



Speech by

Hon. Cameron Dick

MEMBER FOR GREENSLOPES

Hansard Thursday, 23 April 2009

PROPERTY LAW AND ANOTHER ACT AMENDMENT BILL

Hon. CR DICK (Greenslopes—ALP) (Attorney-General and Minister for Industrial Relations) (11.56 am): I move—

That the bill be now read a second time.

This bill amends the Property Law Act 1974 (the PLA) and the Duties Act 2001 following the acceptance by the Commonwealth government of the referral of power from Queensland for financial matters arising from de facto relationship breakdowns. The Commonwealth amendments to the Family Law Act 1975 (the FLA) that took up this referral of power commenced on 1 March 2009. This bill amends the PLA to clarify the relationship between the PLA provisions and the FLA provisions and how the PLA provisions operate from 1 March 2009.

The bill also amends the Duties Act 2001 to clarify the current exemptions on certain dutiable transactions arising from breakdown of de facto relationships, which will now fall under the duty exemptions in the FLA. I seek leave to have the remainder of my speech incorporated in *Hansard*.

Mr SEENEY: Madam Deputy Speaker, I rise to a point of order. I agreed with the Leader of the House yesterday that we would accept that speeches could be incorporated in *Hansard* if they were for legislation that was being reintroduced to the House. I do not think the legislation that the Attorney-General is introducing falls within that category, and I believe that the standard procedure in this place is to present the entire second reading speech to the House. I am becoming increasingly concerned at the volume of material that is being incorporated without us knowing what is being incorporated.

Madam DEPUTY SPEAKER (Ms Farmer): There is no point of order. The Attorney-General is seeking leave of the House to incorporate the remainder of his second reading speech. Is leave granted?

Leave granted.

Mr DICK: This is the remainder of my speech—

The introduction of this clarifying bill brings to a successful conclusion the long standing campaign by de facto couples to be given access to the FLA for the determination of their financial and property rights arising from a relationship breakdown.

The key effect of the Commonwealth taking up the referral from Queensland is that any Queensland legislation relating to financial matters arising out of a de facto relationship breakdown will be excluded from operation.

This will include most of Part 19 of the PLA.

Any de facto couples whose relationship has broken down since 1 March 2009 must apply for a property division under the FLA and can no longer apply under the PLA.

The FLA also allows de facto couples who separated prior to 1 March 2009 to opt into the FLA provisions where both parties consent. Prior to 1 March 2009, de facto couples who separated in Queensland had to access two different jurisdictions to have disputes resolved.

Disputes about the division of property were dealt with in Queensland courts under Part 19 of the PLA and disputes about children were dealt with in the Federal Family Law Courts under the FLA.

In 1993, the Queensland Law Reform Commission reported that the Federal Family Law Courts were the most suitable forum to hear and determine financial disputes which arose on the breakdown of de facto relationships.

Since then, this issue has been debated in many other forums, including the Standing Committee of Attorneys-General, where the failure of the previous Commonwealth government to agree on a suitable referral from the states in relation to de facto couples' disputes halted the progress of this necessary reform.

On 10 November 2008, the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 (the De Facto Amendment Bill) was passed by both Houses of the Commonwealth parliament.

The De Facto Amendment Bill amended the FLA allowing for the Commonwealth's acceptance of referrals from states in relation to financial matters arising from de facto relationship breakdowns.

The Labor Party has long been committed to assisting de facto couples.

In 1999, following the failure of the Commonwealth's acceptance of a suitable referral from the states about de facto property, the Queensland Labor government enacted amendments to the PLA that provided for de facto couple property rights, including rights following a relationship breakdown.

In 2002, the Queensland Labor government passed the Discrimination Law Amendment Act 2002 that reformed Queensland legislation to give people in de facto relationships the same rights as married people in many areas.

In 2003, the Queensland Labor government passed the Commonwealth Powers (De Facto Relationships) Act 2003 (the Referral Act) that referred to the Commonwealth the power for financial matters arising from de facto relationship breakdowns.

The commencement of this referral act was delayed until such time as the Commonwealth government agreed to accept a suitable referral of powers from the states.

This government arranged for the commencement of the referral act on 24 October 2008 following the current Commonwealth government's agreement to accept the referral in relation to same-sex as well as opposite-sex de facto relationships.

There are significant advantages to Queensland de facto couples by the Commonwealth taking up the referral from Queensland.

Advantages include the provision of a predominantly nationally consistent financial settlement regime that will minimise jurisdictional disputes.

Also, the Federal Family Law Courts have experience in relationship matters and have procedures and dispute resolution mechanisms more suited to handling family litigation than the state courts.

Counselling and mediation are provided to separated couples as part of the Family Court jurisdiction.

Queensland de facto couples will benefit from savings in both costs and time as they will be able to have both their child-related and property matters heard together.

De facto couples will also have access to courts that may make orders relating to superannuation splitting and orders relating to the maintenance of a party.

Part 19 of the PLA will continue to apply to de facto relationships that broke down prior to the de facto amendment bill commencing (except where the couple has chosen to opt into the FLA).

I commend the bill to the House.