

**Statute Law Further Amendment (Relationships)
Act 2001
Act No. 72/2001**

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Victoria

No. 72 of 2001

Statute Law Further Amendment (Relationships) Act 2001[†]

[Assented to 7 November 2001]

The Parliament of Victoria enacts as follows:

1. *Purpose and object*

- (1) The purpose of this Act is to amend specified Acts in relation to domestic relationships.
- (2) The object of this Act is to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner.

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- (3) It is a further object of this Act to prevent discrimination under legislation specified in this Act by ensuring that all couples irrespective of gender have the same rights and obligations while at the same time recognising the importance of a commitment to a long term relationship and the security of children.

2. Commencement

- (1) Sections 1 and 4 and this section come into operation on the day on which this Act receives the Royal Assent.
- (2) Section 5 is deemed to have come into operation on 23 August 2001.
- (3) Subject to sub-section (4), the remaining provisions of this Act (including the items in the Schedule) come into operation on a day or days to be proclaimed.
- (4) If a provision referred to in sub-section (3) does not come into operation before 1 July 2002, it comes into operation on that day.

3. Amendment of Acts

An Act specified in the heading to an item in the Schedule is amended, on the commencement of that item or a provision of that item, as set out in that item or provision.

4. Amendment of Statute Law Amendment (Relationships) Act 2001

In Schedule 1 to the **Statute Law Amendment (Relationships) Act 2001**—

- (a) in item 9.4, in proposed section 276—

See:
Act No.
27/2001.
Statute Book:
www.dms.dpc.vic.gov.au

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- (i) in sub-section (1), for "the commencement of that item" **substitute** "the commencement of item 9.4 of that Schedule";
 - (ii) in sub-section (2), for "item 9" **substitute** "item 9.4";
- (b) item 13 is **repealed**.

5. Amendment of Parliamentary Salaries and Superannuation Act 1968

- (1) In section 21A(3) of the **Parliamentary Salaries and Superannuation Act 1968**, for "sub-section (4)" **substitute** "this section".
- (2) In section 21A of the **Parliamentary Salaries and Superannuation Act 1968**, after sub-section (4) **insert**—
 - '(5) For the purposes of determining the entitlement to benefits in respect of a person to whom this Division applies, other than a person who became entitled to benefits under this Act before 23 August 2001, the following modifications to the Commonwealth Parliamentary Contributory Superannuation Act 1948 apply in addition to the modifications in section 21C—
 - (a) subject to paragraph (d), a person is not to be taken to have had a marital relationship with another person unless the person was legally married to that other person;

Note: Section 4B of the Commonwealth Act sets out the criteria for determining whether a person had a marital relationship with another person.

See:
Act No.
7723/1968.
Reprint No. 7
as at
31 May 2000
and
amending
Act Nos
74/2000 and
27/2001.
LawToday:
www.dms.dpc.vic.gov.au

- (b) a reference to a spouse who survives a deceased person is to be construed as including a reference to a domestic partner who survives a deceased person;
 - (c) a reference to a former spouse is to be construed as including a reference to a former domestic partner;
 - (d) a reference in section 19AA to a marital relationship is to be construed as including a reference to a domestic relationship.
- (6) For the purposes of sub-section (5)(b), a person is a domestic partner who survives a deceased person if—
- (a) the person had a domestic relationship with the deceased person at the time of death of the deceased person ("the death"); and
 - (b) in the case of a deceased person who was a retired member at the time of the death—
 - (i) the domestic relationship began before the retired member became a retired member; or
 - (ii) the domestic relationship began after the retired member became a retired member but before the retired member reached 60; or
 - (iii) in the case of neither sub-paragraph (i) nor (ii) applying— the domestic relationship had continued for a period of at least 5 years up to the time of the death.
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- (7) For the purposes of sub-sections (5)(d) and (6), a person had a domestic relationship with another person at a particular time if the persons, although not married to each other, were living together as a couple on a genuine domestic basis (irrespective of gender) at that time and—
- (a) the persons had been so living together for a continuous period of at least 3 years up to that time; or
 - (b) the persons had been so living together for a continuous period of less than 3 years up to that time and the Parliamentary Trustee, having regard to any relevant evidence, is of the opinion that the persons so lived together at that time.
- (8) A domestic relationship is taken to have begun at the beginning of the continuous period mentioned in sub-section (7)(a) and (b).
- (9) In determining whether a person had a domestic relationship with another person, all the circumstances of the relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.
- (10) In this section—
- "former domestic partner"**, in relation to another person, means a person who previously had had a domestic relationship with that other person.'
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SCHEDULE

Section 3

AMENDMENT OF ACTS

1. *Architects Act 1991*

1.1 In section 3 **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

1.2 At the end of section 3 **insert**—

'(2) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
- (b) a person is not a domestic partner of another person only because they are co-tenants.'

1.3 In section 14(2), for "de facto spouse" **substitute** "domestic partner".

2. Children and Young Persons Act 1989

2.1 In section 3(1)—

(a) **insert** the following definitions—

' "**domestic partner**" of a person means a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

"**spouse**" of a person means a person to whom the person is married;';

(b) in the definition of "parent", for paragraph (c) **substitute**—

"(c) the domestic partner of the father or mother of the child; and".

2.2 In section 3, after sub-section (1) **insert**—

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'

3. Conservation, Forests and Lands Act 1987

3.1 In section 56 **insert** the following definitions—

' "**domestic partner**" of a person means a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

"**partner**" of a deceased conservation worker means the worker's spouse or domestic partner at the time of the worker's death;

"**spouse**" of a person means a person to whom the person is married;'.

3.2 At the end of section 56 **insert**—

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters

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referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.

3.3 In section 58(1), for "spouse" **substitute** "partner".

4. Corrections Act 1986

4.1 In section 3 **insert** the following definitions—

' "**domestic partner**" of a person means a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

"**near relative**" of a prisoner means—

- (a) a partner of the prisoner;
- (b) a parent or grandparent of the prisoner or of a partner of the prisoner;
- (c) a child or grandchild (of any age) of the prisoner or of a partner of the prisoner;
- (d) a sibling of the prisoner or of a partner of the prisoner;

"**partner**" of a person means the person's spouse or domestic partner;

"**relative**" of a prisoner means—

- (a) a partner of the prisoner;
- (b) a parent or grandparent of the prisoner or of a partner of the prisoner;
- (c) a child or grandchild (of any age) of the prisoner or of a partner of the prisoner;
- (d) a sibling of the prisoner or of a partner of the prisoner;
- (e) a child (of any age) of a sibling of the prisoner or of a sibling of a partner of the prisoner;
- (f) a child (of any age) of a sibling of a parent of the prisoner or of a sibling of a parent of a partner of the prisoner;

"**spouse**" of a person means a person to whom the person is married;'.

4.2 At the end of section 3 **insert**—

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'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'

4.3 In section 31, after sub-section (3) **insert**—

'(4) In this section, "**parent**" of a child means a person who would have day to day care and control of the child and with whom the child would ordinarily be resident if the person were not in prison.'

5. Crimes (Mental Impairment and Unfitness to be Tried) Act 1997

5.1 In section 3—

(a) **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

(a) for fee or reward; or

(b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;';

(b) for the definition of "family member" **substitute**—

' "**family member**" of a person means—

(a) a spouse or domestic partner, parent, guardian or sibling of the person; or

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- (b) a child of the person or of the person's spouse or domestic partner;'

5.2 At the end of section 3 **insert**—

'(2) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
- (b) a person is not a domestic partner of another person only because they are co-tenants.'

6. Discharged Servicemen's Preference Act 1943

6.1 In section 2(1) **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

6.2 In section 2, after sub-section (1) **insert**—

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of
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their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

- (b) a person is not a domestic partner of another person only because they are co-tenants.'

6.3 In section 8(b)(i), for "wife husband" **substitute** "spouse, domestic partner,".

7. Estate Agents Act 1980

7.1 In section 4 **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
(b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

7.2 At the end of section 4 **insert**—

'(2) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
(b) a person is not a domestic partner of another person only because they are co-tenants.'
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7.3 In section 15—

- (a) in sub-sections (1A)(c) and (1B), after "spouse" **insert** "or domestic partner";
- (b) in sub-section (2A), after paragraph (a) **insert**—
"(ab) the domestic partner of that agent's representative has been at any time on and from the commencement of item 7.3 of Schedule 1 to the **Statute Law Further Amendment (Relationships) Act 2001** a director of the corporation; or".

7.4 In section 15(7), after "spouse" **insert** "or domestic partner".

7.5 In section 55(8) and (10), after "spouse" (wherever occurring) **insert** "or domestic partner".

8. Firearms Act 1996

8.1 In section 3(1) **insert** the following definitions—

'"**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

8.2 In section 3, after sub-section (1) **insert**—

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters
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referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

- (b) a person is not a domestic partner of another person only because they are co-tenants.'

8.3 In section 84—

- (a) in sub-section (2), for "widow or widower" **substitute** "surviving spouse or domestic partner";
- (b) in sub-section (4), after "spouse" **insert** "or domestic partner".

9. Legal Practice Act 1996

9.1 In section 3(1)—

- (a) **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

- (b) in the definition of "family member", for "de facto spouse" **substitute** "domestic partner".

9.2 In section 3, after sub-section (1) **insert**—

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of

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their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

- (b) a person is not a domestic partner of another person only because they are co-tenants.'

10. Meat Industry Act 1993

10.1 In section 3(1) **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
(b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**spouse**" of a person means a person to whom the person is married;'

10.2 In section 3, after sub-section (1A) **insert**—

'(2) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
(b) a person is not a domestic partner of another person only because they are co-tenants.'
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10.3 In section 16(4), in the definition of "relative", for "(including de facto spouse)" **substitute** "or domestic partner".

11. Racing Act 1958

11.1 In section 3(1) **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

' "**spouse**" of a person means a person to whom the person is married.'

11.2 In section 3, after sub-section (1) **insert**—

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1)—

- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
- (b) a person is not a domestic partner of another person only because they are co-tenants.'

11.3 In section 45A(3), for "he or his spouse" **substitute** "the member or the member's spouse or domestic partner".

11.4 In section 45A, for sub-section (6) **substitute**—

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- "(6) The interest of a member's spouse or domestic partner is deemed, for the purposes of this section, to be also the interest of the member if—
- (a) they are living together; and
 - (b) the member knows of the interest."

11.5 In section 45A(7)—

- (a) for "he or his spouse" (where first occurring) **substitute** "the member or the member's spouse or domestic partner";
- (b) **omit** "that he or his spouse is" where secondly occurring.

11.6 In section 75A(3), for "he or his spouse" **substitute** "the member or the member's spouse or domestic partner".

11.7 In section 75A, for sub-section (6) **substitute**—

- "(6) The interest of a member's spouse or domestic partner is deemed, for the purposes of this section, to be also the interest of the member if—
- (a) they are living together; and
 - (b) the member knows of the interest."

11.8 In section 75A(7)—

- (a) for "he or his spouse" (where first occurring) **substitute** "the member or the member's spouse or domestic partner";
- (b) **omit** "that he or his spouse is" where secondly occurring.

12. Water Act 1989

12.1 In section 3(1) **insert** the following definitions—

' "**domestic partner**" of a person means—

- (a) in sections 93 and 95—an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the

other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (i) for fee or reward; or
 - (ii) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);
- (b) in section 128—a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender);

"spouse" of a person means a person to whom the person is married;'

12.2 In section 3 after sub-section (2) **insert**—

- '(3) For the purposes of the definition of "domestic partner" in sub-section (1)—
- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
 - (b) a person is not a domestic partner of another person only because they are co-tenants.'

12.3 In section 93, for sub-section (7) **substitute**—

"(7) The interest of a member's spouse or domestic partner must, if known to the member, be taken to be an interest of the member for the purposes of this section."

12.4 In section 95(7)—

- (a) in paragraph (e), for "person related to him or her by blood or marriage" **substitute** "relative";
 - (b) in paragraph (f), for "person related to him or her by blood or marriage of which interest he or she is
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aware, and which he or she" **substitute** "relative of which interest the person is aware and which the person".

12.5 In section 95, after sub-section (7) **insert**—

"(7A) In this section "**relative**" of a member or nominated officer includes a domestic partner, or relative of a domestic partner, of the member or nominated officer."

12.6 In section 128—

- (a) after "spouse" (wherever occurring) **insert** "or domestic partner";
- (b) after "spouses" **insert** "or domestic partners".

13. Witness Protection Act 1991

13.1 In section 3 **insert** the following definitions—

' "**domestic partner**" of a person means an adult person to whom the person is not married but with whom the person is in a relationship as a couple where one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their genders and whether or not they are living under the same roof, but does not include a person who provides domestic support and personal care to the person—

- (a) for fee or reward; or
- (b) on behalf of another person or an organisation (including a government or government agency, a body corporate or a charitable or benevolent organisation);

"**member of the family**" of a witness includes—

- (a) a spouse or domestic partner, parent or sibling of the witness; or
- (b) a child of the witness or of the witness's spouse or domestic partner;

"**spouse**" of a person means a person to whom the person is married;'

13.2 At the end of section 3 **insert**—

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- '(2) For the purposes of the definition of "domestic partner" in sub-section (1)—
- (a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;
 - (b) a person is not a domestic partner of another person only because they are co-tenants.'
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ENDNOTES

† *Minister's second reading speech—*

Legislative Assembly: 19 September 2001

Legislative Council: 18 October 2001

The long title for the Bill for this Act was "to amend further Acts to recognise the rights and responsibilities of partners in domestic relationships irrespective of the gender of each partner and for other purposes."