Commonwealth Powers (De Facto Relationships) Act 2004
No. 84 of 2004
Authorised Version as at 16 August 2012

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The Parliament of Victoria enacts as follows:

1 Purpose
The purpose of this Act is to refer certain financial matters arising out of the breakdown of de facto relationships to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth.

2 Commencement
This Act comes into operation on a day to be proclaimed.

3 Definitions
(1) In this Act—

deo facto partner
means a person who lives or has lived in a de facto relationship;

deo facto relationship
means a marriage-like relationship (other than a legal marriage) between two persons;

financial matters, in relation to de facto partners,
means any or all of the following matters—
(a) the maintenance of de facto partners;
(b) the distribution of the property of de facto partners;
(c) the distribution of any other financial resources of de facto partners, including prospective superannuation entitlements or other valuable benefits of or relating to de facto partners;

*property* means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description and wherever situated, including money or choses in action.

(2) For the purposes of this Act, a de facto relationship exists even if a de facto partner is legally married to someone else or is in another de facto relationship.

(3) A reference in this Act—

(a) to the property or other financial resources of de facto partners includes a reference to the property or other financial resources of either or both of them; and

(b) to the distribution of any such property or resources includes a reference to the conferral of rights or obligations in relation to the property or resources.

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

4 References

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

(b) financial matters relating to de facto partners arising out of the breakdown (other than by reason of death) of de facto relationships between persons of the same sex.

(2) The operation of each paragraph of subsection (1) is not affected by the other paragraph.

5 Termination of references

(1) The Governor in Council may, at any time, by proclamation published in the Government Gazette, fix a day as the day on which the references under this Act are to terminate.

(2) The day fixed under subsection (1) must be no earlier than the first day after the end of the period of 3 months beginning with the day on which the proclamation is published under that subsection.

(3) The Governor in Council may, by proclamation published in the Government Gazette, 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.
ENDNOTES

1. General Information

Minister's second reading speech—

Legislative Assembly: 14 October 2004
Legislative Council: 11 November 2004

The long title for the Bill for this Act was "to refer certain financial matters arising out of the breakdown of de facto relationships to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth and for other purposes."

The Commonwealth Powers (De Facto Relationships) Act 2004 was assented to on 23 November 2004 and came into operation on 9 October 2008: Government Gazette 9 October 2008 page 2323.
2. **Table of Amendments**

There are no amendments made to the *Commonwealth Powers (De Facto Relationships) Act 2004* by Acts and subordinate instruments.
3. **Explanatory Details**

   No entries at date of publication.