

Western Australia

**Commonwealth Powers (De Facto
Relationships) Act 2006**

As at 26 Jun 2006

No. 26 of 2006

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Commonwealth Powers (De Facto Relationships) Act 2006

No. 26 of 2006

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

[Assented to 26 June 2006]

The Parliament of Western Australia enacts as follows:

1. Short title and purpose

- (1) This is the *Commonwealth Powers (De Facto Relationships) Act 2006*.
- (2) The purpose of this Act is to refer certain superannuation matters arising out of the breakdown of de facto relationships to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, with a view to the Family Court of Western Australia being invested with jurisdiction to deal with those matters under section 77(iii) of the Constitution of the Commonwealth.

2. Commencement

This Act comes into operation on a day fixed by proclamation.

3. Definitions

- (1) In this Act —
 - “de facto partner”** means a person who lives or has lived in a de facto relationship;
 - “de facto relationship”** means a marriage-like relationship (other than a legal marriage) between 2 persons;
 - “superannuation matters”**, in relation to de facto partners, means the distribution of superannuation benefits or prospective superannuation entitlements of or relating to de facto partners.
- (2) For the purposes of this Act, a de facto relationship exists even if a de facto partner is legally married to someone else or is in another de facto relationship.
- (3) A reference in this Act —
 - (a) to the superannuation benefits or prospective superannuation entitlements of de facto partners

includes a reference to the superannuation entitlements of either or both of them; and

- (b) to the distribution of any such superannuation benefits or prospective superannuation entitlements includes a reference to the conferral of rights or obligations in relation to the superannuation benefits or prospective superannuation entitlements.

- (4) This Act extends to de facto relationships that ended before the commencement of this Act.

4. References

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

5. Termination of references

- (1) The Governor may, at any time, by proclamation, fix a day as the day on which the references are to terminate.

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- (2) The day fixed under subsection (1) must be no earlier than the first day after the end of the period of 3 months beginning with the day on which the proclamation is published in the *Gazette*.
 - (3) The Governor may, by proclamation, revoke a proclamation published under subsection (1), in which case the revoked proclamation is taken (for the purposes of section 4) never to have been published.
 - (4) A revoking proclamation has effect only if published before the day fixed under subsection (1).
 - (5) The revocation of a proclamation published under subsection (1) does not prevent publication of a further proclamation under that subsection.
 - (6) A proclamation is to be made under this section if and only if the making of that proclamation has been recommended by resolution passed by both Houses of Parliament of this State.
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