



House of Representatives

Supplementary Order Paper

Tuesday, 27 February 2001

Property (Relationships) Amendment Bill

Proposed amendments

Hon Margaret Wilson, in Committee, to move the following amendments:

Clause 1A

To omit from line 9 on page 7 the expression "**section 22(2)**", and substitute the expression "**sections 22(2), 56(4), and 56(6)**".

Clause 49B: new section 52A(1)(b)

To insert in line 26 on page 119, before the word "orders", the word "property".

Clause 49B: new section 52B(1)(b)

To insert in line 32 on page 120, before the word "orders", the word "property".

Clause 52

To omit from line 28 on page 122 the number "54", and substitute the number "55".

Clause 52: new section 59(3)

To insert in line 23 on page 129, after the word "commencement", the expression ", on **1 February 2002**".

Clause 56

To insert, after line 22 on page 162, the following subclause:

- (1A) Except as provided in **subsections (4) and (6)**, this section comes into force on **1 February 2002**.

To add, after line 27 on page 162, the following subclauses:

- (4) This subsection and the following come into force on **1 August 2001**:
- (a) the amendments to the Estate and Gift Duties Act 1968 in **Schedule 1**:
 - (b) **subsection (5)**.

- (5) For the purposes of applying **section 75A** of the Estate and Gift Duties Act 1968 (as substituted by **subsection (1)** and **Schedule 1**) during the period beginning on **1 August 2001** and ending with the close of **31 January 2002**, the whole of this Act must be treated as if it were in force during that period.
- (6) The amendment to section 16A(4)(l) of the Family Courts Act 1980 in **Schedule 1** comes into force—
 - (a) on **1 February 2002** if the Family Courts Amendment Act 2000 (2000 No 65) is in force on that date; or
 - (b) if that Act is not in force on that date, then on the date on which that Act comes into force.

Schedule 1

To omit from the item relating to the Estate and Gift Duties Act 1968 on page 190 the amendment to section 2(2), and substitute the following amendment:

Repeal the definition of **matrimonial property** in section 2(2).

To insert in the item relating to the Estate and Gift Duties Act 1968 on page 191, after the definition of **disposition of relationship property** in *new section 75A(1)*, the following definition:

“**relationship property** means any relationship property as defined in **section 2** of the **Property (Relationships) Act 1976**.”

To add to the item relating to the Family Courts Act 1980 on page 192 the following amendment:

Omit from section 16A(4)(l) the expression “**Matrimonial Property Act 1976**”, and substitute the expression “**Property (Relationships) Act 1976**”.

To insert in the item relating to the Income Tax Act 1994 on page 193, immediately before the amendment to section FF 17, the following amendments:

Omit from the heading to section CL 6 the word “**matrimonial**”, and substitute the word “**relationship**”.

Omit from section CL 6 the expression “**matrimonial property under the Matrimonial Property Act 1976 upon the separation of spouses or upon the dissolution of a marriage under the Family Proceedings Act 1980**”, and substitute the expression “**relationship property under the Property (Relationships) Act 1976 upon the marriage of a husband and wife ending (as defined in section 2A(2) of that Act), or upon the de facto relationship of de facto partners ending (as defined in section 2D(4) of that Act)**”.

Explanatory note

This Supplementary Order Paper, which replaces Supplementary Order Paper No 92, sets out proposed amendments to the Property (Relationships) Amendment Bill. The amendments are—

- to advance (from 1 February 2002 to 1 August 2001) the date on which *new section 75A* of the Estate and Gift Duties Act 1968 (as proposed to be substituted by *clause 56(1)* and *Schedule 1*) comes into force. Section 75A of the Estate and Gift Duties Act 1968 currently exempts from gift duty certain dispositions of matrimonial property made by or pursuant to agreements under section 21 of the Matrimonial Property Act 1976 (the **principal Act**). However, the Bill repeals section 21 of the principal Act and substitutes a *new Part 6*, relating to contracting out. Further, *new Part 6* provides not only for agreements between spouses comparable to those under section 21, but also for agreements between de facto partners with respect to the status, ownership, or division of their property. *New section 75A* therefore continues and extends the exemption in section 75A so it applies to comparable dispositions of relationship property made by or under *any* agreement under *new Part 6*. (Agreements made before 1 August 2001 under section 21 as it existed before that date are, under *new section 21S*, to be treated as agreements under *new Part 6*.) To enable spouses and de facto partners to consider their arrangements before, and make agreements to have effect as soon as, the rest of the Bill comes into force (1 February 2002), *new Part 6* comes into force earlier, on 1 August 2001. So, bringing the commencement of *new section 75A* forward to that date means that the exemption that *new section 75A* provides for will be available on and after the date on and after which agreements under *new Part 6* may be made. Having *new section 75A* commence on 1 August 2001 should help to minimise not only misunderstanding about when the exemption becomes available, but also costs of compliance and administration; and
- to amend section CL 6 of the Income Tax Act 1994 (which makes a withdrawal from a superannuation fund, to the extent that the withdrawal is necessary to settle certain divisions of property, irrelevant to the calculation of the gross income of the fund for certain income tax purposes). Currently, section CL 6 is limited to withdrawals to the extent that they are necessary to settle divisions of matrimonial property under the principal Act upon the separation of spouses or upon the dissolution of a marriage under the Family Proceedings Act 1980. The amendment is to ensure that the section extends to withdrawals to the extent that they are necessary to settle divisions of relationship property under the Property (Relationships) Act 1976 upon a marriage or de facto relationship ending; and
- to correct minor drafting errors; and
- to make amendments consequential on legislation enacted since the Bill was originally introduced in 1998.