

Western Australia

**Acts Amendment (Equality of Status) Act 2003**

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As at 22 May 2003

No. 28 of 2003

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## Acts Amendment (Equality of Status) Act 2003

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Western Australia

## **Acts Amendment (Equality of Status) Act 2003**

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**No. 28 of 2003**

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**An Act to —**

- **amend various Acts in order to provide for the further reform of the law relating to de facto relationships; and**
- **repeal the *Married Women's Property Act 1892* and amend various Acts as a consequence of that repeal, and for related purposes.**

*[Assented to 22 May 2003]*

The Parliament of Western Australia enacts as follows:

## **Part 1 — Preliminary**

**1. Short title**

This Act may be cited as the *Acts Amendment (Equality of Status) Act 2003*.

**2. Commencement**

- (1) This Act comes into operation on a day fixed by proclamation.
- (2) Different days may be fixed under subsection (1) for different provisions.



## **Part 2 — Anatomy Act 1930**

**3. Anatomy Act 1930 amended**

The amendments in this Part are to the *Anatomy Act 1930*\*.

[\* Reprinted as at 22 February 2002.]

**4. Section 2 amended**

Section 2 is amended after the definition of “practice licence” by deleting the full stop and inserting instead a semicolon and the following definition —

“

**“senior next of kin”**, in relation to a deceased person, means the first person who is available from the following persons in the order of priority listed —

- (a) a person who, immediately before the death, was living with the person and was either —
  - (i) the spouse of the person; or
  - (ii) a de facto partner, who is of or over the age of 18 years, of the person;
- (b) a person who, immediately before the death, was the spouse of the person;
- (c) a son or a daughter, who is of or over the age of 18 years, of the person;
- (d) a parent of the person;
- (e) a brother or sister, who is of or over the age of 18 years, of the person; or
- (f) an executor named in the will of the person or a person who, immediately before the death, was a personal representative of the person.

”.

**5. Section 8 amended**

Section 8 is amended by deleting “surviving husband or wife or any known relative” and inserting instead —

“ senior next of kin ”.

**6. Section 9 amended**

Section 9 is amended by deleting “surviving husband or wife or any known relative” and inserting instead —

“ senior next of kin ”.

**7. Section 10 amended**

Section 10 is amended by deleting “deceased person’s surviving husband or wife or nearest known relative, or any one or more of such person’s nearest known relatives being of kin in the same degree,” and inserting instead —

“ senior next of kin of the deceased person ”.

**8. Section 10A amended**

Section 10A(1) is amended by deleting “any surviving husband or wife or any known relative” and inserting instead —

“ the senior next of kin ”.

**9. Section 11 amended**

Section 11 is amended by deleting “any surviving husband or wife, or any relative known to the authority,” and inserting instead —

“ the senior next of kin ”.

**10. Section 16 amended**

Section 16 is amended by deleting “any surviving husband or wife or any known relative” and inserting instead —

“ the senior next of kin ”.

### Part 3 — *Anzac Day Act 1960*

**11. *Anzac Day Act 1960* amended**

The amendments in this Part are to the *Anzac Day Act 1960*\*.

[\* *Reprinted as at 24 May 2002.*]

**12. Section 3 amended**

Section 3 is amended by inserting in the appropriate alphabetical position the following definition —

“

“**dependant**”, in relation to a deceased person,  
includes a person who, immediately before the  
death of the person, was a spouse, de facto partner  
or child of the person;

”.

**13. Section 10 amended**

Section 10(3) is amended by deleting “widows and children of deceased ex-servicemen” and inserting instead —

“

dependants of deceased ex-servicemen or deceased  
ex-servicewomen

”.

**Part 4 — *Bush Fires Act 1954***

**14. *Bush Fires Act 1954* amended**

The amendments in this Part are to the *Bush Fires Act 1954*\*.

[\* *Reprinted as at 20 January 1997.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 41.]*

**15. Section 37 amended**

- (1) Section 37(8)(a) is amended after paragraph (a) by deleting “or” and inserting —

“

- (aa) to a person who was living in a de facto relationship with the volunteer fire fighter immediately before the death of the fire fighter and lived on that basis with the fire fighter for at least 2 years before the death of the fire fighter irrespective of dependency upon the fire fighter; or

”.

- (2) After section 37(8) the following subsection is inserted —

“

- (8a) If the amount referred to in subsection (2) and the additional amount referred to in subsection (5) are payable to more than one person then those amounts are to be apportioned between those persons in accordance with the regulations.

”.

**Part 5 — Commercial Tenancy (Retail Shops)  
Agreements Act 1985**

**16. Commercial Tenancy (Retail Shops) Agreements Act 1985  
amended**

The amendments in this Part are to the *Commercial Tenancy (Retail Shops) Agreements Act 1985*\*.

[\* Reprinted as at 21 July 2000.

*For subsequent amendments see 2001 Index to Legislation of  
Western Australia, Table 1, p. 56.]*

**17. Section 13A amended**

Section 13A(4) is amended as follows:

- (a) in paragraph (a) by inserting after “spouse” —  
“ or de facto partner ”;
- (b) in paragraph (c)(iv) by inserting after “spouse” —  
“ or de facto partner ”.

## Part 6 — Companies (Co-operative) Act 1943

### 18. Companies (Co-operative) Act 1943 amended

The amendments in this Part are to the *Companies (Co-operative) Act 1943*\*.

[\* Reprinted as at 14 January 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 60 and Gazette 28 June 2002 p. 3052-4.]*

### 19. Section 152 amended

Section 152(2)(b) is amended by inserting after “husband” —

“ , de facto partner ”.

### 20. Section 187 amended

Section 187(3) is amended as follows:

- (a) by deleting “husband of a female contributory is himself ” and inserting instead —

“

spouse or de facto partner of a contributory is himself or herself

”;

- (b) by deleting “wife” in the first place where it occurs and inserting instead —

“ spouse or de facto partner ”;

- (c) by deleting “wife or for the husband” and inserting instead —

“ person or the person’s spouse or de facto partner ”;

- (d) by deleting “husband” and inserting instead —

“ person ”.

**21. Section 421 amended**

Section 421(2) is amended in the definition of “employee” by inserting after “wife” —

“ , husband, de facto partner ”.

**Part 7 — Construction Industry Portable Paid Long Service Leave Act 1985**

**22. Construction Industry Portable Paid Long Service Leave Act 1985 amended**

The amendments in this Part are to the *Construction Industry Portable Paid Long Service Leave Act 1985*\*.

[\* Reprinted as at 5 March 1999.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 73.]*

**23. Section 22 amended**

Section 22(2) is amended as follows:

- (a) by deleting “the widow or widower of the employee, or such other person as the Board thinks fit, is entitled,”;
- (b) by deleting “to a lump sum” and inserting instead —  
“ a lump sum ”;
- (c) by deleting “years.” and inserting instead —

“

years,

shall be paid, as the Board thinks fit, to —

- (c) any person who was the spouse or de facto partner of the employee immediately before the death of the employee and who, in the opinion of the Board, was financially dependent on that employee at that time; or
- (d) the estate of the deceased employee.

”.



**Part 8 — *Co-operative and Provident Societies Act 1903***

**24. *Co-operative and Provident Societies Act 1903* amended**

The amendments in this Part are to the *Co-operative and Provident Societies Act 1903*\*.

[\* *Reprinted as at 7 September 2001.*]

**25. **Section 18** amended**

Section 18(1) is amended by deleting “father, mother” and inserting instead —

“ de facto partner, parent ”.

**Part 9 — Coroners Act 1996**

**26. Coroners Act 1996 amended**

The amendments in this Part are to the *Coroners Act 1996*\*.

[\* *Reprinted as at 3 August 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 77.]*

**27. Section 37 amended**

Section 37(5)(a) and (b) are deleted and the following paragraphs are inserted instead —

“

- (a) a person who, immediately before the death, was living as —
  - (i) the spouse of the person; or
  - (ii) a de facto partner of the person, and who is of or over the age of 18 years;
- (b) a person who, immediately before the death, was the spouse of the person;

”.

**Part 10 — Country Housing Act 1998**

**28. Country Housing Act 1998 amended**

The amendments in this Part are to the *Country Housing Act 1998*\*.

[\* *Act No. 4 of 1998.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 81.]*

**29. Section 3 amended**

Section 3 is amended in the definition of “family member” by deleting “de facto spouse” and inserting instead —

“ de facto partner ”.

**Part 11 — *Credit Act 1984***

**30. *Credit Act 1984* amended**

The amendments in this Part are to the *Credit Act 1984*\*.

[\* *Reprinted as at 6 April 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 83.]*

**31. Section 5 amended**

Section 5(1) is amended as follows:

- (a) in paragraph (a) of the definition of “commission charge” by inserting after “spouse” —  
“ or de facto partner ”;
- (b) in paragraph (a) of the definition of “guarantor” by inserting after “spouse” in both places where it occurs —  
“ or de facto partner ”.

## Part 12 — *The Criminal Code*

### 32. *The Criminal Code* amended

The amendments in this Part are to *The Criminal Code*\*.

[\* Reprinted as at 9 February 2001 as the Schedule to the *Criminal Code Act 1913* appearing as Appendix B to the *Criminal Code Compilation Act 1913*.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6 and 8 of 2002.]

### 33. Section 531 amended

- (1) Section 531(1) is amended by inserting after “wife,” —  
“ de facto partner, ”.
- (2) Section 531(2) is amended by inserting after “wife,” —  
“ de facto partner, ”.

### 34. Section 684 amended

- (1) Section 684(2) is amended by deleting “his” and inserting instead —  
“ the prisoner’s ”.
- (2) Section 684(3)(b) is amended as follows:
  - (a) by deleting “wife” in both places where it occurs and inserting instead —  
“ spouse, de facto partner ”;
  - (b) by deleting “him for support or for the benefit of the prisoner himself if and while he” and inserting instead —  
“  
the prisoner for support, or for the benefit of the prisoner if and while the prisoner

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”.

(3) Section 684(5) is amended by deleting “he” and inserting instead —

“ the prisoner ”.

(4) Section 684(7) is amended by deleting “he” in both places where it occurs and inserting instead —

“ the prisoner ”.

## **Part 13 — *Criminal Injuries Compensation Act 1985***

### **35. *Criminal Injuries Compensation Act 1985* amended**

The amendments in this Part are to the *Criminal Injuries Compensation Act 1985*\*.

[\* *Reprinted as at 12 February 1997.*

*For subsequent amendments see 2001 Index to Legislation of  
Western Australia, Table 1, p. 90.]*

### **36. Section 3 amended**

- (1) Section 3(1) is amended in the definition of “close relative” as follows:

- (a) by deleting paragraph (b) and inserting instead —

“

- (b) any person who was the parent, grandparent or step-parent of the deceased;

”;

- (b) by deleting paragraph (d) and inserting instead —

“

- (d) a person who, immediately before the death, was living in a de facto relationship with the deceased person and had been living on that basis with that person for at least the previous 2 years;

”.

- (2) Section 3(2)(b) is amended by deleting “mother and reputed father” and inserting instead —

“ parents ”.

- (3) Section 3(3) is amended as follows:

- (a) by deleting “father” in each place where it occurs and inserting instead —

**s. 36**

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- “ parent ”;
  - (b) by inserting after “his” in the first place where it occurs —
    - “ or her ”;
  - (c) by deleting “his” in the second place where it occurs and inserting instead —
    - “ the parent’s ”;
  - (d) by deleting “paternity” in both places where it occurs and inserting instead —
    - “ parentage ”.
- (4) After section 3(3) the following subsection is inserted —
- “
- (3a) Subsection (3) does not apply to or in respect of a relationship established by the *Artificial Conception Act 1985*.
- ”.



**Part 14 — *Criminal Investigation (Identifying People)*  
Act 2002**

**37. *Criminal Investigation (Identifying People) Act 2002*  
amended**

The amendment in this Part is to the *Criminal Investigation (Identifying People) Act 2002*\*.

[\* Act No. 6 of 2002.]

**38. **Section 3 amended****

Section 3(1) is amended in paragraph (a) of the second definition of “responsible person” by inserting after “spouse” —

“ or de facto partner ”.

**Part 15 — Criminal Property Confiscation Act 2000**

**39. Criminal Property Confiscation Act 2000 amended**

The amendments in this Part are to the *Criminal Property Confiscation Act 2000*\*.

[\* *Act No. 68 of 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 91.]*

**40. Section 22 amended**

Section 22(2)(b) is amended by inserting after “spouse” —  
“ , a de facto partner ”.

**41. Section 82 amended**

Section 82(3)(a) is amended by inserting after “spouse” —  
“ , a de facto partner ”.

**42. Glossary amended**

The Glossary is amended as follows:

- (a) by deleting the definition of “spouse”;
- (b) in the definition of “valuable consideration” by deleting “legal or de facto spouse” in both places where it occurs and inserting instead the following —  
“ spouse or de facto partner ”.

## **Part 16 — Curtin University of Technology Act 1966**

### **43. Curtin University of Technology Act 1966 amended**

The amendments in this Part are to the *Curtin University of Technology Act 1966*.\*

[\* *Reprinted as at 28 July 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 93.]*

### **44. Section 34 amended**

Section 34(1b)(b) is amended as follows:

- (a) by deleting subparagraph (ii);
- (b) in subparagraph (iv) by deleting “his estate, unless he is survived by a widow legally dependent on him, or other person legally so dependent who is approved by the Council for the purpose;” and inserting instead —  
“ that person’s estate; ”.

**Part 17 — District Court of Western Australia Act 1969**

**45. District Court of Western Australia Act 1969 amended**

The amendments in this Part are to the *District Court of Western Australia Act 1969*\*.

[\* Reprinted as at 19 January 2001.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 103.]*

**46. Section 14 amended**

Section 14(1) is amended as follows:

- (a) by deleting “his widow and children after his” and inserting instead —

“

a surviving spouse, de facto partner or child of a District Court Judge after the Judges’

”;

- (b) by deleting “his widow and children” and inserting instead —

“

a surviving spouse, de facto partner or child of a Supreme Court Judge

”.

**Part 18 — *Electricity Corporation Act 1994***

**47. *Electricity Corporation Act 1994* amended**

The amendments in this Part are to the *Electricity Corporation Act 1994*\*.

[\* *Reprinted as at 4 January 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 113 and Act No. 20 of 2002.]*

**48. *Schedule 2* amended**

Schedule 2 clause 14(1) is amended as follows:

- (a) in paragraph (a) —
  - (i) by inserting after “spouse” in the first place where it occurs —  
“ or de facto partner ”; and
  - (ii) by inserting after “spouse” in the second place where it occurs —  
“ or de facto partner of a director ”;
- (b) in paragraph (b) —
  - (i) by inserting after “spouse” in the first place where it occurs —  
“ or de facto partner ”; and
  - (ii) by inserting after “spouse” in the second place where it occurs —  
“ or de facto partner of a director ”.

## **Part 19 — Family Court Act 1997**

### **49. Family Court Act amended**

The amendments in this Part are to the *Family Court Act 1997*\*.

[\* *Act No. 40 of 1997.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 124 and Act No. 3 of 2002.]*

### **50. Section 5 amended and validation**

- (1) Section 5 is amended by deleting the definition of “de facto relationship”.
- (2) In subsection (3) —  
“**relevant action**” means anything done under the *Family Court Act 1997* —
  - (a) after the commencement of the *Family Court Amendment Act 2002*; but
  - (b) before the commencement of this section.
- (3) It is declared that by force of this section —
  - (a) any relevant action is and has always been as valid and effective as it would have been; and
  - (b) the rights and liabilities of all persons are and have always been the same as they would have been,

if subsection (1) had come into operation on the day on which the *Family Court Amendment Act 2002* came into operation.

### **51. Section 19 amended**

Section 19 is amended as follows:

- (a) in paragraph (b) by deleting “widow or widower and” and inserting instead —  
“ surviving spouse, de facto partner or ”;

- (b) by deleting “widow or widower and” and inserting instead —  
“ surviving spouse, de facto partner or ”.

**52. Section 24 amended**

Section 24(b) is amended by deleting “widow or widower and” in each place where it occurs and inserting instead —  
“ surviving spouse, de facto partner or ”.

**Part 20 — Fatal Accidents Act 1959**

**53. Fatal Accidents Act 1959 amended**

The amendments in this Part are to the *Fatal Accidents Act 1959*.\*

[\* *Reprinted as approved 13 April 1976.*  
*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 125.*]

**54. Section 3 amended**

Section 3(2)(b) is amended by deleting “mother and reputed father” and inserting instead —

“ parents ”.

**55. Section 5 amended**

Section 5(2)(c)(v) is amended by deleting “pensions to widows;” and inserting instead —

“  
a pension to the spouse or a de facto partner of the deceased,  
”.

**56. Section 6 amended**

(1) Section 6(3) is amended as follows:

(a) by deleting “father” in each place where it occurs and inserting instead —

“ parent ”;

(b) by deleting “paternity” in both places where it occurs and inserting instead —

“ parentage ”;

(c) by inserting after “his” in both places where it occurs —



“ or her ”.

(2) After section 6(3) the following subsection is inserted —

“

(3a) Subsection (3) does not apply to or in respect of a relationship established by the *Artificial Conception Act 1985*.

”.

**57. Schedule 2 amended**

Schedule 2 is amended as follows:

(a) by deleting paragraph (a) and inserting instead —

“

(a) a person who immediately before the deceased’s death was —

- (i) the spouse of the deceased; or
- (ii) a de facto partner of the deceased who was living in a de facto relationship with the deceased and had been living on that basis with the deceased for at least 2 years immediately before the deceased died;

”;

(b) in paragraph (b) by deleting “father, mother, grandfather, grandmother, stepfather or stepmother” and inserting instead —

“ parent, grandparent or step parent ”;

(c) by deleting paragraphs (g) and (h) and inserting instead —

“

and

(g) any person who was a former spouse or former de facto partner of the deceased person whom the deceased was legally obliged, immediately before

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his or her death, to make provision for with respect  
to financial matters.

”

**Part 21 — Firearms Act 1973**

**58. Firearms Act 1973 amended**

The amendments in this Part are to the *Firearms Act 1973*\*.

[\* *Reprinted as at 11 August 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 139.]*

**59. Section 8 amended**

Section 8(2) is amended in paragraphs (a), (b) and (c) of the definition of “family member” by deleting “de facto spouse” in each place where it occurs and inserting instead —

“ de facto partner ”.

## Part 22 — *First Home Owner Grant Act 2000*

### 60. *First Home Owner Grant Act 2000* amended

The amendments in this Part are to the *First Home Owner Grant Act 2000*\*.

[\* Act No. 16 of 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 139.]*

### 61. Section 3 amended

Section 3(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

“**de facto partner**”, in relation to an applicant for a first home owner grant, means a person who, on the commencement date of the eligible transaction to which the application relates, is living in a de facto relationship with the applicant and has lived on that basis with the applicant for at least 2 years;

”;

- (b) in the definition of “spouse” by deleting “given” and inserting instead —

“ affected ”.

### 62. Section 7 amended

- (1) Section 7(1) is repealed and the following section is inserted instead —

“

- (1) A person is the “**spouse**” of an applicant for a first home owner grant if, on the commencement date of the eligible transaction to which the application relates, the person is married to the applicant.

”.

- (2) Section 7(2) is amended by deleting “legally” in each place where it occurs.

**63. Section 11 amended**

Section 11(1)(a) is amended by inserting after “spouse” —  
“ or de facto partner ”.

**64. Section 12 amended**

- (1) Section 12(1) is amended by inserting after “spouse” —  
“ or de facto partner ”.
- (2) Section 12(3) is amended by inserting after “spouse” —  
“ or de facto partner ”.

**65. Section 65 amended**

Section 65(7) is amended in the definition of “confidential information” by inserting after “spouse” —  
“ or de facto partner ”.

**Part 23 — Freedom of Information Act 1992**

**66. Freedom of Information Act 1992 amended**

The amendment in this Part is to the *Freedom of Information Act 1992*\*.

[\* *Reprinted as at 3 March 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 144 and Act No. 21 of 2002.]*

**67. Glossary amended**

The Glossary is amended in clause 1 by inserting in the appropriate alphabetical position —

“

“**relative**”, in relation to a person, includes a de facto partner of a person;

”.

**Part 24 — *Gold Corporation Act 1987***

**68. *Gold Corporation Act 1987* amended**

The amendments in this Part are to the *Gold Corporation Act 1987*\*.

[\* *Reprinted as at 2 January 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 150.]*

**69. *Schedule 1* amended**

Schedule 1 clause 5 is amended as follows:

- (a) in subclause (1) by deleting “spouse” and inserting instead —  
“ spouse or de facto partner ”;
- (b) by deleting subclause (2).

**Part 25 — Government Employees' Housing Act 1964**

**70. Government Employees' Housing Act 1964 amended**

The amendment in this Part is to the *Government Employees' Housing Act 1964*\*.

[\* *Reprinted as at 8 December 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 151.]*

**71. Section 28 amended**

Section 28(1)(d) is amended by inserting after “spouse” —

“ or de facto partner ”.



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**Part 26 — Health Act 1911**

**72. Health Act 1911 amended**

The amendments in this Part are to the *Health Act 1911*\*.

[\* *Reprinted as at 31 March 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 163.]*

**73. Section 3 amended**

Section 3(1) is amended by inserting in the appropriate alphabetical position the following definition —

“

“**relative**”, in relation to a person, includes a de facto partner of the person;

”.

**74. Section 147 amended**

Section 147(2) is amended as follows:

- (a) by deleting “his widow or any member of his” and inserting instead —

“

the widow or widower of the person, a person who was a de facto partner of the person immediately before the death of the person, or any member of the person’s

”;

- (b) by deleting “his death” and inserting instead —

“ the person’s death ”.

**75. Section 159 amended**

Section 159 is amended by deleting “wife or husband” and inserting instead —

“ spouse or de facto partner ”.

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**76. Section 168 amended**

Section 168(2) is amended in paragraph (a) in the second proviso by deleting “widow, husband” and inserting instead —  
“ spouse, de facto partner ”.

**77. Section 302 amended and consequential amendment**

- (1) Section 302(1) is amended by deleting “and by such notice warn the patient against contracting any marriage until he is certified as cured,”.
- (2) Section 302(2) and (3) are repealed.
- (3) Schedule 5 is amended under the heading “*Part II*” by deleting “302(3),”.

**Part 27 — *Health Services (Conciliation and Review)*  
*Act 1995***

**78. *Health Services (Conciliation and Review) Act 1995* amended**

The amendment in this Part is to *the Health Services (Conciliation and Review) Act 1995*\*.

[\* Reprinted as at 1 June 2001.]

**79. Section 20 amended**

After section 20(3) the following subsection is inserted —

“

(4) In subsection (3) —

“**relative**”, in relation to a user, includes a de facto partner of the user.

”.

**Part 28 — Hospital Fund Act 1930**

**80. Hospital Fund Act 1930 amended**

The amendments in this Part are to the *Hospital Fund Act 1930*\*

[\* *Reprint in Appendix to Session Volume 1937-1938.*  
*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 167.*]

**81. Section 2 amended**

Section 2 is amended in the definition of “Dependant” by deleting “wife” and inserting instead —

“ spouse, de facto partner ”.

**82. Section 11 repealed**

Section 11 is repealed.

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**Part 29 — Housing Act 1980**

**83. Housing Act 1980 amended**

The amendments in this Part are to the *Housing Act 1980*.\*.

[\* Reprinted as at 27 May 1999.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 169.]*

**84. Section 5 amended**

- (1) Section 5(1)(a) is amended by deleting the definition of “spouse”.
- (2) Section 5(1)(c) is amended by inserting after “spouse” —  
“ , de facto partner ”.

**85. Section 31 amended**

Section 31(1) is amended by deleting “or deceased spouse” in both places where it occurs and inserting instead —

“  
 , de facto partner or deceased spouse or deceased  
de facto partner  
”.

**Part 30 — *Housing Loan Guarantee Act 1957***

**86.     *Housing Loan Guarantee Act 1957* amended**

The amendments in this Part are to the *Housing Loan Guarantee Act 1957*\*.

[\* *Reprinted as at 4 February 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 171.]*

**87.     **Schedule amended****

The Schedule is amended in each clause referred to in the Table to this section by inserting after “spouse” —

“                   , or de facto partner,                   ”.

**Table**

cl. 1(1)(a), 2(1)(a), (6)(b) and (c) and 3(1)(a)

**Part 31 — Industrial Relations Act 1979**

**88. Industrial Relations Act 1979 amended**

The amendments in this Part are to the *Industrial Relations Act 1979*\*.

[\* *Reprinted as at 4 February 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 177 and Act No. 20 of 2002.]*

**89. Section 20 amended**

Section 20(12) is amended by deleting “the widow or widower and children” in both places where it occurs and inserting instead —

“ a surviving spouse, de facto partner or child ”.

**90. Section 97WY amended**

Section 97WY(1)(a) is amended by deleting “of the person with a mental disability” and inserting instead —

“

, or de facto partner, of the person with a  
mental disability and has reached 18 years  
of age

”.

**Part 32 — *Inheritance (Family and Dependants Provision) Act 1972***

**91. *Inheritance (Family and Dependants Provision) Act 1972*  
amended**

The amendment in this Part is to the *Inheritance (Family and Dependants Provision) Act 1972*\*.

[\* Act No. 57 of 1972.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 178 and Act No. 3 of 2002.]*

**92. Section 4 amended**

After section 4(4) the following subsection is inserted —

“

- (4a) Subsection (4) does not apply to or in relation to a relationship established by the *Artificial Conception Act 1985*.

”.



### **Part 33 — Judges' Salaries and Pensions Act 1950**

**93. Judges' Salaries and Pensions Act 1950 amended**

The amendments in this Part are to the *Judges' Salaries and Pensions Act 1950*.\*

[\* *Reprinted as at 3 March 1994.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 187.]*

**94. Section 2 amended**

Section 2(1) is amended by deleting the definition of “Schedule” and inserting the following definition instead —

“

**“spouse or de facto partner”**, in relation to a Judge or former Judge who has died means —

- (a) the widow or widower of the Judge or former Judge; or
- (b) a person who, at the time of the death of the Judge or former Judge, was a de facto partner of the Judge or former Judge.

”.

**95. Section 7 amended**

- (1) Section 7(1) is repealed and the following subsection is inserted instead —

“

- (1) The Second Schedule sets out the pensions and allowances payable under this Act to and in respect of spouses, de facto partners and children of Judges and retired Judges.

”.

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- (2) Section 7(3) is repealed and the following subsection is inserted instead —

“

- (3) A pension is not payable under this Act to a de facto partner of a Judge or former Judge who died before the commencement of this subsection.

”.

**96. Section 8A amended**

Section 8A is amended as follows:

- (a) by deleting “widow” in the first place where it occurs and inserting instead —

“ spouse or de facto partner ”;

- (b) by deleting paragraph (a) and inserting instead —

“

- (a) a pension under this Act as the spouse or de facto partner of a Judge or retired Judge;

”;

- (c) in paragraph (b) by deleting “her being a widow of a deceased” and inserting instead —

“ being the spouse or de facto partner of a ”.

**97. Section 8B amended**

- (1) Section 8B(5) is repealed.

- (2) Section 8B(6) is amended as follows:

- (a) in paragraph (a) by deleting “his widow or in respect of any eligible child of his” and inserting instead —

“

the spouse or de facto partner of such a Judge or in respect of any eligible child of such a Judge

”;

- (b) in paragraph (b) by deleting “widow or in respect of any eligible child of a Judge who dies prior to his retirement” and inserting instead —

“

spouse or de facto partner, or in respect of any eligible child, of a Judge who dies prior to retiring

”.

**98. Section 14 amended**

Section 14 is amended by deleting “widow and” and inserting instead —

“ spouse, de facto partner or ”.

**99. Second Schedule amended**

- (1) Part 1 of the Second Schedule is repealed and the following Part is inserted instead —

“

**Part 1 — Pensions for spouses and de facto partners**

**1. Pension on death of Judge in office**

If a Judge dies and is survived by a spouse or de facto partner, the spouse or de facto partner is entitled to a pension of an amount equal to —

- (a) if the Judge died before 1 December 1987, 62.5% of the pension to which the Judge would have been entitled under section 6(2) if the Judge had retired on the day the Judge dies; or
- (b) if the Judge died on or after 1 December 1987, 37.5% of current judicial salary.

**2. Pension on death of retired Judge**

If a former Judge dies after retiring and is survived by a spouse or de facto partner, the spouse or de facto partner is entitled to a pension of an amount equal to —

- (a) if the former Judge retired before 1 December 1987, 62.5% of the pension which the former Judge was receiving before death; or
- (b) if the former Judge retired on or after 1 December 1987, 62.5% of the pension which would have been payable to the former Judge if the former Judge had not died.

**3. Payment of pension**

- (1) Subject to subclause (2), a pension under this Part is payable from the day after the Judge died.
- (2) If a person entitled to a pension under clause 2 —
  - (a) was not the former Judge's spouse or de facto partner when the former Judge retired; and
  - (b) has not attained the age of 55 years on the day the former Judge died,the pension is payable from —
  - (c) the day on which the person attains the age of 55 years; or
  - (d) such earlier day as the Minister considers appropriate in the circumstances.
- (3) A pension under this Part is payable until the death of the person to whom it is payable.

”.

- (2) The Second Schedule Part II Division A is amended as follows:

- (a) in item 2(1)(a) by deleting “his death a” and inserting instead —  
“ his or her death a widow or ”;

- (b) in item 2(1)(b) by inserting after “widow” in both places where it occurs —  
“ or widower ”;
- (c) in item 2(2)(b) —
  - (i) by inserting after “widow” in both places where it occurs —  
“ or widower ”; and
  - (ii) by inserting after “her” —  
“ or his ”.
- (3) The Second Schedule Part II Division B is amended as follows:
  - (a) in the definition of “eligible child” by deleting “widow or other”;
  - (b) in the definition of “relevant pension” by deleting “him if he had” and inserting instead —  
“ the Judge had the Judge ”;
  - (c) in item 1(1) by deleting “widow” in both places where it occurs and inserting instead —  
“ spouse or de facto partner ”;
  - (d) in item 2(1)(a) by deleting “widow” in both places where it occurs and inserting instead —  
“ spouse or de facto partner ”;
  - (e) in item 2(1)(b) by deleting “widow” and inserting instead —  
“ spouse or de facto partner ”.
- (4) The Second Schedule Part III is amended by inserting after item 2 the following item —

“

Item 3:

If more than one person is entitled under Part 1 to a pension as the spouse or de facto partner of a particular Judge or former Judge, then

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each of those persons are entitled only to a share of the pension that would be payable if there was only one spouse or de facto partner, apportioned between them as is determined by the Minister.

”.

**Part 34 — *Land Tax Assessment Act 2002***

**100. *Land Tax Assessment Act 2002* amended**

The amendments in this Part are to the *Land Tax Assessment Act 2002*\*.

[\* *Act No. 52 of 2002.*]

**101. **Section 21** amended**

Section 21(1) is amended as follows:

- (a) by deleting “or” and the end of paragraph (a);
- (b) by deleting the full stop at the end of paragraph (b) and inserting instead —

“

; or

- (c) by persons who have lived in a de facto relationship with each other for at least 2 years, whether or not they still live on that basis, at least one of whom uses it as his or her primary residence.

”.

**Part 35 — Life Assurance Companies Act 1889**

**102. Life Assurance Companies Act 1889 amended**

The amendments in this Part are to the *Life Assurance Companies Act 1889*\*.

[\* *Reprint in Volume 2 of Reprinted Acts.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 209.]*

**103. Section 70 amended**

Section 70 is amended by deleting “his widow, or any adult child of his, and the receipt of such widow or child” and inserting instead —

“

any —

- (a) person who was the spouse or de facto partner of the holder of the policy immediately before the death of the holder; or
- (b) child who has attained the age of 18 years of the holder of the policy,

and the receipt of any of those persons

”.



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**Part 36 — Liquor Licensing Act 1988**

**104. Liquor Licensing Act 1988 amended**

The amendments in this Part are to the *Liquor Licensing Act 1988*.\*

[\* Reprinted as at 23 February 2001.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 211.]

**105. Section 3 amended**

Section 3(1) is amended in the definition of “relative” by deleting “person who, although not legally married to the licensee, ordinarily lives with the licensee on a permanent and domestic basis as the spouse” and inserting instead —

“ de facto partner ”.

**106. Section 125 amended**

(1) Section 125(1)(a)(ii) is amended by inserting after “spouse” —

“ or de facto partner ”.

(2) Section 125(2)(b) is amended by inserting after “spouse” the following —

“ , de facto partner ”.

(3) Section 125(3) is repealed and the following subsection is inserted instead —

“

(3) In this section —

“**a member of the family**”, in relation to a person,  
includes a de facto partner of the person.

”.

**Part 37 — Local Courts Act 1904**

**107.    *Local Courts Act 1904* amended**

The amendments in this Part are to the *Local Courts Act 1904*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see 2001 Index to Legislation of  
Western Australia, Table 1, p. 214.]*

**108.    **Section 126** amended**

Section 126 is amended by deleting “wife” and inserting  
instead —

“ spouse or de facto partner ”.

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**Part 38 — Local Government Act 1995**

**109. Local Government Act 1995 amended**

The amendments in this Part are to the *Local Government Act 1995*\*.

[\* *Reprinted as at 18 February 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 215.]*

**110. Section 5.62 amended**

Section 5.62(1) is amended as follows:

- (a) in paragraph (e) by deleting “or a child of the relevant person” and inserting instead —  
“ , de facto partner or child of the relevant person ”;
- (b) in paragraph (f) by inserting after “spouse” in both places where it occurs —  
“ or de facto partner ”.

**111. Section 5.63 amended**

Section 5.63(1)(d)(ii) is amended by inserting after “spouse” in both places where it occurs —

“ , de facto partner ”.

**112. Section 5.64 repealed**

Section 5.64 is repealed.

**113. Section 5.74 amended**

- (1) Section 5.74(1) is amended in the definition of “relative” as follows:

- (a) in paragraph (a) by inserting after “spouse” —  
“ or de facto partner ”;

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(b) in paragraph (b) by inserting after “spouse” in both places where it occurs —  
“ or de facto partner ”.

(2) Section 5.74(4) and (5) are repealed.

**114. Section 9.44 amended**

(1) Section 9.44(1) is amended by inserting after “spouse” —  
“ or de facto partner ”.

(2) Section 9.44(2) is repealed.

**Part 39 — Married Women's Property Act 1892 and related amendments**

**115. Married Women's Property Act 1892 and Married Women's Property Act 1895 repealed**

- (1) The *Married Women's Property Act 1892* is repealed.
- (2) The *Married Women's Property Act 1895* is repealed.

**116. Law Reform (Miscellaneous Provisions) Act 1941 amended**

- (1) The amendments in this section are to the *Law Reform (Miscellaneous Provisions) Act 1941*\*.

*[\* Reprinted as at 12 July 2002.]*

- (2) The long title is amended by deleting “the law relating to the liabilities of husbands” and inserting instead —

“

**and re-state the law relating to the legal capacity of spouses**

”.

- (3) Sections 2 and 3 are repealed and the following sections are inserted instead —

“

**2. Doctrine of unity of spouses abolished**

The common law doctrine of unity of spouses is abolished.

**3. Spousal capacity**

- (1) A married person has a legal personality that is independent, separate and distinct from the legal personality of the person's spouse.
- (2) A married person has the same legal capacity that the person would have if the person were unmarried.

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- (3) This section applies to a married person whether the person married before or after the commencement of this section.

”.

**117. Companies (Co-operative) Act 1943 amended**

- (1) The amendment in this section is to the *Companies (Co-operative) Act 1943*\*.

[\* Reprinted as at 14 January 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 60 and Gazette 28 June 2002 p. 3052-4.]*

- (2) Section 183 is repealed.

**118. The Criminal Code amended**

- (1) The amendments in this section are to *The Criminal Code*\*.

[\* Reprinted as at 9 February 2001 as the Schedule to the *Criminal Code Act 1913* appearing as Appendix B to the *Criminal Code Compilation Act 1913*.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 89 and Acts Nos. 3, 6 and 8 of 2002.]*

- (2) Section 32 is repealed.  
(3) Section 35 is repealed.  
(4) Section 377 is repealed.  
(5) Section 584(7) is repealed.

**119. Hospitals and Health Services Act 1927 amended**

- (1) The amendments in this section are to the *Hospitals and Health Services Act 1927*\*.

[\* Reprinted as at 15 October 1999.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 168 and Act No. 17 of 2002.]*

- (2) Section 33(2) is amended as follows:
  - (a) by deleting “a married woman not living apart from her husband or”;
  - (b) by deleting “the husband of the married woman, and”.

**120. *Limitation Act 1935* amended**

- (1) The amendments in this section are to the *Limitation Act 1935*\*.

[\* *Reprint approved 5 May 1983.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 209-10.]*

- (2) Section 16 is amended by deleting “coverture (except in the case of a married woman entitled to make such entry or distress, or bring such action),”.
- (3) Section 47(1)(b) is amended by deleting “shall run against a married woman entitled in possession to her separate use, whether with or without a restraint upon anticipation; but”.

**121. *Local Courts Act 1904* amended**

- (1) The amendments in this section are to the *Local Courts Act 1904*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 214.]*

- (2) Section 48(b) is amended by deleting subparagraph (ii) and “or” after it.
- (3) Section 130(5) is repealed.

**122. *Motor Vehicle (Third Party Insurance) Act 1943* amended**

- (1) The amendments in this section are to the *Motor Vehicle (Third Party Insurance) Act 1943*\*.

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[\* Reprinted as at 20 November 1998.]

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 252 and Act No. 7 of 2002.*

- (2) Section 6A is repealed.
- (3) Section 8A is repealed.
- (4) Section 29A is amended by deleting “of section 6A(3),”.

**123. Newspaper Libel and Registration Act 1884 amended**

- (1) The amendment in this section is to *The Newspaper Libel and Registration Act 1884*\*.

[\* Reprinted as at 15 December 1988.]

- (2) Section 7 is amended by deleting “coverture,”.

**124. Parliament (Qualification of Women) Act 1920 repealed**

The *Parliament (Qualification of Women) Act 1920* is repealed.

**125. Property Law Act 1969 amended and transitional provision**

- (1) The amendments in this section are to the *Property Law Act 1969*\*.

[\* Reprinted as at 21 May 1999.]

- (2) Section 31 is repealed.
- (3) A restriction upon anticipation or alienation attached to the enjoyment of any property by a woman which —
  - (a) at the time it was attached, could not have been attached to the enjoyment of that property by a man; and
  - (b) continued to have effect after the commencement of section 31 of the *Property Law Act 1969*,

is of no effect.



**126. *Restraint of Debtors Act 1984* amended**

- (1) The amendment in this section is to the *Restraint of Debtors Act 1984*\*.

[\* *Act No. 73 of 1984.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 322.]*

- (2) Section 4 is repealed.

**127. *Supreme Court Act 1935* amended**

- (1) The amendments in this section are to the *Supreme Court Act 1935*\*.

[\* *Reprinted as at 9 February 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 370.]*

- (2) Section 175(1) is amended by deleting “; and to take the acknowledgments of deeds executed by married women”.

- (3) Section 175(3) is repealed.

**128. *Town Allotments (Boundaries) Act 1844* amended**

- (1) The amendments in this section are to the *Town Allotments (Boundaries) Act 1844*\*.

[\* *Reprinted as at 17 August 2001.*]

- (2) Section 21 is amended by deleting “a *feme covert*,” and inserting instead —

“ an ”.

**129. *Transfer of Land Act 1893* amended**

- (1) The amendments in this section are to the *Transfer of Land Act 1893*\*.

[\* *Reprinted as at 9 February 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 385.]*

(2) Section 3(1) is amended by deleting “This Act shall not be construed to limit abridge or extend any provisions of the *Married Women's Property Act 1892*.”.

(3) Section 84 is amended as follows:

(a) by deleting “to his wife; or if such proprietor be a married woman it shall be lawful for her to make such transfer to her husband; or it shall be lawful for such proprietor to make such transfer”;

(b) by deleting “to create or execute any power of appointment or disposition or to” and inserting instead —

“

create or execute any power of appointment or disposition or

”.

(4) Section 85 is amended by deleting “; and every instrument acknowledged within Western Australia by any woman appearing by the Register to be married (whether a sole proprietor or not) and certified under the hand of the Registrar or of some Assistant Registrar or Commissioner for taking affidavits in the Supreme Court of Western Australia in the form in the Tenth Schedule and every instrument acknowledged out of Western Australia by any woman appearing by the Register to be married (whether a sole proprietor or not) and certified under the hand of a Commissioner for taking affidavits in the Supreme Court of Western Australia in the form in the said schedule shall when such instrument has been registered be as valid and effectual to all intents and purposes as a deed duly executed and acknowledged or an instrument duly signed and acknowledged by her would have been under any law heretofore or now in force in Western Australia or as any other form of document would have been either at law or in equity; and such

certificate shall be deemed and received as sufficient evidence of the due signature and acknowledgment by her of the instrument therein referred to. Provided always that a married woman entitled to her separate use and not restrained from anticipation or having a power of appointment shall for the purposes of this Act be deemed a feme sole”.

- (5) Section 188(iii) is amended by deleting “coverture”.
- (6) The Tenth Schedule is repealed.

**130. *Trustee Ordinance 1854* amended**

- (1) The amendment in this section is to the *Trustee Ordinance 1854*\*.

[\* *17 Vict., No. 10 of 1854.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 389.]*

- (2) Section 2 is amended in the definition of “convey” and “conveyance” by deleting “married woman and”.

**Part 40 — *Medical Act 1894***

**131. *Medical Act 1894* amended**

The amendment in this Part is to the *Medical Act 1894*.

[\* *Reprinted as at 25 February 2000.*

*For subsequent amendments see 2001 Index to Legislation of  
Western Australia, Table 1, p. 230.]*

**132. **Section 21B** amended**

After section 21B(3) the following subsection is inserted —

“

(4) In subsection (1) —

“**relative**”, in relation to a patient, includes a de facto  
partner of the patient.

”.

**Part 41 — *Members of Parliament (Financial Interests)*  
Act 1992**

**133. *Members of Parliament (Financial Interests) Act 1992*  
amended**

The amendments in this Part are to the *Members of Parliament (Financial Interests) Act 1992*\*.

[\* *Act No. 44 of 1992.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 231 and Act No. 3 of 2002.]*

**134. *Section 3* amended**

Section 3(5) is amended by deleting “with the Member or relative as a *de facto* spouse if either — ” and paragraphs (a) and (b) and inserting instead —

“

as a *de facto* partner of the Member or relative and has been so living during the whole of the 2 years immediately preceding that time

”.

**Part 42 — *Mental Health Act 1996***

**135. *Mental Health Act 1996* amended**

The amendments in this Part are to the *Mental Health Act 1996*\*

[\* *Act No. 68 of 1996.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 231.]*

**136. **Section 3** amended**

Section 3 is amended as follows:

- (a) in the definition of “relative” by inserting after “spouse,” —  
“ de facto partner, ”;
- (b) by deleting the definition of “spouse”.

**137. **Section 193** amended**

Section 193 is amended in the definition of “related person” by inserting after “spouse” in paragraphs (b), (c) and (d) —

“ , de facto partner ”.

**138. **Schedule 3** amended**

Schedule 3 clause 2 is amended as follows:

- (a) in paragraph (f) by deleting “or a child of the official visitor and is living with the official visitor” and inserting instead —  
“ , de facto partner or child of the official visitor ”;
- (b) in paragraph (g) by deleting “if the spouse is living with the official visitor” and inserting instead —  
“ or de facto partner ”.

**Part 43 — Mine Workers' Relief Act 1932**

**139. Mine Workers' Relief Act 1932 amended**

The amendments in this Part are to the *Mine Workers' Relief Act 1932*.\*.

[\* Reprinted as at 29 September 1987.

For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 241.]

**140. Schedule 2 amended**

(1) Schedule 2 Part I paragraph 2 is amended as follows:

- (a) in the definition of “dependants” by deleting “wife, widow until she remarries, father, mother, grandfather, grandmother, step-father, step-mother” and inserting instead —

“

spouse, de facto partner, surviving spouse, surviving de facto partner (until that spouse or partner subsequently marries or enters into a de facto relationship), parent, step-parent, grandparent

”;

- (b) inserting in the appropriate alphabetical position the following definition —

“

**“surviving spouse or surviving de facto partner”**, in relation to a person who has died, means —

- (a) the widow or widower of that person; or  
(b) a person who was, immediately before the death of the person, a de facto partner of that person;

”.

(2) Schedule 2 Part III paragraph 12(4) is amended as follows:

- (a) by deleting “wife or a” and inserting instead —

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- “ spouse, de facto partner or ”;
- (b) by deleting “wife” in each of the other places where it occurs and inserting instead —
- “ spouse, de facto partner ”.

**141. Schedule 3 amended**

- (1) Schedule 3 is amended by inserting before “Persons” the clause designation —

“ 1. ”.

- (2) Schedule 3 is amended by deleting the Table commencing “single man.....4” and ending “worker dependant on him .....1” and inserting instead —

“

(1)	Basic payment for a mine worker .....	4
(2)	Additional payment to a mine worker in respect of —	
	(a) the spouse or de facto partner of the mine worker .....	4
	(b) each child under 16 years of age, dependent on the mine worker .....	1
(3)	Basic payment for surviving spouse or surviving de facto partner, of a mine worker .....	4
(4)	Additional payment for surviving spouse, or surviving de facto partner, of a mine worker in respect of each child under 16 years of age who was dependent on the mine worker immediately before the worker’s death .....	1
(5)	Payment for a parent of a mine worker who was dependent on the mine worker immediately before the worker’s death .....	2
(6)	Payment for guardian of each child under 16 years of age who was dependent on a mine worker immediately before the worker’s death .....	2

”.



(3) Schedule 3 is amended as follows:

(a) by inserting before “Notwithstanding” the clause designation —

“ 2. ”;

(b) in paragraph (b) by deleting “widower, the additional payment in respect of any child under 16 years” and inserting instead —

“

mine worker who is a surviving spouse or surviving de facto partner, the additional payment under clause 1(2)(b)

”;

(c) by deleting paragraph (c) and inserting the following paragraph instead —

“

(c) a mine worker is not entitled to any payment under clause 1(2) unless the person the payment is made in respect of is being supported by the mine worker;

”;

(d) in paragraph (d) by deleting “in respect of a wife may be paid to the wife” and inserting instead —

“

under clause 1(2)(a) may be paid to the spouse or de facto partner of the mine worker

”;

(e) in paragraph (e) —

(i) by deleting “widow, the benefits” and inserting instead —

“

surviving spouse or surviving de facto partner, the payments under clause 1(4)

”;

and

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- (ii) by deleting “re-marriage of the widow” and inserting instead —

“

subsequent marriage of the spouse or de facto partner, or on the spouse or de facto partner entering into a de facto relationship

”;

- (f) in paragraph (f) —

- (i) by deleting “widow” in both places where it occurs and inserting instead —

“

surviving spouse or surviving de facto partner

”;

and

- (ii) by deleting “benefit under this Act until she has applied for such a pension and her application has been granted or refused.” and inserting instead —

“

payment under this Act until such an application has been made and dealt with.

”.

- (4) At the end of Schedule 3 the following clause is inserted —

“

3. In this Schedule —

“**dependants**” has the same meaning as it has in Schedule 2;

“**surviving spouse or surviving de facto partner**” has the same meaning as it has in Schedule 2.

”.

**Part 44 — *Mine Workers' Relief (Payments Authorisation) Act 1940***

**142.    The *Mine Workers' Relief (Payments Authorisation) Act 1940* repealed**

The *Mine Workers' Relief (Payments Authorisation) Act 1940* is repealed.

**Part 45 — *Minimum Conditions of Employment Act 1993***

**143. *Minimum Conditions of Employment Act 1993* amended**

The amendments in this Part are to the *Minimum Conditions of Employment Act 1993*\*.

[\* *Reprinted as at 4 June 1997.*

*For subsequent amendments see Act No. 20 of 2002.]*

**144. **Section 3** amended**

Section 3(1) is amended by deleting the definition of “*de facto* spouse”.

**145. **Section 20A** amended**

Section 20A(2)(a) is amended by deleting “*de facto* spouse” and inserting instead —

“ *de facto* partner ”.

**146. **Section 27** amended**

Section 27(1)(a) is amended by deleting “*de facto* spouse” and inserting instead —

“ *de facto* partner ”.

**147. **Section 32** amended**

Section 32 is amended as follows:

(a) in paragraph (a) of the definition of “adoption” —

(i) by deleting “natural”; and

(ii) by deleting “spouse” and inserting instead —

“ spouse or *de facto* partner ”;

- (b) in the definition of “expected date of birth” by inserting after “spouse” —  
“ or de facto partner ”;
- (c) after the definition of “parental leave” by deleting the semicolon and inserting instead a full stop;
- (d) by deleting the definition of “spouse”.

**148. Section 33 amended**

Section 33(3) is amended as follows:

- (a) by inserting after “spouse” —  
“ or de facto partner ”;
- (b) by deleting “leave — ” and inserting instead —  
“  
leave taken by the employee and the employee’s  
spouse or de facto partner immediately after —  
”;
- (c) in paragraph (a) by deleting “taken by the male parent immediately after”;
- (d) in paragraph (b) by deleting “taken by the employee and the employee’s spouse immediately after”.

**149. Section 34 amended**

Section 34 is amended as follows:

- (a) by inserting after “who” —  
“ is pregnant and ”;
- (b) by deleting “, other than for an adoption, ”.

**150. References to “de facto partner” inserted**

The provisions referred to in the Table to the section are amended by inserting after “spouse” in each place where it occurs —

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“ or de facto partner ”.

**Table**

s. 33(1)(a) and (4), 35 and 36(1)

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**Part 46 — Mining Act 1978**

**151. Mining Act 1978 amended**

The amendments in this Part are to the *Mining Act 1978*\*.

[\* *Reprinted as at 7 September 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 246 and Act No. 15 of 2002.]*

**152. Section 8 amended**

Section 8(4)(a) is repealed and the following paragraph inserted instead —

“

- (a) an individual, if the person is —
  - (i) a spouse or de facto partner;
  - (ii) a parent, grandparent or great-grandparent;
  - (iii) a child, grandchild or great-grandchild;  
or
  - (iv) a sibling,of the individual, whether the relationship is a step relationship or a relationship established by, or traced through marriage or a de facto relationship, a written law or a natural relationship;

”.

**Part 47 — *The Partnership Act 1895***

**153. *The Partnership Act 1895* amended**

The amendments in this Part are to *The Partnership Act 1895*\*.

[\* *Reprinted as at 26 July 1985.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 272.]*

**154. **Section 8** amended**

Section 8(3)(c) is amended by deleting “being the widow or” and inserting instead —

“

who, immediately before the death of a deceased partner, was the spouse or de facto partner of the partner, or who is the

”.



**Part 48 — Police Act 1892**

**155. Police Act 1892 amended**

The amendments in this Part are to the *Police Act 1892*\*.

[\* *Reprinted as at 12 January 2001.*

*For subsequent amendments see Act No. 6 of 2002.]*

**156. Section 27 repealed**

Section 27 is repealed.

**157. Section 66 amended**

Section 66(10) is repealed.

**158. Section 138 amended**

After section 138(4) the following subsection is inserted —

“

(5) In this section —

“**close relative**”, in relation to a person, includes a  
de facto partner of the person.

”.

**Part 49 — Property Law Act 1969**

**159. Property Law Act 1969 amended**

The amendments in this Part are to the *Property Law Act 1969*\*.

[\* Reprinted as at 25 May 1999.]

**160. Section 31A amended**

Section 31A(5) is amended as follows:

- (a) by deleting “father” in each place where it occurs and inserting instead —  
“ parent ”;
- (b) by inserting after “his” in both places where it occurs —  
“ or her ”;
- (c) by deleting “paternity” in both places where it occurs and inserting instead —  
“ parentage ”.

**161. Section 102 amended**

Section 102(4) is amended by inserting after “spouse” in both places where it occurs —

“ or de facto partner ”.

**162. Section 105 amended**

Section 105(3) is amended by inserting after “person,” —

“ or on any person entering into a de facto relationship, ”.

**163. Section 108 amended**

- (1) Section 108 is amended by inserting before “The” the subsection designation “(1)”.

(2) At the end of section 108 the following subsection is inserted —

“

(2) The de facto partner of a person who is a life in being for the purpose of the rule against perpetuities shall be deemed a life in being for the purpose of —

(a) a limitation in favour of that de facto partner;  
and

(b) a limitation in favour of a person who attains, or of a class the members of which attain, according to the limitation, a vested interest on or after the death of the survivor of that person and the person's de facto partner.

”.

**164. Section 115 amended**

Section 115(1) is amended as follows:

(a) in paragraph (a) by inserting after “widowers,” —  
“ de facto partners, ”;

(b) in paragraph (b) by inserting after “widowers,” —  
“ de facto partners, ”.

**Part 50 — Rates and Charges (Rebates and Deferments)  
Act 1992**

**165. Rates and Charges (Rebates and Deferments) Act 1992  
amended**

The amendments in this Part are to the *Rates and Charges (Rebates and Deferments) Act 1992*\*.

[\* Reprinted as at 19 May 2000.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 316.]*

**166. Section 3 amended**

- (1) Section 3(1) is amended by inserting the following definition in the appropriate alphabetical position —

“

“**de facto partner**” does not include a person who, on an apparently permanent and voluntary basis, lives separately and apart from their de facto partner;

”.

- (2) Section 3(1) is amended in the definition of “dependant” by inserting after paragraph (a) the following paragraph —

“ (ab) a de facto partner of that person; ”.

- (3) Section 3(1) is amended in the definition of “spouse” by deleting “, includes a de facto spouse, subject to section 4, but”.

**167. Section 4 repealed**

Section 4 is repealed.

**168. Section 27 amended**

Section 27(5) is amended by inserting after “spouse” in each place where it occurs —

“ or de facto partner ”.

**169. Section 28 amended**

- (1) Section 28(3) is amended by inserting after “spouse” in both places where it occurs —

“ or de facto partner ”.

- (2) Section 28(4)(b) is amended by inserting after “spouse” —

“ or de facto partner ”.

**170. Section 31 amended**

Section 31(2) is amended by deleting “spouses” and inserting instead —

“ partners ”.

**171. Section 43 amended**

Section 43(4)(a) is amended by inserting after “spouse” —

“ or de facto partner ”.

**172. Section 44 amended**

Section 44(2)(c)(iii) is amended by inserting after “spouse” in both places where it occurs —

“ or de facto partner ”.

**173. Section 45 amended**

- (1) Section 45(1) is amended by inserting after “spouse” in each place where it occurs —

“ or de facto partner ”.

- (2) Section 45(2) is amended by inserting after “spouse” in each place where it occurs —

“ or de facto partner ”.

**Part 51 — Real Estate and Business Agents Act 1978**

**174. Real Estate and Business Agents Act 1978 amended**

The amendments in this Part are to the *Real Estate and Business Agents Act 1978*\*.

[\* Reprinted as at 9 March 2001.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 317.]*

**175. Section 72 amended**

Section 72(3) is amended by inserting after “Board” in the first place where it occurs —

“ any de facto relationship or ”.

**176. Section 117(5) amended**

Section 117(5) is amended by inserting after “spouse” —

“ or de facto partner ”.

**177. The Schedule amended**

- (1) The Schedule is amended in clause 1(d) by inserting after “licensee” in the first place where it occurs —

“

, or a de facto partner of such a licensee (and has been for not less than 2 years immediately before the death or incapacity of the licensee),

”.

- (2) The Schedule is amended in clause 4 by inserting after “licence” in the first place where it occurs —

“ is to be granted at the discretion of the Board and ”.

- (3) The Schedule is amended in clause 5(1) by deleting “not an executor, administrator, trustee, spouse, or child of a deceased

licensee or who is not a spouse or child of an incapacitated licensee may” and inserting instead —

“

not —

- (a) an executor, administrator, trustee or child of a deceased licensee, or who was not the spouse or de facto partner, within the meaning of clause 1(d), of a deceased licensee immediately before the death of the licensee; or
- (b) in respect of an incapacitated licensee, the spouse or de facto partner of the licensee, within the meaning of clause 1(d), of the licensee,

may

”.

## **Part 52 — Retirement Villages Act 1992**

### **178. Retirement Villages Act 1992 amended**

The amendments in this Part are to the *Retirement Villages Act 1992*\*.

[\* *Reprinted as at 22 January 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 323.]*

### **179. Section 3 amended**

Section 3(1) is amended as follows:

- (a) in the definition of “resident” by inserting after “spouse” —  
“ or de facto partner ”;
- (b) in the definition of “retired person” by inserting after “spouse” —  
“ or de facto partner ”;
- (c) by deleting the definition of “spouse”.



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**Part 53 — Settlement Agents Act 1981**

**180. Settlement Agents Act 1981 amended**

The amendments in this Part are to the *Settlement Agents Act 1981*\*.

[\* *Reprinted as at 3 November 2000.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 341.]*

**181. Section 53 amended**

Section 53(3) is amended by inserting after “Board” in the first place where it occurs —

“ any de facto relationship or ”.

**182. Section 95(5) amended**

Section 95(5) is amended by inserting after “spouse” —

“ or de facto partner ”.

**183. Schedule 1 amended**

- (1) Schedule 1 clause 1(1)(d) is amended by inserting after “licensee” in the first place where it occurs —

“

, or a de facto partner of such a licensee (and has been for not less than 2 years immediately before the death or incapacity of the licensee),

”.

- (2) Schedule 1 clause 2(1)(d) is amended by inserting after “licensee” in the first place where it occurs —

“

, or a de facto partner of such a licensee (and has been for not less than 2 years immediately before the death or incapacity of the licensee),

”.

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- (3) Schedule 1 is amended in clause 4 by inserting after “licence” in the first place where it occurs —

“ is to be granted at the discretion of the Board and ”.

- (4) Schedule 1 is amended in clause 5(1) by deleting “not an executor, administrator, trustee, spouse or child of a deceased licensee or who is not a spouse or child of an incapacitated licensee may” and inserting instead —

“

not —

- (a) an executor, administrator, trustee or child of a deceased licensee, or who was not the spouse or de facto partner, within the meaning of clause 1(1)(d) or 2(1)(d) as is relevant, of a deceased licensee immediately before the licensee’s death; or
- (b) in respect of an incapacitated licensee, the spouse or de facto partner of the licensee, within the meaning of clause 1(1)(d) or 2(1)(d) as is relevant, of the licensee,

may

”.

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**Part 54 — Solicitor-General Act 1969**

**184. Solicitor-General Act 1969 amended**

The amendments in this Part are to the *Solicitor-General Act 1969*.\*.

[\* *Act No. 38 of 1969.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 346.]*

**185. Section 11 amended**

Section 11 is amended as follows:

- (a) by deleting “his widow and children after his death” in the first place where it occurs and inserting instead —

“

a surviving spouse, de facto partner or child of a Solicitor-General after the death of the Solicitor-General

”;

- (b) by deleting “his widow and children after his death” in the second place where it occurs and inserting instead —

“

a surviving spouse, de facto partner or child of such a Judge after the death of the Judge

”.

## Part 55 — Stamp Act 1921

### 186. Stamp Act 1921 amended

The amendments in this Part are to the *Stamp Act 1921*\*.

[\* Reprinted as at 3 August 2001.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 354 and Acts Nos. 7 and 11 of 2002.]*

### 187. Section 4 amended

Section 4(1) is amended by inserting in the appropriate alphabetical positions the following definitions —

“

“**de facto partner of 2 years**”, in relation to a person, means a person who is living in a de facto relationship with the person and has lived on that basis with the person for at least 2 years;

“**de facto partners of 2 years**” means 2 de facto partners of 2 years who are living in a de facto relationship with each other;

“**former de facto partner of 2 years**”, in relation to a person, means a person who has lived in a de facto relationship with that person for at least 2 years, but no longer lives with that person on that basis;

“**surviving de facto partner of 2 years**”, in relation to a person who has died, means a person who, immediately before the person’s death was living in a de facto relationship with that person and had lived with the person on that basis for at least 2 years;

”.

**188. Section 63AB amended**

(1) Section 63AB(5)(a) is amended by inserting after “spouses” —  
“ , or de facto partners, ”.

(2) Section 63AB(6)(a), (b) and (c) is amended by inserting after  
“spouse” —  
“ or de facto partner ”.

(3) Section 63AB(6)(d) is deleted and the following paragraphs are  
inserted instead —

- “
- (d) the spouse or de facto partner of the person;
  - (e) the spouse or de facto partner of a person referred to in paragraph (a), (b), or (c).
- ”.

(4) Section 63AB(7)(a) is amended by deleting “his mother and  
reputed father” and inserting instead —

“ that person’s parents ”.

(5) Section 63AB(7)(b) is deleted and the following paragraph is  
inserted instead —

- “
- (b) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law;
- ”.

**189. Section 75AB amended**

Section 75AB is amended by inserting after “widows” —

“ , widowers, surviving de facto partners of 2 years ”.

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**190. Section 75C amended**

- (1) Section 75C(1) is amended as follows:
  - (a) in paragraph (a) by deleting “living with each other as a de facto married couple” and inserting instead —  
“ de facto partners of 2 years ”;
  - (b) by deleting paragraph (aa).
- (2) Section 75C(4) is amended by deleting the definition of “de facto married couple”.

**191. Section 75D amended**

- (1) Section 75D(1) is amended in the definition of “family member” by deleting paragraphs (e) and (f) and inserting instead —  
“
  - (e) the spouse, former spouse, de facto partner of 2 years or former de facto partner of 2 years of the person; or
  - (f) the spouse or de facto partner of 2 years of a person referred to in paragraph (a), (b), (c) or (d),”.
- (2) Section 75D(2)(a) is amended by deleting “mother and reputed father” and inserting instead —  
“ parents ”.
- (3) Section 75D(2)(b) is deleted and the following paragraph is inserted instead —  
“
  - (b) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law.”.

**192. Section 76 amended**

- (1) Section 76(2)(b)(i), (ii) and (iii) is amended by inserting after “spouse” —

“ or de facto partner ”.

- (2) Section 76(2)(b)(iv) is deleted and the following subparagraphs are inserted instead —

“

(iv) the spouse or de facto partner of the individual;

(v) the spouse or de facto partner of an individual referred to in subparagraph (i), (ii), or (iii).

”.

- (3) Section 76(3)(a) is amended by inserting after “spouses” —

“ , or de facto partners, ”.

- (4) Section 76(4)(a) is amended by deleting “his mother and reputed father” and inserting instead —

“ that person’s parents ”.

- (5) Section 76(4)(b) is deleted and the following paragraph is inserted instead —

“

(b) it is irrelevant whether a relationship is of the whole or half-blood, or whether it is a natural relationship or a relationship established by a written law;

”.

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**193. Section 112Q amended**

Section 112Q(2) is amended by deleting “, with such a person, is or was one of a de facto married couple (as that expression is defined in section 75C(4))” and inserting instead —

“

is a de facto partner of 2 years, or a former de facto partner of 2 years, or is a surviving de facto partner of 2 years, of the person

”.



**Part 56 — Strata Titles Act 1985**

**194. Strata Titles Act 1985 amended**

The amendments in this Part are to the *Strata Titles Act 1985*\*.

[\* *Reprinted as at 1 July 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 363.]*

**195. Section 6A amended**

Section 6A(3) is amended as follows:

- (a) in the definition of “retired person” by deleting “of such a person;” and inserting instead —  
“ or de facto partner of such a person. ”;
- (b) by deleting the definition of “spouse”.

**196. Section 50A amended**

Section 50A(4) is amended by inserting after “spouse” —

“ or de facto partner ”.

**Part 57 — Supreme Court Act 1935**

**197. Supreme Court Act 1935 amended**

The amendments in this Part are to the *Supreme Court Act 1935*\*.

[\* *Reprinted as at 9 February 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 126.]*

**198. Section 11B amended**

Section 11B(3) is amended as follows:

- (a) by deleting “his widow and children after his” in the first place where it occurs and inserting instead —

“

a surviving spouse, de facto partner or child of a Master after the Master’s

”;

- (b) by deleting “his widow and children after his” in the second place where it occurs and inserting instead —

“

a surviving spouse, de facto partner or child of such a Judge after the Judges’

”.

**199. Section 118 amended**

Section 118(2)(b) is amended by deleting “wife” and inserting instead —

“ spouse or de facto partner ”.

**200. Section 141 amended**

Section 141(2)(b) is deleted.

**Part 58 — Trustees Act 1962**

**201. Trustees Act 1962 amended**

The amendments in this Part are to the *Trustees Act 1962*\*.

[\* Reprinted as at 11 January 2002.]

**202. Section 61 amended**

Section 61(3) is amended as follows:

- (a) in paragraph (a) by deleting “wife or her husband” and inserting instead —  
“ , or her, spouse or de facto partner ”;
- (b) in paragraph (b) by deleting “wife or husband” and inserting instead —  
“ spouse or de facto partner ”.

## **Part 59 — Water Corporation Act 1995**

### **203. Water Corporation Act 1995 amended**

The amendments in this Part are to the *Water Corporation Act 1995*.\*.

[\* *Reprinted as at 4 May 2001.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 403 and Act No. 20 of 2002 and Gazette 24 May 2002 p. 2605-17.]*

### **204. Schedule 2 amended**

Schedule 2 clause 14(1) is amended as follows:

- (a) in paragraph (a) —
  - (i) by inserting after “spouse” in the first place where it occurs —  
“ or de facto partner ”; and
  - (ii) by inserting after “spouse” in the second place where it occurs —  
“ or de facto partner of a director ”;
- (b) in paragraph (b) —
  - (i) by inserting after “spouse” in the first place where it occurs —  
“ or de facto partner ”; and
  - (ii) by inserting after “spouse” in the second place where it occurs —  
“ or de facto partner of a director ”.

**Part 60 — *Western Australian Aged Sailors, Soldiers and Airmen's Relief Fund Act 1932***

**205. *Western Australian Aged Sailors, Soldiers and Airmen's Relief Fund Act 1932 amended***

The amendments in this Part are to the *Western Australian Aged Sailors, Soldiers and Airmen's Relief Fund Act 1932*\*.

[\* Reprinted as at 7 February 1989.]

**206. **Section 5 amended****

Section 5 is amended by deleting “widows of such eligible sailors, soldiers and airmen. Provided always that such sailor, soldier, airman, nurse and widow” and inserting instead —

“

any person who, immediately before the death of any such sailor, soldier, airman or nurse, was the spouse or de facto partner of that person. Provided always that the person for whom the benefit is applied

”.

**Part 61 — Western Australian Land Authority Act 1992**

**207. Western Australian Land Authority Act 1992 amended**

The amendment in this Part is to the *Western Australian Land Authority Act 1992*\*.

[\* *Reprinted as at 16 April 1999.*

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 410.]*

**208. Schedule 1 amended**

Schedule 1 is amended in Part B clause 1(1) by inserting after “spouse,” —

“ de facto partner, ”.

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**Part 62 — Wills Act 1970**

**209. Wills Act 1970 amended**

The amendments in this Part are to the *Wills Act 1970*\*.

[\* Reprinted as at 11 September 1996.

*For subsequent amendments see 2001 Index to Legislation of Western Australia, Table 1, p. 418.]*

**210. Section 12 amended**

Section 12 is amended by inserting after “spouse” —  
“ or de facto partner ”.

**211. Section 13 repealed and application provision**

- (1) Section 13 is repealed.
- (2) The repeal effected by subsection (1) applies to and in respect of the will of any person dying on or after the date of the commencement of this section, whether the will was made or executed before, on or after that date but does not apply to the will of a person who died before that date.

**212. Section 31 amended**

- (1) Section 31(1) is amended as follows:
  - (a) by deleting “father and mother” in the first place where it occurs and inserting instead —  
“ or her parents ”;
  - (b) by deleting “father and mother” in the second place where it occurs and inserting instead —  
“ parents ”.
- (2) Section 31(2)(b) is amended as follows:
  - (a) by deleting “father and mother” and inserting instead —  
“ parents ”;

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- (b) by deleting “father” and inserting instead —  
“ or her parent ”;
- (c) in subparagraph (i) —
  - (i) by deleting “paternity” and inserting instead —  
“ parentage ”;
  - (ii) by deleting “father” and inserting instead —  
“ parent ”; and
  - (iii) by inserting after “his” —  
“ or her ”;
- (d) in subparagraph (ii) —
  - (i) by deleting “father” and inserting instead —  
“ parent ”; and
  - (ii) by deleting “paternity” and inserting instead —  
“ parentage ”.



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**Part 63 — Workers' Compensation and Rehabilitation Act 1981**

**213. Workers' Compensation and Rehabilitation Act 1981 amended**

The amendments in this Part are to the *Workers' Compensation and Rehabilitation Act 1981*.\*.

[\* Reprinted as at 14 September 2001.]

**214. Section 5 amended**

Section 5(1) is amended as follows:

- (a) by inserting in the appropriate alphabetical position the following definition —

“

**“de facto partner”** in relation to compensation payable in respect of the death of a worker means —

- (a) a person who, immediately before the death of the worker, was living in a de facto relationship with the worker and had been living on that basis with that worker for at least the previous 2 years; and
- (b) any former de facto partner of the worker if the worker was legally obliged immediately before the death of the worker to make provision for that former de facto partner with respect to financial matters;

”;

- (b) in the definition of “member of a family” —

- (i) by deleting “father, mother, grandfather, grandmother, step-father, step-mother” and inserting instead —

“

de facto partner, parent, grandparent, step-parent

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- ”;
- (ii) by deleting “his mother” and inserting instead —  
“ the worker’s parents ”; and
- (iii) by deleting “by the same father or mother” and  
inserting instead —  
“  
who have at least one parent in common with the  
worker  
”;
- (c) by deleting the definition of “spouse” and inserting  
instead —  
“  
“spouse” in relation to compensation payable in  
respect of the death of a worker, includes any  
former spouse of the worker if the worker was  
legally obliged immediately before the death of the  
worker to make provision for that former spouse  
with respect to financial matters;  
”.

**215. Schedule 1 amended**

Schedule 1 is amended as follows:

- (a) in clause 1(1)(b) by deleting “or parent or a spouse and  
parent” and inserting instead —  
“  
, de facto partner or parent, or more than one of  
those persons,  
”;
- (b) in clause 5(1) by inserting after “spouse” —  
“ , de facto partner ”;
- (c) in clause 5(2) by inserting after “spouse” in both places  
where it occurs —  
“ , de facto partner ”.

**216. Schedule 5 amended**

- (1) Schedule 5 clause 1(1) is amended in the definition of “supplementary amount” as follows:
- (a) in paragraph (a) by inserting after “spouse” —  
“ or dependent de facto partner, or both ”;
  - (b) in paragraph (b) by inserting after “spouse” —  
“ or dependent de facto partner ”.
- (2) Schedule 5 clause 7(b) is deleted and the following paragraph is inserted instead —

“

- (b) if his death results from the disability and a dependent spouse or dependent de facto partner, survives him —
  - (i) the employer is liable to pay into the custody of the Commission for the benefit of the spouse or de facto partner, as a lump sum the aggregate of the supplementary amount for a worker with a dependent spouse or dependent de facto partner at the rate applicable at the date of death for a period of 3 years, and after the amount is so paid there shall be liberty to apply to the Commission by or on behalf of the dependent spouse or dependent de facto partner in respect of the manner in which that amount or any part of it is applied and that dependant is entitled to receive that lump sum;
  - (ii) if application is made to the Commission under subparagraph (i) by or on behalf of more than one such dependant, the lump sum referred to in that subparagraph is to be apportioned between the dependants according to the respective financial losses of support suffered by them, which

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apportionment is to be determined by a dispute resolution body, and those dependants are entitled to receive that lump sum as so apportioned; and

- (iii) the dependent spouse or dependent de facto partner is also entitled to receive, and the employer is liable to pay weekly, from the date of the worker's death and during the lifetime of the dependent spouse or dependent de facto partner, the supplementary amount at the rate for a worker without a dependent spouse or dependent de facto partner, and where there is more than one such dependant, the amount is to be apportioned between them according to the respective financial losses of support suffered by them, which apportionment is to be determined by a dispute resolution body;

”.

## **Part 64 — Power to amend certain regulations and rules**

### **217. Power to amend certain regulations and rules**

- (1) The Governor, on the recommendation of the Attorney General, may make regulations amending a regulation or rule made under —
  - (a) an Act amended by this Act or the *Acts Amendment (Lesbian and Gay Law Reform) Act 2002*; or
  - (b) another Act if it is necessary or desirable to amend the regulation or rule as a consequence of the amendments enacted by this Act or the *Acts Amendment (Lesbian and Gay Law Reform) Act 2002*.
- (2) The Attorney General may make a recommendation under subsection (1) only if the Attorney General considers that each amendment proposed to be made by the regulations is consequential on the amendments enacted by this Act or the *Acts Amendment (Lesbian and Gay Law Reform) Act 2002*.
- (3) Nothing in this section prevents a regulation or rule from being amended in accordance with the Act under which it is made.

