear that, for the purposes of clauses 34 and 79 of the By-law, the term associate of a person includes the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person and the parent, child, brother or sister, business partner or friend of that other party. Among other things, clauses 34 and 79 of the By-law enable certain applicants for appointment to the Council to be required to complete and sign a declaration as to any material personal interests of associates of the applicants in matters likely to be considered at a meeting of the Council.	11 12 13 14 15 16 17 18 19
3.10 Commercial Agents and Private Inquiry Agents Act 2004 No 70	20 21
[1] Schedule 2 Trust accounts, records and receivership in relation to debt collection	22 23
Omit clause 27 (2) (b). Insert instead:	24
(b) an existing or former de facto partner, or	25
[2] Schedule 2, clause 27 (3)	26
Insert after clause 27 (2):	27
(3) In this clause:	28
<i>de facto partner</i> , in relation to a licensee or other person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the licensee or other person.	29 30 31 32
Explanatory note	33
Part 3 of Schedule 2 to the <i>Commercial Agents and Private Inquiry Agents Act 2004</i> provides for the receivership of property of:	34 35
(a) a person who is the holder of a master licence for debt collection under the Act (a licensee), or	36 37
(b) a licensee's associate.	38

For the purposes of that Part, a licensee's associate includes an opposite sex, but not a same sex, de facto partner of the licensee.	1 2
The proposed amendments to Schedule 2 to the Act extend Part 3 of that Schedule to the receivership of property of a same sex de facto partner of a licensee.	3 4
3.11 Commercial Agents and Private Inquiry Agents Regulation 2006	5 6
[1] Clause 14 Application fees	7
Insert "or de facto partner" after "spouse" in clause 14 (5) (b) (ii).	8
[2] Clause 14 (6)	9
Insert after clause 14 (5):	10
(6) In this clause:	11
<i>de facto partner</i> of an individual means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the individual.	12 13 14
Explanatory note	15
The proposed amendments to clause 14 of the <i>Commercial Agents and Private Inquiry Agents Regulation 2006</i> provide for individuals in de facto relationships (within the meaning of the <i>Property (Relationships) Act 1984</i>) to be treated similarly, for the purposes of that clause, to individuals who are married. Under that clause, an individual is not required to pay any fee in relation to an application for an operator licence if the application is made together with a similar application by a proprietary company for a master licence and, among other things, the individual is a director of the company and any other director of the company is the spouse, parent, sibling, son or daughter of the individual.	16 17 18 19 20 21 22 23 24
3.12 Constitution (Disclosures by Members) Regulation 1983	25
[1] Clause 7 Interpretation: Part 3	26
Insert in alphabetical order in clause 7 (1):	27
<i>de facto partner</i> of a Member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the Member.	28 29 30
[2] Clause 7 (1), definition of "relative"	31
Insert "or de facto partner" after "spouse" wherever occurring.	32
Explanatory note	33
The proposed amendments to the <i>Constitution (Disclosures by Members) Regulation 1983</i> extend provisions currently applying in relation to spouses of Members of the New South Wales Parliament to persons with whom Members are in a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> . In particular, the amendments will ensure that particulars of gifts and contributions to travel received by a Member from the Member's de facto partner or certain relatives of the de facto	34 35 36 37 38 39

partner, and particulars of any liability to pay a debt to the de facto partner or those relatives, do not need to be disclosed by a Member.	1 2
3.13 Contaminated Land Management Act 1997 No 140	3
Section 54 Site auditor to avoid conflicts of interest	4
Insert after section 54 (3):	5
(4) In this section:	6
<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	7 8 9
Explanatory note	10
Section 54 of the <i>Contaminated Land Management Act 1997 (the Act)</i> provides that a site auditor must not carry out a site audit on land if, among other things, the auditor:	11 12
(a) is related to an owner or occupier of the land, or	13
(b) has a pecuniary interest in the land or any activity carried out on the land.	14
A site auditor is related to a person, for the purposes of the section, if the site auditor is a de facto partner of the person. Further, a site auditor has a pecuniary interest, for the purposes of that section, if there is a reasonable likelihood or expectation of appreciable financial gain or loss to a person to whom the auditor is related.	15 16 17 18
The proposed amendment to section 54 of the Act inserts a definition of <i>de facto partner</i> that makes it clear that the term applies in relation to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> .	19 20 21
3.14 Co-operative Housing and Starr-Bowkett Societies Act 1998 No 11	22 23
[1] Section 3 Definitions	24
Insert in alphabetical order in section 3 (1):	25
<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	26 27 28
[2] Section 4 Interpretation—meaning of “associate”	29
Insert “, de facto partner” after “spouse” in section 4 (2) (b).	30
[3] Section 103 Financial accommodation to directors and associates	31
Insert “or de facto partner” after “spouse” wherever occurring in paragraphs (a), (b) (i) and (c) (i) of the definition of <i>associate</i> in section 103 (1).	32 33
Explanatory note	34
Item [1] of the proposed amendments to the <i>Co-operative Housing and Starr-Bowkett Societies Act 1998 (the Act)</i> inserts a definition of <i>de facto partner</i> into the Act that refers to de facto relationships within the meaning of the <i>Property (Relationships) Act</i>	35 36 37

1984. The term is used in sections 4 and 103 of the Act, as proposed to be amended by items [2] and [3].	1 2
Section 4 of the Act provides that a person is an associate of another, or is associated with another, if any of a number of specified kinds of relationships exists between them, including a relationship where one is a spouse of the other. Item [2] of the proposed amendments extends the specified relationships to include a relationship where one is a de facto partner of the other. This proposed amendment operates in section 107 of the Act, which enables the Supreme Court to make certain orders prohibiting an associate of a person from transferring money or other property where proceedings are instituted under the Act.	3 4 5 6 7 8 9 10
Section 103 of the Act generally restricts the provision of financial accommodation by a co-operative housing society or a Starr-Bowkett society to a director of the society or an associate of the director, including any of the following:	11 12 13
(a) the director's spouse,	14
(b) a trustee of a trust under which the director's spouse has a beneficial interest,	15
(c) a body corporate if, among other things, the director's spouse has a material interest in shares in the body corporate.	16 17
Item [3] of the proposed amendments extends this restriction to the provision of financial accommodation to any of the following:	18 19
(a) the de facto partner of a director,	20
(b) a trustee of a trust under which the director's de facto partner has a beneficial interest,	21 22
(c) a body corporate if, among other things, the director's de facto partner has a material interest in shares in the body corporate.	23 24

3.15 Co-operative Housing and Starr-Bowkett Societies Regulation 2005

Schedule 3 Prescribed information relating to proposed compromise or arrangement

Omit the definition of *internal creditor* from clause 1. Insert instead:

internal creditor means a creditor who is:

- (a) a member of the society, or
- (b) a spouse, de facto partner or relative of a member, or
- (c) a relative of a spouse or de facto partner of a member.

Explanatory note

The term *internal creditor* in clause 1 of Schedule 3 to the *Co-operative Housing and Starr-Bowkett Societies Regulation 2005 (the Regulation)* includes the spouse of a member of a co-operative housing society or a Starr-Bowkett society (as a spouse is a **relative**, as defined in that clause) and the relatives of a spouse of such a member. The term operates in clause 2 of Schedule 3 to the Regulation, which prescribes certain information that must be provided in relation to a proposed compromise or arrangement between a co-operative housing society or Starr-Bowkett society and its creditors.

The proposed amendment to the Regulation extends the definition of *internal creditor* to include a de facto partner, and the relative of a de facto partner, of a member of a

co-operative housing society or a Starr-Bowkett society. The term <i>de facto partner</i> in that definition will refer to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> as a consequence of the insertion of the definition in the <i>Co-operative Housing and Starr-Bowkett Societies Act 1998</i> by item [1] of Schedule 3.14.	1 2 3 4 5
3.16 Crimes (Administration of Sentences) Regulation 2001	6
[1] Schedule 1 Information to be recorded in relation to inmates	7
Insert “(within the meaning of the <i>Property (Relationships) Act 1984</i>)” after “de facto relationship” in item 20.	8 9
[2] Schedule 1, item 20, note	10
Insert at the end of item 20:	11
Note. Under the <i>Property (Relationships) Act 1984</i> , a de facto relationship can be an opposite or a same sex relationship. In determining whether two persons are in a de facto relationship, all of the circumstances of the relationship are to be taken into account, including certain matters specified in section 4 (2) of the <i>Property (Relationships) Act 1984</i> .	12 13 14 15 16 17
Explanatory note	18
Schedule 1 to the <i>Crimes (Administration of Sentences) Regulation 2001</i> lists particulars that must be recorded in relation to an inmate as soon as practicable after being received into a correctional centre. Item [1] of the proposed amendments to that Regulation makes it clear that a reference to the inmate’s living in a de facto relationship is a reference to a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> . Item [2] of the proposed amendments inserts a related note.	19 20 21 22 23 24
3.17 Criminal Procedure Regulation 2005	25
Schedule 1 Forms	26
Omit “husband or wife” from Form 4.	27
Insert instead “spouse of the accused person”.	28
Explanatory note	29
The proposed amendment to the <i>Criminal Procedure Regulation 2005</i> replaces the expression “husband or wife” with “spouse of the accused person” in a form used by courts when recording the reasons for excusing a spouse of an accused person, under section 279 of the <i>Criminal Procedure Act 1986</i> , from giving evidence in certain proceedings. Under that section, a reference to the spouse of an accused person includes a reference to a person with whom the accused person has a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> . The new reference in the form to a spouse of an accused person will have that same meaning.	30 31 32 33 34 35 36 37

3.18 Day Procedure Centres Regulation 1996	1
Clause 16 Definition of pecuniary interest	2
Insert in alphabetical order in clause 16 (1):	3
<i>de facto partner</i> of a practitioner means the other party to a de	4
facto relationship (within the meaning of the <i>Property</i>	5
<i>(Relationships) Act 1984</i>) with the practitioner.	6
Explanatory note	7
For the purposes of requirements, set out in section 46 of the <i>Private Hospitals and Day</i>	8
<i>Procedure Centres Act 1988</i> and Part 3 of the <i>Day Procedure Centres Regulation 1996</i>	9
(the Regulation), relating to the disclosure of pecuniary interests, a medical	10
practitioner or a dentist (a practitioner) has a pecuniary interest in a day procedure	11
centre if a relative of the practitioner has a pecuniary interest in the centre (see clause	12
16 (3) of the Regulation). The proposed amendment to the Regulation makes it clear	13
that the term de facto partner of a practitioner appearing in the definition of relative of	14
a practitioner in clause 16 (1) applies in relation to de facto relationships within the	15
meaning of the <i>Property (Relationships) Act 1984</i> .	16
3.19 Drug and Alcohol Treatment Act 2007 No 7	17
[1] Section 5 Definitions	18
Insert after paragraph (c) (i) of the definition of primary carer in section 5 (1):	19
(ia) the other party to any de facto relationship (within	20
the meaning of the <i>Property (Relationships) Act</i>	21
<i>1984</i>) with the dependent person if the relationship	22
between that party and the dependent person is close	23
and continuing, or	24
[2] Schedule 2 Dependency certificate	25
Insert after paragraph (c) (i) of the definition of primary carer in note 3:	26
(ia) the other party to any de facto relationship (within	27
the meaning of the <i>Property (Relationships) Act</i>	28
<i>1984</i>) with the dependent person if the relationship	29
between that party and the dependent person is close	30
and continuing, or	31
Explanatory note	32
Currently, the definition of primary carer of a dependent person in the <i>Drug and</i>	33
<i>Alcohol Treatment Act 2007</i> includes the person's spouse if the relationship between	34
the spouse and the person is close and continuing. Item [1] of the proposed	35
amendments to that Act extends this definition to include the other party to a de facto	36
relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the	37
person. The effect of the amendment is that a de facto partner who has a close and	38
continuing relationship with a dependent person will have the same rights to receive	39
from the person's treating medical practitioner notice, advice and information relating	40
to the person as a spouse who has such a relationship.	41
Item [2] of the proposed amendments makes a consequential amendment.	42

3.20 Farm Produce Act 1983 No 30	1
Section 27 Restriction on persons to whom agents may sell consignments	2
Insert after section 27 (5):	3
(6) In this section, a reference to a member of the seller’s family includes a reference to a person with whom the seller is in a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	4
Explanatory note	5
Section 27 of the <i>Farm Produce Act 1983</i> restricts the sale of farm produce by a farm produce seller to the seller’s family. The proposed amendment to that section makes it clear that the restriction applies also to the sale of farm produce to a person with whom the seller is in a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	6
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3.21 Fire Brigades Regulation 2003	15
Clause 18 Unacceptable behaviour	16
Insert “or domestic” after “marital” in clause 18 (1) (h).	17
Explanatory note	18
The proposed amendment to the <i>Fire Brigades Regulation 2003</i> is consequential on the proposed amendments to the <i>Anti-Discrimination Act 1977</i> , set out in Schedule 1, that replace the term marital status with the term marital or domestic status .	19
	20
	21
3.22 Greyhound and Harness Racing Administration Act 2004 No 36	22
	23
Section 3 Definitions	24
Insert in alphabetical order in section 3 (1):	25
de facto partner , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	26
	27
	28
Explanatory note	29
The proposed amendment to the <i>Greyhound and Harness Racing Administration Act 2004 (the Act)</i> inserts a definition of de facto partner into the Act that makes it clear that the term applies in relation to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> . The term is used in the definition of close family member of a director in section 13 of the Act and in clause 11 of Schedule 1 to the Act.	30
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Section 13 enables the registration of a proprietary company as a bookmaker in relation to greyhound racing or harness racing if, among other things, each shareholder who is not a director of the company is a close family member of a director. Close family member of a director is defined to include, among other persons, a de facto partner of the director.	35
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Under clause 11 of Schedule 1 to the Act, a member of the Greyhound and Harness Racing Regulatory Authority is taken to have a pecuniary interest in a matter under consideration by the Authority, for the purposes of disclosure and other requirements set out in clause 10 of that Schedule, if the member's de facto partner has a pecuniary interest in the matter.

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3.23 Greyhound Racing Act 2002 No 38

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Schedule 1 Provisions relating to GRNSW

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Insert after clause 11 (5):

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(6) In this clause:

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de facto partner of a person means the other party to a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the person.

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Explanatory note

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Under clause 11 of Schedule 1 to the *Greyhound Racing Act 2002 (the Act)*, a member of Greyhound Racing New South Wales (*GRNSW*) is taken to have a pecuniary interest in a matter under consideration by GRNSW, for the purposes of disclosure and other requirements set out in clause 10 of that Schedule, if the member's de facto partner has a pecuniary interest in the matter.

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The proposed amendment inserts a definition of *de facto partner* that makes it clear that, for the purposes of clause 10 of Schedule 1 to the Act, that term applies in relation to de facto relationships within the meaning of the *Property (Relationships) Act 1984*. The effect of the proposed amendment is parallel to the effect on clauses 10 and 11 of Schedule 1 to the *Greyhound and Harness Racing Administration Act 2004* of the proposed amendment to that Act set out in Schedule 3.22. See the explanatory note appearing under that Schedule.

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3.24 Growth Centres (Development Corporations) Act 1974 No 49

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[1] Section 34 Disclosure of interest

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Insert "or the parties to a de facto relationship," after "together," in section 34 (4).

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29

[2] Section 34 (4) and (5)

30

Insert "or de facto partner" after "spouse" wherever occurring.

31

[3] Section 34 (12)

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Insert after section 34 (11):

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(12) In this section:

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de facto partner, in relation to a person, means the other party to a de facto relationship with the person.

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de facto relationship has the same meaning as in the *Property (Relationships) Act 1984*.

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38

Explanatory note	1
Section 34 of the <i>Growth Centres (Development Corporations) Act 1974 (the Act)</i>	2
requires a member of a development corporation, or a member of a committee or	3
sub-committee of a development corporation, to disclose certain interests, including	4
any pecuniary interests, that the member has in matters under consideration by the	5
development corporation. For the purposes of that section, the interest of a person's	6
spouse is taken as also being the interest of the person. The proposed amendments to	7
the Act similarly result in the interest of one party to a de facto relationship (within the	8
meaning of the <i>Property (Relationships) Act 1984</i>) being treated as the interest of the	9
other party.	10
3.25 Harness Racing Act 2002 No 39	11
Schedule 1 Provisions relating to HRNSW	12
Insert after clause 11 (5):	13
(6) In this clause:	14
<i>de facto partner</i> of a person means the other party to a de facto	15
relationship (within the meaning of the <i>Property (Relationships)</i>	16
<i>Act 1984</i>) with the person.	17
Explanatory note	18
The proposed amendment to the <i>Harness Racing Act 2002</i> , which applies in relation	19
to pecuniary interests of a member of Harness Racing New South Wales, is parallel to	20
the amendment made to the <i>Greyhound Racing Act 2002</i> set out in Schedule 3.23. See	21
the explanatory note appearing under that Schedule.	22
3.26 Home Building Act 1989 No 147	23
[1] Section 3AA Meaning of "close associate" of applicant for, or holder of, licence	24
Omit section 3AA (2) (b). Insert instead:	25
(b) an existing or former de facto partner, or	26
[2] Section 3AA (4)	28
Insert after section 3AA (3):	29
(4) For the purposes of this section:	30
<i>de facto partner</i> , in relation to an applicant for, or holder of, a	31
licence, means the other party to a de facto relationship (within	32
the meaning of the <i>Property (Relationships) Act 1984</i>) with the	33
applicant or holder.	34
Explanatory note	35
The term <i>close associate</i> of an applicant for, or holder of, a licence or of an applicant	36
for the renewal or restoration of a licence is defined in section 3AA of the <i>Home Building</i>	37
<i>Act 1989 (the Act)</i> to include an opposite sex de facto partner of the applicant or	38
holder. The proposed amendments to the Act extend the term to include same sex de	39

facto partners. The term close associate is used in sections 20 (6), 32B (5), 35 (1), 40 (1) and 127 of the Act.	1 2
Sections 20 (6), 32B (5) and 40 (1) of the Act enable the Director-General to reject an application for a licence, or an application to renew or restore a licence, on the ground that the Director-General considers that a close associate of the applicant who would not be a fit and proper person to hold a licence or other authority exercises a significant influence over the applicant or the operation and management of the applicant's business. Sections 20 (6) and 32B (5) also enable the Director-General to reject an application for a licence if there are reasonable grounds to believe that the application has been made with the intention of avoiding disclosure of any relevant past misconduct of a close associate of the applicant.	3 4 5 6 7 8 9 10 11
Section 35 (1) of the Act enables the Director-General to require a close associate of an applicant for a contractor licence to authorise a third party to provide certain information or records or to consent to a third party giving the Director-General financial and other confidential information concerning the close associate.	12 13 14 15
Section 127 of the Act enables any person authorised by the Director-General to obtain information about the financial solvency of a close associate of an applicant for, or holder of, a licence.	16 17 18
3.27 Industrial Relations Act 1996 No 17	19
[1] Section 5 Definition of employee	20
Insert “, de facto partner” after “spouse” in section 5 (4).	21
[2] Sections 55 (1), 58 (1) (d) and (2) and 60 (3)	22
Omit “paternity” wherever occurring. Insert instead “partner”.	23
[3] Section 55 What is parental leave?	24
Omit “or the birth of a child” from section 55 (2).	25
Insert instead “, or the birth of a child following the pregnancy,”.	26
[4] Section 55 (3)	27
Omit the subsection. Insert instead:	28
(3) Partner leave is leave taken by an employee in connection with the birth of a child of the employee or a child of the employee's spouse (being a child born as a result of the pregnancy of that spouse). Partner leave consists of:	29 30 31 32
(a) an unbroken period of up to one week at the time of the birth of the child or other termination of the pregnancy (short partner leave), and	33 34 35
(b) a further unbroken period in order to be the primary care-giver of the child (extended partner leave).	36 37
[5] Section 55 (5)	38
Omit “de facto spouse”. Insert instead “de facto partner”.	39

[6]	Section 58 Notices and documents required to be given to employer	1
	Omit “ Paternity ” from the heading to section 58 (2). Insert instead “ Partner ”.	2
[7]	Section 58 (2) (b) and (d) (ii)	3
	Omit “he” wherever occurring. Insert instead “the employee”.	4
[8]	Section 58 (2) (c) and (d) (i)	5
	Omit “his” wherever occurring. Insert instead “the employee’s”.	6
[9]	Schedule 4 Savings, transitional and other provisions	7
	Insert at the end of clause 2 (1):	8
	<i>Miscellaneous Acts Amendment (Same Sex Relationships)</i>	9
	<i>Act 2008</i> , but only in relation to the amendments made to this Act	10
[10]	Schedule 4, Part 9, clause 48	11
	Insert after clause 47:	12
48	Provisions consequent on enactment of Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008	13
		14
(1)	The amendments made to Part 4 of Chapter 2 of this Act by the <i>Miscellaneous Acts Amendment (Same Sex Relationships) Act 2008</i> extend to the taking of extended partner leave by a female employee where the birth of a child of the employee or of the employee’s female de facto partner has taken place before the commencement of the amendments.	15 16 17 18 19 20
(2)	The following provisions apply in place of section 58 (2) in relation to that extended partner leave:	21 22
(a)	the employee must, at least 4 weeks before proceeding on leave, give written notice of the dates on which she proposes to start and end the period of leave,	23 24 25
(b)	the employee must, before the start of leave, provide a certificate from a medical practitioner stating that the child was born and the date of birth,	26 27 28
(c)	the employee must, before the start of leave, provide a statutory declaration by the employee stating:	29 30
(i)	if applicable, the period of any maternity leave sought or taken by her de facto partner, and	31 32
(ii)	that the employee is seeking the period of leave to become the primary care-giver of the child.	33 34

(3)	Any entitlement of a female employee to take partner leave under this clause ceases on the expiration of 1 year following the birth of the child concerned.	1 2 3
(4)	In this clause:	4
(a)	a reference to a child of a female employee is a reference to a child of whom the employee is presumed to be a parent because of the application of section 14 (1A) (a) of the <i>Status of Children Act 1996</i> , and	5 6 7 8
(b)	a reference to a child of the employee's de facto partner is a reference to a child who is born following the pregnancy of the employee's de facto partner.	9 10 11
[11]	Dictionary	12
	Insert in alphabetical order:	13
	<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	14 15 16
	Explanatory note	17
	Section 5 (4) of the <i>Industrial Relations Act 1996</i> (the Act) provides that a person who is employed by his or her spouse or parent is not an employee for the purposes of the Act. Item [1] of the proposed amendments to the Act extends this exclusion to a person who is engaged or employed by his or her de facto partner.	18 19 20 21
	Item [4] of the proposed amendments recasts section 55 (3) to replace the term paternity leave with the term partner leave and extend this form of leave to certain female employees in connection with the birth of a child. Currently, paternity leave is available to a male employee in connection with the birth of his child or a child of his spouse or de facto partner. To ensure the similar treatment of female employees, partner leave will be available to a female employee in connection with the birth of her child or a child of her de facto partner following the pregnancy of her de facto partner. The child of the female employee referred to in this context is a child born as a result of the pregnancy of another woman following a fertilisation procedure to which the employee consented, as a de facto partner, and of whom the employee is presumed to be a parent under the proposed amendments to the <i>Status of Children Act 1996</i> set out in Schedule 2. Items [2], [3], [6], [7] and [8] of the proposed amendments make consequential amendments.	22 23 24 25 26 27 28 29 30 31 32 33 34
	Section 55 (5) of the Act defines the term spouse , wherever appearing in the provisions of the Act relating to parental leave (Part 4 of Chapter 2), to include a de facto spouse. Item [5] of the proposed amendments replaces "de facto spouse" in that definition with "de facto partner".	35 36 37 38
	Item [11] of the proposed amendments inserts a definition of de facto partner into the Act that makes it clear that the term applies to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> .	39 40 41
	Item [9] of the proposed amendments enables savings and transitional regulations to be made as a consequence of the proposed Act (but only to the extent that it amends the Act).	42 43 44

Item [10] of the proposed amendments provides for the proposed entitlement for certain female employees to take partner leave to extend to the taking of partner leave by such employees where the birth concerned has taken place before the commencement of the amendments. The entitlement is to cease at the expiration of 1 year following the birth of the child. This is consistent with section 54 of the Act, which (among other things) provides that parental leave is not to extend beyond 1 year after the birth of the child concerned.

3.28 Irrigation Areas (Reduction of Rents) Act 1974 No 83 8

[1] Section 3 Interpretation 9

Insert in alphabetical order in section 3 (1): 10

domestic partner of an eligible pensioner means: 11

(a) the spouse of the eligible pensioner, or 12

(b) a person with whom the eligible pensioner is in a de facto relationship within the meaning of the *Property (Relationships) Act 1984*. 13
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[2] Section 3 (2) (a) and (c) 16

Omit “spouse” wherever occurring. Insert instead “domestic partner”. 17

Explanatory note 18

The proposed amendments to the *Irrigation Areas (Reduction of Rents) Act 1974 (the Act)* extend the class of persons who may be a **jointly eligible occupier**, for the purposes of the Act, to a person with whom an eligible pensioner is in a de facto relationship within the meaning of the *Property (Relationships) Act 1984*. Currently, the term covers only eligible pensioners and their spouses. 19
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Under the Act, rent for a certain kind of lease in respect of land within a special land district (within the meaning of the *Crown Lands Act 1989*), or a lease under the *Wentworth Irrigation Act 1890*, may be reduced if the lease is held by an eligible pensioner who occupies a dwelling on the land concerned as his or her principal place of abode. In the case of a lease held jointly with other persons, the discount is applied to the rent in direct proportion to the total share of interests in the lease that is held by an eligible pensioner with any jointly eligible occupier. 24
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The effect of extending the term **jointly eligible occupier** to a de facto partner of an eligible pensioner is that the share of any interests of such a de facto partner in a lease will be taken into account when determining the amount by which rent may be reduced under the Act in the same way as the share of any interests held by a spouse is currently taken into account. 31
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3.29 Liquor Act 1982 No 147 36

[1] Section 4 Definitions 37

Insert in alphabetical order in section 4 (1): 38

de facto partner of a person means the other party to a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the person. 39
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[2] Section 4 (1), definition of “spouse”	1
Omit the definition.	2
[3] Section 63 Endorsement of licence after death or disability of licensee	3
Insert “or de facto partner” after “spouse” in section 63 (2) (a).	4
[4] Section 69 Disciplinary powers of court	5
Insert “or de facto partner” after “spouse” in section 69 (2) where firstly occurring.	6 7
[5] Section 69 (2)	8
Insert “, de facto partner” after “spouse” where secondly occurring.	9
Explanatory note	10
Item [2] of the proposed amendments omits the definition of <i>spouse</i> , in relation to a licensee under the <i>Liquor Act 1982 (the Act)</i> , that extends the term to “a person who, although not legally married to the licensee, ordinarily lives with the licensee as the spouse of the licensee on a permanent and domestic basis”. In place of that term, the term <i>de facto partner</i> is defined by reference to the <i>Property (Relationships) Act 1984</i> (item [1] of the proposed amendments) and inserted in those provisions of the Act where the term <i>spouse</i> is currently used (items [3]–[5] of the proposed amendments).	11 12 13 14 15 16 17
The effect of item [3], when read with item [1], of the proposed amendments is that where a licensee under the Act dies, the business of the licensee may be carried on for up to 1 month by the de facto partner of the licensee.	18 19 20
The effect of items [4] and [5], when read with item [1] of the proposed amendments, is that where a licensee is disqualified, under section 69 (1) of the Act, from holding a licence, the licence may be transferred to the de facto partner of the licensee.	21 22 23
3.30 Local Government Act 1993 No 30	24
[1] Dictionary	25
Omit the definition of <i>de facto partner</i> . Insert instead:	26
<i>de facto partner</i> , in relation to a person, means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	27 28 29
[2] Dictionary, definition of “jointly eligible occupier”	30
Insert “or de facto partner” after “spouse” wherever occurring in paragraphs (a) and (c).	31 32
[3] Dictionary, definition of “relative”	33
Insert “or de facto partner” after “spouse” in paragraph (a).	34
Explanatory note	35
Currently, the definition of <i>de facto partner</i> in the <i>Local Government Act 1993 (the Act)</i> is limited to opposite sex de facto relationships. Item [1] of the proposed	36 37

amendments to the Act extends that definition to same sex de facto relationships by referring to a de facto relationship within the meaning of the <i>Property (Relationships) Act 1984</i> .	1 2 3
Currently, the term relative , in relation to a person, is defined in the Act to include certain relatives of a person or the person's spouse. The kinds of relatives concerned are listed in paragraph (a) of the definition. Item [3] of the proposed amendments extends the term relative , in relation to a person, to include such relatives of the person's de facto partner.	4 5 6 7 8
The terms de facto partner and relative are both used in provisions of Chapter 14 of the Act relating to the disclosure of pecuniary interests (see sections 443, 449 and 454 of the Act). The term relative , which is defined to include the spouse or de facto partner of the person, is also used in section 448 in relation to interests that do not need to be disclosed for the purposes of Chapter 14.	9 10 11 12 13
The terms de facto partner and relative are also both used in section 664 (2) and (3) of the Act. Section 664 (2) makes it an offence for a person acting in the administration or execution of the Act to use information, acquired by the person in the administration or execution of the Act and not generally known, for the purpose of gaining a financial advantage for the person or the person's spouse, de facto partner or relative. Section 664 (3) makes it an offence for a person acting in the administration or execution of the Act, for the purpose of gaining an advantage for the person, the person's spouse or de facto partner or a relative of the person, to influence the determination of an application for an approval, or the giving of an order, under the Act.	14 15 16 17 18 19 20 21 22
The term relative is used in section 716 (3) of the Act, which enables land to be sold for unpaid rates and charges to a council, a councillor, a relative of a councillor, a member of staff of the council or any relative of a member of staff of the council by public auction only.	23 24 25 26
Item [2] of the proposed amendments extends the definition of jointly eligible occupier to include the de facto partner of an eligible pensioner , within the meaning of the Act, for the purposes of determining the amount by which a rate or charge on land may be reduced under section 575 of the Act. Currently, the term jointly eligible occupier covers only eligible pensioners and their spouses. The effect of the amendment, in relation to the reduction of a rate or charge on land held jointly by an eligible pensioner and his or her de facto partner is similar to the effect of the amendments to the <i>Irrigation Areas (Reduction of Rents) Act 1974</i> set out in Schedule 3.28. See the explanatory note appearing under that Schedule.	27 28 29 30 31 32 33 34 35
3.31 Local Government (General) Regulation 2005	36
Clause 217 Additional information for inclusion in annual report	37
Insert "(whether of the same or the opposite sex)" after "partner" in clause 217 (1) (a1) (vii).	38 39
Explanatory note	40
The proposed amendment to the <i>Local Government (General) Regulation 2005</i> amends a provision that requires an annual report of a council to include details on the total cost of the expenses of any spouse, partner or other person who accompanied a councillor in the performance of his or her civic functions. The proposed amendment makes it clear that the reference to a partner of a councillor in the provision is a reference to any partner of the councillor, whether of the same or the opposite sex.	41 42 43 44 45 46

3.32 Lotteries and Art Unions Regulation 2007	1
[1] Clause 96 Certain persons not to be involved in mini-numbers lottery	2
Omit clause 96 (e). Insert instead:	3
(e) the spouse, de facto partner or other family member of a	4
person referred to in paragraph (b)–(d), if the spouse, de	5
facto partner or family member lives at the same address	6
as that person.	7
[2] Clause 96 (2)	8
Insert at the end of clause 96:	9
(2) In this clause:	10
<i>de facto partner</i> of a person means the other party to a de facto	11
relationship (within the meaning of the <i>Property (Relationships)</i>	12
<i>Act 1984</i>) with the person.	13
Explanatory note	14
The proposed amendments to the <i>Lotteries and Art Unions Regulation 2007</i> amend a	15
provision that prohibits, among others, the de facto spouses of certain persons involved	16
in the conduct of a mini-numbers lottery from playing in the lottery.	17
Item [1] of the proposed amendments replaces references to a de facto spouse with	18
references to a de facto partner. Item [2] of the proposed amendments inserts a	19
definition of <i>de facto partner</i> that refers to a party to a de facto relationship within the	20
meaning of the <i>Property (Relationships) Act 1984</i> .	21
3.33 Macquarie University Act 1989 No 126	22
Schedule 2A Duties of Council members	23
Insert in alphabetical order in clause 5 (10):	24
<i>de facto partner</i> of a member means the other party to a de facto	25
relationship (within the meaning of the <i>Property (Relationships)</i>	26
<i>Act 1984</i>) with the member.	27
Explanatory note	28
The proposed amendment to clause 5 of Schedule 2A to the <i>Macquarie University Act</i>	29
<i>1989</i> is an amendment, applying in relation to the material interests of a member of the	30
Council of Macquarie University, that is parallel to the amendment to the <i>Charles Sturt</i>	31
<i>University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under	32
that Schedule.	33

3.34 Pre-Trial Diversion of Offenders Act 1985 No 153	1
[1] Section 3 Definitions	2
Insert in alphabetical order in section 3 (1):	3
<i>de facto partner</i> , in relation to a person, means the other party to	4
a de facto relationship (within the meaning of the <i>Property</i>	5
<i>(Relationships) Act 1984</i>) with the person.	6
[2] Section 14 Assessment	7
Omit “de facto spouse” from section 14 (2) (c).	8
Insert instead “de facto partner”.	9
Explanatory note	10
Item [1] of the proposed amendments to the <i>Pre-Trial Diversion of Offenders Act 1985</i>	11
(<i>the Act</i>) inserts a definition of <i>de facto partner</i> into the Act that makes it clear that the	12
term applies in relation to de facto relationships within the meaning of the <i>Property</i>	13
(<i>Relationships) Act 1984</i> . The term is used in sections 2A, 3A, 14 (as amended by	14
item [2] of the proposed amendments) and 30A of the Act.	15
Section 2A of the Act provides, among other things, that the purpose of the Act is to	16
provide for the protection of children who have been victims of sexual assault by a	17
parent or a parent’s spouse or de facto partner. Section 3A of the Act provides that the	18
Act applies to a person who is charged with a child sexual assault offence committed	19
with or upon the person’s child or the child of the person’s spouse or de facto partner.	20
Section 14 of the Act provides for the assessment of such a person’s suitability for	21
participation in the Pre-Trial Diversion of Offenders Program. Section 30A (1) of the Act	22
describes that program as a program for the treatment of a person who commits a child	23
sexual assault offence with or upon the person’s child or the child of the person’s	24
spouse or de facto partner.	25
3.35 Privacy and Personal Information Protection Act 1998	26
No 133	27
Sections 53 (7A) (a) and 55 (4A) (a)	28
Insert “(whether of the same or the opposite sex)” after “partner” wherever	29
occurring.	30
Explanatory note	31
The proposed amendment to the <i>Privacy and Personal Information Protection Act 1998</i>	32
(<i>the Act</i>) amends provisions of the Act relating to the payment of compensation to a	33
person who is aggrieved by:	34
(a) the contravention by a public sector agency of an information protection	35
principle, or a privacy code of practice, that applies to the agency, or	36
(b) the disclosure by a public sector agency of personal information kept in a public	37
register.	38
Sections 53 and 55 of the Act enable a public sector agency and the Administrative	39
Decisions Tribunal, respectively, to pay or order the payment of monetary	40
compensation following a review by the agency or the Tribunal into the agency’s	41
conduct. Sections 53 (7A) and 55 (4A) provide, however, that monetary compensation	42

may not be paid if, among other things, the applicant for the review is a convicted inmate or former convicted inmate or a spouse, partner or other listed associate of such an inmate or former inmate.

The proposed amendment makes it clear that the reference to a partner of a convicted inmate or former convicted inmate in these provisions is a reference to any partner of the inmate or former inmate, whether of the same or the opposite sex.

3.36 Private Hospitals Regulation 1996

Clause 16 Definition of pecuniary interest

Insert in alphabetical order in clause 16 (1):

de facto partner of a practitioner means the other party to a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the practitioner.

Explanatory note

The proposed amendment to the *Private Hospitals Regulation 1996* makes an amendment in relation to the pecuniary interests of medical practitioners and dentists (**practitioners**) in private hospitals that is parallel to the proposed amendment to the *Day Procedure Centres Regulation 1996* set out in Schedule 3.18. See the explanatory note appearing under that Schedule.

3.37 Property (Relationships) Act 1984 No 147

Section 5 Domestic relationships

Insert after section 5 (3) (c):

(c1) where the domestic relationship is a de facto relationship between two women, a child of whom both of those women are presumed to be parents by virtue of the *Status of Children Act 1996*.

Explanatory note

The proposed amendment to the *Property (Relationships) Act 1984 (the Act)* is consequential on the amendment made to the parentage presumptions under the *Status of Children Act 1996* that are set out in Schedule 2. Section 5 (3) (c) (ii) of the Act provides that a reference in the Act to a child of the parties to a domestic relationship includes, where the domestic relationship is a de facto relationship between a man and a woman, a reference to a child of the woman of whom the man is presumed, by virtue of the *Status of Children Act 1996*, to be the father. The proposed amendment will similarly provide that a reference in the Act to a child of the parties to a domestic relationship includes, where the domestic relationship is a de facto relationship between two women, a reference to a child of whom both women are presumed to be parents by virtue of the *Status of Children Act 1996*.

3.38 Property, Stock and Business Agents Act 2002 No 66	1
[1] Section 3 Definitions	2
Insert in alphabetical order in section 3 (1):	3
<i>de facto partner</i> , in relation to a person, means the other party to	4
a de facto relationship (within the meaning of the <i>Property</i>	5
<i>(Relationships) Act 1984</i>) with the person.	6
[2] Section 49 Restrictions on licensee obtaining beneficial interest in property	7
Omit paragraph (b) of the definition of <i>close relative</i> in section 49 (6).	9
Insert instead:	10
(b) an existing or former de facto partner, or	11
[3] Section 124 Associates of a licensee	12
Omit section 124 (2) (b). Insert instead:	13
(b) an existing or former de facto partner, or	14
Explanatory note	15
The proposed amendments to the <i>Property, Stock and Business Agents Act 2002 (the Act)</i> extend provisions that currently apply in relation to opposite sex de facto partners to same sex de facto partners.	16
Item [2] of the proposed amendments to the Act, when read with item [1] of those amendments, extends the definition of <i>close relative</i> of a person in section 49 of the Act to include a same sex de facto partner of the person. Section 49 of the Act prohibits a real estate agent for the vendor of property, and any real estate salesperson employed by the agent, from obtaining, or being in any way concerned in obtaining, a beneficial interest in the property. A person is taken to have a beneficial interest in property if a close relative of the person obtains a beneficial interest in the property and in other specified circumstances where a close relative has a connection with a corporation or person who obtains a beneficial interest in the property.	17
Item [3] of the proposed amendments, when read with item [1] of those amendments, extends references to associates of a licensee in Part 9 of the Act to the same sex de facto partner of the licensee and certain relatives of that partner. Part 9 provides for the appointment of a manager for the business, or receivership of the property, of a licensee, including where the Director-General is of the opinion that there has been a failure to account by the licensee (see sections 126 and 138 of the Act). A failure to account is defined for the purposes of that Part to include a failure by a licensee to account for, pay or deliver money or other valuable property under the control of the licensee that has been received by or entrusted to an associate of the licensee in the course of the carrying on of the licensee's business (see section 125 of the Act).	18
Item [3], together with item [1], of the proposed amendments will also operate in section 139 of the Act, which enables the receivership of property of an associate of a licensee.	19
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3.39 Public Sector Employment and Management Act 2002 No 43	1
Section 97 Maternity leave etc	2
Omit “paternity” from section 97 (1). Insert instead “partner”.	3
Explanatory note	4
The proposed amendment to the <i>Public Sector Employment and Management Act 2002</i> is consequential on the amendments relating to partner leave made to the <i>Industrial Relations Act 1996</i> contained elsewhere in this Schedule.	5 6 7
3.40 Road Transport (General) Act 2005 No 11	8
[1] Section 23 Associates	9
Insert “de facto partner,” after “spouse,” in section 23 (1) (a).	10
[2] Section 23 (2)	11
Omit the subsection. Insert instead:	12
(2) In this section:	13
<i>beneficiary</i> of a trust includes an object of a discretionary trust.	14
<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	15 16 17
Explanatory note	18
Currently, section 23 of the <i>Road Transport (General) Act 2005 (the Act)</i> provides that a person is an associate of another if one is a spouse of the other. Item [1] of the proposed amendments to the Act extends that term to include de facto partners. The term associate is used in sections 107 and 108 of the Act. Section 107 enables a court that finds a person guilty of an applicable road law offence to require the payment of a fine based on the gross commercial benefit that has been received, or is receivable, by an associate of the person from the commission of the offence. Section 108 enables a court that cancels or suspends the registration of a vehicle under that section to also disqualify an associate of the person who was or is the registered operator from registering the vehicle.	19 20 21 22 23 24 25 26 27 28
Item [2] of the proposed amendments inserts a definition of de facto partner , for the purposes of the term associate , that refers to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> . Item [2] also reinstates the definition of beneficiary of a trust that currently appears in section 23 (2) of the Act.	29 30 31 32
3.41 Rural Lands Protection Act 1998 No 143	33
[1] Schedule 5 Sale of land for unpaid money owing to board	34
Insert “or de facto partner” after “spouse” in clause 6 (4) wherever occurring.	35

[2] Dictionary	1
Insert in alphabetical order:	2
<i>de facto partner</i> of a person means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the person.	3 4 5
Explanatory note	6
Item [1] of the proposed amendments to the <i>Rural Lands Protection Act 1998 (the Act)</i> extends the term relative of a person, for the purposes of clause 6 of Schedule 5 to the Act, to a de facto partner of the person and certain relatives of that de facto partner. Currently, the term includes the spouse and relatives of the spouse. Clause 6 of Schedule 5 provides that the sale of land for unpaid money owing to a rural lands protection board must not be sold under that Schedule to a relative of a director or any relative of a member of staff of the board.	7 8 9 10 11 12 13
Item [2] of the proposed amendments inserts a definition of de facto partner into the Dictionary to the Act that makes it clear that the term refers to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> . As well as being used in the definition of relative of a person (as amended by item [1]), for the purposes of clause 6 of Schedule 5 to the Act, the term is used in clause 3 of Schedule 1 (Constitution and procedure of State Council and boards). That clause provides that a person is taken to have a pecuniary interest in a matter if the person's de facto partner has a pecuniary interest in the matter.	14 15 16 17 18 19 20 21
3.42 Southern Cross University Act 1993 No 69	22
Schedule 2A Duties of Council members	23
Insert in alphabetical order in clause 5 (10):	24
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	25 26 27
Explanatory note	28
The proposed amendment to clause 5 of Schedule 2A to the <i>Southern Cross University Act 1993</i> is an amendment, applying in relation to the material interests of a member of the Council of Southern Cross University, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	29 30 31 32 33
3.43 State Owned Corporations Act 1989 No 134	34
[1] Schedule 10 Duties and liabilities of directors and other officers	35
Insert "or de facto partner," after "a spouse" in clause 4 (1) (a) and (b) wherever occurring.	36 37
[2] Schedule 10, clause 4 (1) (a) and (b)	38
Omit "or spouse" wherever occurring.	39
Insert instead ", spouse or de facto partner".	40

[3] Schedule 10, clause 4 (4)	1
Insert in alphabetical order:	2
<i>de facto partner</i> of a director means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the director.	3
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Explanatory note	6
Clause 4 of Schedule 10 to the <i>State Owned Corporations Act 1989</i> prohibits a statutory State owned corporation making a loan to a director, a spouse of a director or a relative of a director or spouse. That clause also prohibits the corporation giving a guarantee or providing security in connection with a loan made to any of those persons.	7
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The proposed amendments to clause 4 of Schedule 10 extend those prohibitions to apply in relation to a loan made to a de facto partner of a director or a relative of any such de facto partner (whether of the same or the opposite sex).	11
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3.44 Supreme Court Act 1970 No 52	14
[1] Section 114 Superannuation Act 1916	15
Insert “, de facto partner” after “spouse” in section 114 (2) (b).	16
[2] Section 114 (4)	17
Insert after section 114 (3):	18
(4) In this section:	19
<i>de facto partner</i> of an associate Judge means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the associate Judge.	20
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Explanatory note	23
Section 114 of the <i>Supreme Court Act 1970</i> provides, among other things, that the <i>Superannuation Act 1916</i> does not apply to an associate Judge and that any spouse of the associate Judge is not entitled to receive any payment or pension under that Act.	24
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The effect of the proposed amendments is that the de facto partner of an associate Judge (whether of the same or the opposite sex) will also not be entitled to receive any payment or pension under the <i>Superannuation Act 1916</i> .	27
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3.45 Sydney Cricket and Sports Ground Act 1978 No 72	30
[1] Schedule 1 Provisions relating to constitution and procedure of the Trust	31
	32
Omit “husband and wife who are living together” from clause 13 (8).	33
Insert instead “married couple who are living together, or the parties to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>)”.	34
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[2] Schedule 1, clause 13 (8) and (9)	1
Insert “or de facto partner” after “spouse” wherever occurring.	2
[3] Schedule 1, clause 13 (16)	3
Insert after clause 13 (15):	4
(16) In this clause:	5
<i>de facto partner</i> , in relation to a person, means the other party to	6
a de facto relationship (within the meaning of the <i>Property</i>	7
<i>(Relationships) Act 1984</i>) with the person.	8
Explanatory note	9
Under clause 13 of Schedule 1 to the <i>Sydney Cricket and Sports Ground Act 1978</i> , a	10
pecuniary interest that a spouse of a member of the Sydney Cricket and Sports Ground	11
Trust has in a contract or proposed contract with the Trust is taken as also being the	12
pecuniary interest of the member for the purposes of disclosure requirements in that	13
clause. The proposed amendments to that Act will result in the pecuniary interests of a	14
person with whom a member is in a de facto relationship (within the meaning of the	15
<i>Property (Relationships) Act 1984</i>) being treated in the same way.	16
3.46 Sydney Cricket Ground and Sydney Football Stadium	17
By-law 2004	18
[1] Clause 3 Definitions and notes	19
Insert in alphabetical order in clause 3 (1):	20
<i>de facto partner</i> , in relation to a member, means the other party	21
to a de facto relationship (within the meaning of the <i>Property</i>	22
<i>(Relationships) Act 1984</i>) with the member.	23
[2] Clauses 31 (1) and 32 (4)	24
Insert “or de facto partner” after “spouse” wherever occurring.	25
[3] Clause 35 Transfer of gold, double gold or junior gold membership to	26
family	27
Omit “spouse” from clause 35 (5). Insert instead “partner”.	28
Explanatory note	29
Item [1] of the proposed amendments to the <i>Sydney Cricket Ground and Sydney</i>	30
<i>Football Stadium By-law 2004 (the By-law)</i> inserts a definition of <i>de facto partner</i> that	31
refers to de facto relationships within the meaning of the <i>Property (Relationships) Act</i>	32
<i>1984</i> .	33
Item [2] of the proposed amendments extends to the de facto partner of a member	34
entitlements that a spouse of a member currently has to apply for or be admitted to	35
certain kinds of membership of the Sydney Cricket Ground and Sydney Football	36
Stadium on the death of the member.	37
Item [3] of the proposed amendments replaces the term “de facto spouse” with “de	38
facto partner” in clause 35 (5). Item [3], when read with item [1], of the proposed	39

amendments, ensures that the entitlement that an opposite sex de facto partner of a member currently has to apply for certain kinds of membership of the member to be transferred to the partner extends to a same sex de facto partner of a member.	1 2 3
3.47 Thoroughbred Racing Act 1996 No 37	4
Section 14A Licensing of bookmakers	5
Insert in alphabetical order in section 14A (9):	6
<i>de facto partner</i> of a director means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the director.	7 8 9
Explanatory note	10
Section 14A of the <i>Thoroughbred Racing Act 1996 (the Act)</i> enables the licensing of a proprietary company as a bookmaker under that Act if, among other things, each shareholder who is not a director of the company is a close family member of a director. Close family member of a director is defined to include, among other persons, a de facto partner of the director. The proposed amendment to section 14A makes it clear that the term de facto partner applies in relation to de facto relationships within the meaning of the <i>Property (Relationships) Act 1984</i> . The effect of the proposed amendment on the operation of section 14A of the Act is parallel to the effect on section 13 of the <i>Greyhound and Harness Racing Administration Act 2004</i> by the amendment to that Act contained elsewhere in this Schedule.	11 12 13 14 15 16 17 18 19 20
3.48 University of New England Act 1993 No 68	21
Schedule 2A Duties of Council members	22
Insert in alphabetical order in clause 5 (10):	23
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	24 25 26
Explanatory note	27
The proposed amendment to clause 5 of Schedule 2A to the <i>University of New England Act 1993</i> is an amendment, applying in relation to the material interests of a member of the Council of the University of New England, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	28 29 30 31 32
3.49 University of New South Wales Act 1989 No 125	33
Schedule 2A Duties of Council members	34
Insert in alphabetical order in clause 5 (10):	35
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	36 37 38

Explanatory note	1
The proposed amendment to clause 5 of Schedule 2A to the <i>University of New South Wales Act 1989</i> is an amendment, applying in relation to the material interests of a member of the Council of the University of New South Wales, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	2 3 4 5 6
3.50 University of Newcastle Act 1989 No 68	7
Schedule 2A Duties of Council members	8
Insert in alphabetical order in clause 5 (10):	9
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	10 11 12
Explanatory note	13
The proposed amendment to clause 5 of Schedule 2A to the <i>University of Newcastle Act 1989</i> is an amendment, applying in relation to the material interests of a member of the Council of the University of Newcastle, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	14 15 16 17 18
3.51 University of Sydney Act 1989 No 124	19
Schedule 2A Duties of Fellows	20
Insert in alphabetical order in clause 5 (10):	21
<i>de facto partner</i> of a Fellow means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the Fellow.	22 23 24
Explanatory note	25
The proposed amendment to clause 5 of Schedule 2A to the <i>University of Sydney Act 1989</i> is an amendment, applying in relation to the material interests of a Fellow of the Senate of the University of Sydney, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	26 27 28 29 30
3.52 University of Technology, Sydney, Act 1989 No 69	31
Schedule 2A Duties of Council members	32
Insert in alphabetical order in clause 5 (10):	33
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	34 35 36
Explanatory note	37
The proposed amendment to clause 5 of Schedule 2A to the <i>University of Technology, Sydney, Act 1989</i> is an amendment, applying in relation to the material interests of a	38 39

member of the Council of the University of Technology, Sydney, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	1 2 3
3.53 University of Western Sydney Act 1997 No 116	4
Schedule 2A Duties of Board members	5
Insert in alphabetical order in clause 5 (10):	6
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	7 8 9
Explanatory note	10
The proposed amendment to clause 5 of Schedule 2A to the <i>University of Western Sydney Act 1997</i> is an amendment, applying in relation to the material interests of a member of the Board of Trustees of the University of Western Sydney, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	11 12 13 14 15
3.54 University of Wollongong Act 1989 No 127	16
Schedule 2A Duties of Council members	17
Insert in alphabetical order in clause 5 (10):	18
<i>de facto partner</i> of a member means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the member.	19 20 21
Explanatory note	22
The proposed amendment to clause 5 of Schedule 2A to the <i>University of Wollongong Act 1989</i> is an amendment, applying in relation to the material interests of a member of the Council of the University of Wollongong, that is parallel to the amendment to the <i>Charles Sturt University Act 1989</i> set out in Schedule 3.8. See the explanatory note appearing under that Schedule.	23 24 25 26 27
3.55 Water Industry Competition Act 2006 No 104	28
Dictionary	29
Insert in alphabetical order:	30
<i>de facto partner</i> of an individual means the other party to a de facto relationship (within the meaning of the <i>Property (Relationships) Act 1984</i>) with the individual.	31 32 33
Explanatory note	34
Section 16 of the <i>Water Industry Competition Act 2006 (the Act)</i> sets out enforcement action that may be taken by the Minister for Water or the Independent Pricing and Regulatory Tribunal (<i>IPART</i>) in relation to a licensee that contravenes the Act, the regulations under the Act or the conditions of a licence. Among other things, the Minister or IPART may declare that directors or persons concerned in the management	35 36 37 38 39

Miscellaneous Acts Amendment (Same Sex Relationships) Bill 2008

Schedule 3 Amendment of other Acts and instruments

of the licensee and related persons of those directors or persons are disqualified individuals for the purposes of the Act. **Related person**, in relation to an individual, is defined to include the de facto partner of the individual. The proposed amendment to the Act makes it clear that the term **de facto partner** applies in relation to de facto relationships within the meaning of the *Property (Relationships) Act 1984*.

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