

# Commonwealth Powers (De Facto Relationships) Act 2003 No 49

[2003-49]



New South Wales

## Status Information

### Currency of version

Current version for 8 January 2010 to date (accessed 12 July 2024 at 0:12)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Responsible Minister

- Attorney General

For full details of Ministerial responsibilities, see the [Administrative Arrangements \(Minns Ministry—Administration of Acts\) Order 2023](#).

### Authorisation

This version of the legislation is compiled and maintained in a database of legislation by the Parliamentary Counsel's Office and published on the NSW legislation website, and is certified as the form of that legislation that is correct under section 45C of the [Interpretation Act 1987](#).

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# Commonwealth Powers (De Facto Relationships) Act 2003 No 49



New South Wales

An Act to refer certain financial matters arising out of the breakdown of de facto relationships to the Parliament of the Commonwealth for the purposes of section 51 (xxxvii) of the [Constitution of the Commonwealth](#).

## 1 Name of Act and purpose

- (1) This Act is the [Commonwealth Powers \(De Facto Relationships\) Act 2003](#).
- (2) The purpose of this Act is to refer certain financial matters arising out of the breakdown of de facto relationships to the Parliament of the Commonwealth for the purposes of section 51 (xxxvii) of the [Constitution of the Commonwealth](#).

## 2 Commencement

This Act commences on a day to be appointed by proclamation published in the Gazette.

## 3 Definitions

- (1) In this Act:

**de facto partner** means a person who lives or has lived in a de facto relationship.

**de facto relationship** means a marriage-like relationship (other than a legal marriage) between two persons.

**financial matters**, in relation to de facto partners, means any or all of the following matters:

- (a) the maintenance of de facto partners,
- (b) the distribution of the property of de facto partners,
- (c) the distribution of any other financial resources of de facto partners, including prospective superannuation entitlements or other valuable benefits of or relating to de facto partners.

**property** means any legal or equitable estate or interest (whether present or future

and whether vested or contingent) in real or personal property of any description and wherever situated, including money or choses in action.

- (2) For the purposes of this Act, a de facto relationship exists even if a de facto partner is legally married to someone else or is in another de facto relationship.
- (3) A reference in this Act:
  - (a) to the property or other financial resources of de facto partners includes a reference to the property or other financial resources of either or both of them, and
  - (b) to the distribution of any such property or resources includes a reference to the conferral of rights or obligations in relation to the property or resources.
- (4) This Act extends to de facto relationships that ended before the commencement of this Act.

#### **4 References**

- (1) The following matters, to the extent to which they are not otherwise included in the legislative powers of the Parliament of the Commonwealth, are referred to the Parliament of the Commonwealth for a period commencing on the day on which this Act commences and ending on the day fixed, pursuant to section 5, as the day on which the references under this Act are to terminate, but no longer:
  - (a) financial matters relating to de facto partners arising out of the breakdown (other than by reason of death) of de facto relationships between persons of different sexes,
  - (b) financial matters relating to de facto partners arising out of the breakdown (other than by reason of death) of de facto relationships between persons of the same sex.
- (2) The operation of each paragraph of subsection (1) is not affected by the other paragraph.

#### **5 Termination of references**

- (1) The Governor may, at any time, by proclamation published on the NSW legislation website, fix a day as the day on which the references under this Act are to terminate.
- (2) The day fixed under subsection (1) must be no earlier than the first day after the end of the period of 3 months beginning with the day on which the proclamation is published under that subsection.
- (3) The Governor may, by proclamation published on the NSW legislation website, revoke a proclamation published under subsection (1), in which case the revoked

proclamation is taken (for the purposes of section 4) never to have been published.

- (4) A revoking proclamation has effect only if published before the day fixed under subsection (1).
- (5) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.