



New South Wales

# Miscellaneous Acts Amendment (Relationships) Act 2002 No 73

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New South Wales

## **Miscellaneous Acts Amendment (Relationships) Act 2002 No 73**

Act No 73, 2002

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An Act to amend various laws to make further provision in relation to their application to de facto relationships. [Assented to 1 October 2002]

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Miscellaneous Acts Amendment (Relationships) Act 2002*.

**2 Commencement**

This Act commences on a day or days to be appointed by proclamation.

**3 Amendments**

The Acts and Regulations specified in Schedule 1 are amended as set out in that Schedule.

**4 Explanatory notes**

The matter appearing under the headings “Explanatory note” in Schedule 1 does not form part of this Act.

## Schedule 1 Amendments

(Section 3)

### 1.1 Adoption Act 2000 No 75

**[1] Section 137 Access to adoption information by relatives and others after death of adopted person or birth parent**

Omit the note to section 137 (1).

**[2] Section 137 (2)**

Omit “de facto or other”.

**[3] Section 137 (6)**

Insert after section 137 (5):

(6) In this section:

*spouse* of a deceased person includes a person with whom the deceased had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**Explanatory note**

Schedule 1.1 amends a section of the *Adoption Act 2000* that provides for the release of adoption information concerning a deceased person to their spouse or de facto spouse.

The amendments:

- (a) extend the kinds of de facto relationships that are covered by the term *spouse* by using the definition of de facto relationship in the *Property (Relationships) Act 1984*, and
- (b) remove a redundant distinction between de facto relationships of at least 3 years' duration and those of shorter duration, and
- (c) remove a redundant note.

## 1.2 Adoption Information Act 1990 No 63

### [1] Section 9 Access to adoption information by relatives and others after death of adopted person or birth parent

Omit “de facto or other” from section 9 (2).

### [2] Section 9 (5)

Insert after section 9 (4):

(5) In this section:

*spouse* of a deceased person includes a person with whom the deceased had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

#### Explanatory note

Schedule 1.2 amends a section of the *Adoption Information Act 1990* that provides for the release of adoption information concerning a deceased person to their spouse or de facto spouse.

The amendments:

- (a) extend the meaning of *spouse* by including de facto relationships as defined in the *Property (Relationships) Act 1984*, and
- (b) as a consequential amendment, also remove a redundant reference to a de facto relationship.

The *Adoption Information Act 1990* is to be repealed on the commencement of section 209 (1) (b) of the *Adoption Act 2000*.

## 1.3 Conveyancers Licensing Act 1995 No 57

### [1] Section 41 Associate

Omit section 41 (2) (b). Insert instead:

- (b) a de facto partner, being a person who has a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the licensee or other person, or

**[2] Schedule 2 Savings, transitional and other provisions**

Insert after Part 3:

**Part 4 Provisions consequent on enactment of  
Miscellaneous Acts Amendment  
(Relationships) Act 2002**

**23 Operation of amendments**

The amendment made to section 41 by the *Miscellaneous Acts Amendment (Relationships) Act 2002* does not apply in respect of money or other valuable property received by or paid or entrusted to a licensee or an associate of a licensee before the commencement of the amendment.

**Explanatory note**

Schedule 1.3 amends a section of the *Conveyancers Licensing Act 1995* that provides for certain persons (including a de facto partner) to be associates of a licensee under the Act for the purposes of various provisions that regulate transactions involving associates. The amendments:

- (a) extend the meaning of de facto partner by applying the definition in the *Property (Relationships) Act 1984*, and
- (b) insert a transitional provision.

**1.4 Credit Act 1984 No 94**

**Section 5 Definitions**

Insert in alphabetical order in section 5 (1):

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**Explanatory note**

Schedule 1.4 inserts a definition of *spouse* in the *Credit Act 1984* that includes de facto relationships as defined in the *Property (Relationships) Act 1984*.

## **1.5 Crimes (Administration of Sentences) Act 1999 No 93**

### **[1] Section 26 Local leave permits**

Insert after section 26 (4):

- (5) For the purposes of this section, *member of the inmate's immediate family* includes a person with whom the inmate has a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*).

### **[2] Section 29 Issue of interstate leave permit**

Insert after section 29 (6):

- (7) For the purposes of this section, *member of the inmate's immediate family* includes a person with whom the inmate has a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*).

#### **Explanatory note**

Schedule 1.5 amends sections of the *Crimes (Administration of Sentences) Act 1999* that provide for the issue of local leave permits and interstate leave permits for, among other things, compassionate reasons regarding the immediate family of an inmate. The amendments make it clear that a person with whom an inmate has a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) qualifies as a member of the inmate's immediate family.

## **1.6 Criminal Procedure Act 1986 No 209**

### **[1] Section 104 Compellability of spouses to give evidence in certain proceedings**

Omit section 104 (1) (a). Insert instead:

- (a) 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 *Property (Relationships) Act 1984*, and

**[2] Section 104 (1)–(6) and (8)**

Omit “husband or wife” wherever occurring. Insert instead “spouse”.

**Explanatory note**

Schedule 1.6 amends a section of the *Criminal Procedure Act 1986* that provides for the compellability of a husband or wife to give evidence in certain proceedings.

The amendments replace “husband or wife” with “spouse” and extend the meaning of **spouse** by including de facto relationships as defined in the *Property (Relationships) Act 1984*.

**1.7 Defamation Act 1974 No 18**

**Section 56 Criminating answer etc**

Omit section 56 (3). Insert instead:

(3) In this section:

*spouse* of a person, in relation to an answer, discovery or production, includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984* at the time of the answer, discovery or production.

**Explanatory note**

Schedule 1.7 amends a section of the *Defamation Act 1974* that provides that in defamation proceedings a person is not excused from giving certain incriminating evidence against the person’s spouse.

The amendment extends the meaning of **spouse** by including de facto relationships as defined in the *Property (Relationships) Act 1984*.

**1.8 Dentists Acts 1989 No 139**

**Section 53 Incorporated practices**

Omit section 53 (3). Insert instead:

(3) In subsection (2), *de facto partner* of a dentist means a person with whom the dentist has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**Explanatory note**

Schedule 1.8 amends a section of the *Dentists Act 1989* that provides for dentists to carry on the practice of dentistry as a director or employee of a corporation if certain requirements are met. One of those requirements is that all the shareholders and directors of the corporation are dentists or family members of a dentist. A family member of a dentist includes the de facto partner of a dentist.

The amendment extends the meaning of **de facto partner** by including de facto relationships as defined in the *Property (Relationships) Act 1984*.

**1.9 Electricity (Pacific Power) Act 1950 No 22**

**[1] Section 73A Payments in respect of long service leave on death of employee**

Omit “widow or widower” and “widow, widower” wherever occurring.  
Insert instead “spouse”.

**[2] Section 73A (3A)**

Insert after section 73A (3):

- (3A) If it appears to the Commission that more than one person is entitled as a spouse to payment of the money value of leave under this section, the Commission must pay the amount to the deceased employee’s personal representatives.

**[3] Section 73A (5)**

Insert after section 73A (4):

- (5) In this section:

**spouse** of a person includes a person with whom the person had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**Explanatory note**

Schedule 1.9 amends a section of the *Electricity (Pacific Power) Act 1950* that provides for the payment to certain relatives of a deceased Commission employee of the money value of leave not taken or not completed by the deceased employee.

The amendments substitute the term **spouse** for the terms “widow” and “widower” and extend the meaning of **spouse** by including de facto relationships as defined in the *Property (Relationships) Act 1984*.

The amendments also provide that if it appears to the Commission that more than one person is entitled as a spouse to payment, the payment must be made to the deceased employee’s personal representatives.

## 1.10 Evidence Act 1995 No 25

### Dictionary, Part 1 Definitions

Omit the definition of *de facto spouse*. Insert instead:

*de facto spouse* of a person means a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

#### Explanatory note

Schedule 1.10 extends the definition of *de facto spouse* in the *Evidence Act 1995* to include de facto relationships as defined in the *Property (Relationships) Act 1984*.

The term is used in sections 18 (Compellability of spouses and others in criminal proceedings generally) and 20 (Comment on failure to give evidence).

## 1.11 Health Insurance Levies Act 1982 No 159

### Section 16B Contributors

Insert after section 16B (3):

(4) In this section:

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

#### Explanatory note

Schedule 1.11 amends a section of the *Health Insurance Levies Act 1982* that provides for membership of the State Ambulance Insurance Plan by families (comprising a person and their spouse and other dependants).

The amendment extends the meaning of *spouse* by including de facto relationships as defined in the *Property (Relationships) Act 1984*.

## 1.12 Industrial Relations Act 1996 No 17

### Dictionary

Omit the definition of “member of the family”.

Insert instead:

*member of the family* of a person, means (in section 265 and Chapter 6) the person’s spouse (including a person with whom the person has a de facto relationship), parent, grandparent, child or sibling, any such relative by marriage or de facto relationship and any step-parent or step-child (with *de facto relationship* having the same meaning in this definition as in the *Property (Relationships) Act 1984*).

### Explanatory note

Schedule 1.12 makes an amendment to the definition of *member of the family* of a person in the *Industrial Relations Act 1996*. The term means the person’s spouse (including a de facto spouse), parent, grandparent, child or sibling, any such relative by marriage and any step-parent or step-child. The term has the defined meaning in Chapter 6 (Public vehicles and carriers).

The amendment:

- (a) extends the reference to spouse in the definition to include a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*, and
- (b) includes relatives by de facto relationship in the concept of relative by marriage, and
- (c) extends the defined meaning of the term beyond Chapter 6 to section 265 (Mortality fund).

## 1.13 Landlord and Tenant Act 1899 No 18

### [1] Section 2B Spouse’s tenancy rights on separation or desertion

Omit “his wife” where firstly occurring. Insert instead “his or her spouse”.

### [2] Section 2B

Omit “the wife” where firstly and secondly occurring.

Insert instead “the spouse”.

**[3] Section 2B (2) and (3)**

Insert at the end of the section:

(2) In this section:

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

(3) The amendments made to this section by the *Miscellaneous Acts Amendment (Relationships) Act 2002* apply where the tenant separated from or deserted his or her spouse before or after the commencement of those amendments but do not apply where the tenant separated from or deserted his or her spouse before that commencement unless the spouse was in possession of the land as at that commencement.

**[4] Section 25 Mode of service of summons**

Omit “wife” from section 25 (1). Insert instead “spouse”.

**[5] Section 25 (3)**

Insert after section 25 (2):

(3) In this section:

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**Explanatory note**

Schedule 1.13 amends sections 2B and 25 of the *Landlord and Tenant Act 1899*. Section 2B provides that the provisions of the *Landlord and Tenant Act 1899* and certain other provisions regarding tenancies apply to the deserted wife of a tenant as if the wife were the sole tenant. Section 25 provides for the service of a summons to recover possession.

The amendments:

- (a) substitute the term *spouse* for the term “wife”, and
- (b) provide that *spouse* includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*, and
- (c) include a consequential transitional provision in respect of the amendments to section 2B.

## 1.14 Landlord and Tenant (Amendment) Act 1948 No 25

### [1] Section 8 Definitions

Insert in alphabetical order in section 8 (1):

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

### [2] Section 83 Protection of certain persons in possession of premises

Omit “wife or husband” from section 83 (1) wherever occurring.  
Insert instead “spouse”.

### [3] Section 83 (1) (c) (ii)

Omit “or the lessee was not married”.  
Insert instead “or the lessee did not have a spouse”.

### [4] Section 83A Protection of member of the family of deceased lessee

Omit “wife or husband” from section 83A (1) wherever occurring.  
Insert instead “spouse”.

### [5] Section 83A (1) (b)

Omit “or the lessee was not married”.  
Insert instead “or the lessee did not have a spouse”.

#### **Explanatory note**

Schedule 1.14 makes the following amendments to the *Landlord and Tenant (Amendment) Act 1948*:

- (a) a definition of *spouse* of a person is inserted with spouse including a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*, and
- (b) sections that provide certain protections in respect of tenancies of prescribed premises are amended by using the term *spouse* to replace references to “wife”, “husband” and “was not married”.

The term *spouse* is also used in section 62 (Restriction on eviction).

## 1.15 Law Reform (Miscellaneous Provisions) Act 1946 No 33

### [1] Section 5 Proceedings against and contribution between joint and several tort-feasors

Omit “wife, husband” from section 5 (1) (b). Insert instead “spouse”.

### [2] Section 5 (3)

Insert after section 5 (3) (b):

, and

- (c) the expression *spouse* of a person includes a person with whom the person had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

### [3] Section 5 (5)

Insert after section 5 (4):

- (5) An amendment made to this section by the *Miscellaneous Acts Amendment (Relationships) Act 2002* does not apply in respect of an action where the tort concerned occurred before the commencement of the amendment.

#### **Explanatory note**

Schedule 1.15 amends the section of the *Law Reform (Miscellaneous Provisions) Act 1946* that provides for proceedings against and contribution between joint and several tort-feasors, and in particular provides for the amount of damages and costs recoverable by a wife, husband and certain other relatives of a victim of a tort.

The amendments:

- (a) substitute the term *spouse* for the terms “wife” and “husband” and provide that *spouse* includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*, and
- (b) insert a consequential transitional provision.

## **1.16 Legal Profession Act 1987 No 109**

### **[1] Section 60 Definitions**

Omit section 60 (3) (b). Insert instead:

- (b) a de facto partner, being a person who has a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) with the solicitor or other person,

### **[2] Schedule 8 Savings, transitional and other provisions**

Insert at the end of the Schedule with appropriate numbering:

## **Part Provisions consequent on the enactment of Miscellaneous Acts Amendment (Relationships) Act 2002**

### **Operation of amendments**

The amendment made to section 60 by the *Miscellaneous Acts Amendment (Relationships) Act 2002* does not apply in respect of money or other valuable property received by or paid or entrusted to a solicitor or an associate of a solicitor before the commencement of the amendment.

### **Explanatory note**

Schedule 1.16 amends the definition of associate in the *Legal Profession Act 1987* for the purposes of various provisions of the Act that deal with trust accounts, the Solicitors' Fidelity Fund, receivers, mortgage practices and managed investment schemes. The definition currently includes a de facto partner (as well as a spouse) as an associate of a solicitor.

The amendments:

- (a) extend the meaning of de facto partner by including de facto relationships as defined in the *Property (Relationships) Act 1984*, and
- (b) insert a consequential transitional provision.

## 1.17 Local Courts (Civil Claims) Act 1970 No 11

### Section 11 Appearance of parties

Insert after section 11 (1B):

- (1C) In subsection (1), *spouse* of a party includes a person with whom the party has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

#### Explanatory note

Schedule 1.17 amends the section of the *Local Court (Civil Claims) Act 1970* that provides for the right of appearance of the spouse or employee of a party to an action or other proceeding under the Act.

The amendment provides that *spouse* of a party includes a person with whom the party has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

## 1.18 Motor Vehicles Taxation Act 1988 No 111

### [1] Section 16 Vehicles totally exempt from tax

Insert “or in a de facto relationship with each other,” after “married to each other” in section 16 (2) (b) (ii).

### [2] Section 16 (4)

Insert after section 16 (3):

- (4) In this section:

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

#### Explanatory note

Schedule 1.18 amends the section of the *Motor Vehicles Taxation Act 1988* that provides for certain kinds of vehicle to be exempt from tax, including any motor vehicle that is solely owned and used by a pensioner or pensioners. A pensioner is only entitled to the exemption in respect of 2 motor vehicles if the pensioner and another pensioner are the joint registered owners of the motor vehicles and are married to each other or reside in the same household.

The amendments provide for the exemption to also apply to pensioners in a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

## **1.19 Police Service Act 1990 No 47**

### **[1] Section 216 Special risk benefit where certain police officers hurt on duty**

Insert “or if the police officer is survived by more than one spouse” after “is not survived by a spouse” in section 216 (2).

### **[2] Section 216 (6)**

Omit the definition of *spouse*. Insert instead:

*spouse* of a police officer includes a person with whom the police officer had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

#### **Explanatory note**

Schedule 1.19 makes an amendment to the section of the *Police Service Act 1990* that provides for certain amounts to be paid to a police officer hurt on duty or, in the event of an officer dying after being hurt on duty, to the spouse or, if there is no surviving spouse, to the personal representative of the police officer.

The amendments:

- (a) extend the kinds of de facto relationships that are covered by the term *spouse* by using the definition of de facto relationship in the *Property (Relationships) Act 1984*, and
- (b) provide that the Commissioner may pay a benefit to the personal representative of the police officer if there is more than one surviving spouse.

## **1.20 Public Sector Management Act 1988 No 33**

### **[1] Schedule 5 Extended leave for officers etc of Public Service**

Omit “widow or widower” and “widow, widower” from clause 3 of Schedule 5 wherever occurring.

Insert instead “spouse”.

**[2] Schedule 5, clause 3 (4A)**

Insert after clause 3 (4) of Schedule 5:

- (4A) If it appears to the appropriate Department Head that more than one person is entitled as a spouse to payment of the money value of leave under this clause, the Department Head must pay the amount to the deceased officer's personal representatives.

**[3] Schedule 5, clause 3 (7)**

Insert after clause 3 (6) of Schedule 5:

- (7) In this clause, *spouse* of an officer includes a person with whom the officer had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**Explanatory note**

Schedule 1.20 amends a provision of the *Public Sector Management Act 1988* that provides for the money value of certain extended leave entitlements of a deceased officer to be paid to certain persons, including the widow or widower of the officer.

The amendments:

- (a) substitute the term *spouse* for the term "widow" and "widower", and
- (b) provide that *spouse* includes a person with whom the person had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death, and
- (c) provide that if it appears to a Department Head that more than one person is entitled as a spouse to payment the payment must be made to the deceased officer's personal representatives.

**1.21 Residential Tenancies (Residential Premises) Regulation 1995**

**[1] Clause 23A Exemptions relating to the Home Purchase Assistance Authority**

Omit “, de facto spouse” from clause 23A (1) (b) (ii).

**[2] Clause 23A (3)**

Omit clause 23A (3). Insert instead:

- (3) In this clause:

*HomeFund mortgage* has the same meaning as in the *HomeFund Restructuring Act 1993*.

*spouse* of a person includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**Explanatory note**

Schedule 1.21 amends a clause of the *Residential Tenancies (Residential Premises) Regulation 1995* that provides for the Home Purchase Assistance Authority to be exempt from the operation of certain sections of the *Residential Tenancies Act 1987* in respect of certain residential tenancy agreements if, among other things, the Home Purchase Assistance Authority was satisfied that the tenant under the agreement was a spouse or de facto spouse of the mortgagor at the time the agreement was entered into.

The amendments:

- (a) omit the term “de facto spouse”, and
- (b) insert instead a definition of *spouse* for the purposes of the clause that includes a person with whom the person has a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**1.22 Road Transport (Heavy Vehicles Registration Charges) Act 1995 No 72**

**[1] Section 25 Exemption for eligible pensioners**

Insert “or in a de facto relationship with each other,” after “married to each other” in section 25 (3).

**[2] Section 25 (4)**

Insert after section 25 (3):

- (4) In this section:  
*de facto relationship* has the same meaning as in the *Property (Relationships) Act 1984*.

**1.23 Road Transport (Vehicle Registration) Regulation 1998**

**[1] Clause 82 Exemption for eligible pensioners**

Insert “or in a de facto relationship with each other,” after “married to each other” in clause 82 (3).

**[2] Clause 82 (4)**

Insert in appropriate order:

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

**1.24 Sporting Injuries Insurance Act 1978 No 141**

**[1] Section 26 Payment of benefits for death**

Omit the definition of *dependant* from section 26 (1). Insert instead:

*dependant*, in relation to a deceased person, means a child or spouse of the deceased person.

**[2] Section 26 (1)**

Insert in alphabetical order:

*spouse* of a deceased person includes a person with whom the deceased had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**[3] Schedule 5 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Miscellaneous Acts Amendment (Relationships) Act 2002* to the extent that it amends this Act

**[4] Schedule 5**

Insert after clause 3:

**Part 3 Provisions consequent on the enactment of  
Miscellaneous Acts Amendment  
(Relationships) Act 2002**

**4 Operation of amendments**

An amendment made to this Act by the *Miscellaneous Acts Amendment (Relationships) Act 2002* does not apply in respect of the death of a person that occurred before the commencement of the amendment.

**Explanatory note**

Schedule 1.24 amends the section of the *Sporting Injuries Insurance Act 1978* that provides for the payment of death benefits to a deceased person's dependants (currently spouse, child or de facto partner of at least 3 years' standing).

The amendments:

- (a) extend the meaning of **dependant** to include de facto relationships as defined in the *Property (Relationships) Act 1984*, with no restriction as to the duration of the relationship, and
- (b) insert a consequential transitional provision.

**1.25 Teaching Services Act 1980 No 23**

**[1] Section 81 Payment of money value of leave not taken or completed**

Omit "widow or widower" and "widow, widower" from section 81 (1) and (2) wherever occurring.

Insert instead "spouse".

**[2] Section 81 (4A)**

Insert after section 81 (4):

- (4A) If it appears to the appropriate Director-General that more than one person is entitled as a spouse to payment of the money value of leave under this section, the Director-General must pay the amount to the deceased officer's personal representatives.

**[3] Section 81 (7)**

Insert after section 81 (6):

- (7) In this section, *spouse* of an officer includes a person with whom the officer had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**Explanatory note**

Schedule 1.25 amends the section of the *Teaching Services Act 1980* that provides for the money value of certain extended leave entitlements of a deceased officer to be paid to certain persons, including the widow or widower of the officer.

The amendments:

- (a) substitute the term *spouse* for the term "widow" and "widower", and
- (b) provide that *spouse* includes a person with whom the person had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death, and
- (c) provide that if it appears to the Director-General that more than one person is entitled as a spouse to payment, the payment must be made to the deceased officer's personal representatives.

**1.26 Transport Administration Act 1988 No 109**

**[1] Schedule 5 Extended leave for staff of each Authority**

Omit "widow or widower" and "widow, widower" from clause 5 (1) and (2) wherever occurring.

Insert instead "spouse".

**[2] Schedule 5, clause 5 (4A)**

Insert after clause 5 (4):

- (4A) If it appears to the relevant Authority that more than one person is entitled as a spouse to payment of the money value of leave under this section, the Authority must pay the amount to the deceased officer's personal representatives.

**[3] Schedule 5, clause 5 (7)**

Insert after clause 5 (6):

- (7) In this clause, *spouse* of an officer includes a person with whom the officer had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death.

**Explanatory note**

Schedule 1.26 amends a provision of the *Transport Administration Act 1988* that provides for the money value of certain extended leave entitlements of a deceased officer to be paid to certain persons, including the widow or widower of the officer.

The amendments:

- (a) substitute the term *spouse* for the term "widow" and "widower", and
- (b) provide that *spouse* includes a person with whom the person had a de facto relationship (within the meaning of the *Property (Relationships) Act 1984*) at the time of his or her death, and
- (c) provide that if it appears to an Authority that more than one person is entitled as a spouse to payment, the payment must be made to the deceased officer's personal representatives.

**1.27 Trustee Companies Act 1964 No 6**

**[1] Section 21 Court may order account**

Omit "wife, husband" from section 21 (1). Insert instead "spouse".

**[2] Section 21 (5)**

Insert after section 21 (4):

(5) In this section:

*spouse* includes a party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

**Explanatory note**

Schedule 1.27 amends the section of the *Trustee Companies Act 1964* that confers a right on certain persons to apply to the Supreme Court for an order directing a trustee company that manages or controls an estate in which the applicant is interested to render a proper account. The persons include “wife” and “husband”.

The amendments:

- (a) substitute the term *spouse* for the terms “wife” and “husband”, and
- (b) provide that *spouse* includes a party to a de facto relationship within the meaning of the *Property (Relationships) Act 1984*.

[Second reading speech made in—  
Legislative Council on 18 June 2002  
Legislative Assembly on 4 September 2002]