

**MENTAL HEALTH (DE FACTO RELATIONSHIPS)
AMENDMENT BILL, 1984**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the De Facto Relationships Bill, 1984.

The object of this Bill is to amend the Mental Health Act, 1983, to provide that the rights of the nearest relative of a person on whom certain medical or therapeutic treatments are proposed to be performed under Division 1 or 3 of Part X of that Act shall, where the person has a de facto spouse, be exercised by the de facto spouse.

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**MENTAL HEALTH (DE FACTO RELATIONSHIPS)
AMENDMENT BILL, 1984**

No. , 1984.

A BILL FOR

An Act to amend the Mental Health Act, 1983, with respect to the rights of de facto partners of persons in relation to the carrying out of certain medical or therapeutic treatments on those persons.

Mental Health (De Facto Relationships) Amendment 1984

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Mental Health (De Facto Relationships) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

10 (2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.

Amendment of Act No. 178, 1983.

3. The Mental Health Act, 1983, is amended in the manner set forth in
15 Schedule 1.

Application of Act.

4. Where the day appointed and notified under section 2 (2) of the Mental Health Act, 1983, in respect of Part X of that Act is not later than the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, the amendments made to the Mental Health Act, 1983, by
20 this Act shall apply to and in respect of—

25 (a) an application under Division 1 of Part X of the Mental Health Act, 1983, for consent to perform psychosurgery on a patient, being an application which has not been finally determined before the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984; and

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- 5 (b) the performance on a patient of a surgical operation referred to in Division 3 of Part X of the Mental Health Act, 1983, being a surgical operation which has not been performed on the patient before the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.

SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE MENTAL HEALTH ACT, 1983.

- (1) Section 146 (1), definition of "nearest relative"—
- 10 (a) In paragraph (b), before "where", insert "except as provided by paragraph (b1),".
- (b) From paragraph (b), omit "or" where lastly occurring.
- (c) After paragraph (b), insert:—
- 15 (b1) where the patient is not married but—
- (i) in the case of a man, is living with a woman as her husband on a bona fide domestic basis—the woman; or
- 20 (ii) in the case of a woman, is living with a man as his wife on a bona fide domestic basis—the man; or
- (d) In paragraph (c), after "spouse" wherever occurring, insert ", de facto spouse".
- (2) (a) Section 175 (1) (b)—
- Before "where", insert "except as provided by paragraph (b1).".
- 25 (b) Section 175 (1) (b)—
- Omit "or" where lastly occurring.

Mental Health (De Facto Relationships) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE MENTAL HEALTH ACT, 1983—*continued.*

(c) Section 175 (1) (b1)—

After section 175 (1) (b), insert:—

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(b1) where the patient or person is not married but—

(i) in the case of a man, is living with a woman as her husband on a bona fide domestic basis—the woman; or

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(ii) in the case of a woman, is living with a man as his wife on a bona fide domestic basis—the man; or

(d) Section 175 (1) (c) —

After “spouse” wherever occurring, insert “, de facto spouse”.



**MENTAL HEALTH (DE FACTO RELATIONSHIPS) AMENDMENT
ACT, 1984, No. 151**

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 151, 1984.

An Act to amend the Mental Health Act, 1983, with respect to the rights of de facto partners of persons in relation to the carrying out of certain medical or therapeutic treatments on those persons. [Assented to, 10th December, 1984.]

Mental Health (De Facto Relationships) Amendment 1984

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

Short title.

1. This Act may be cited as the "Mental Health (De Facto Relationships) Amendment Act, 1984".

Commencement.

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Except as provided by subsection (1), this Act shall commence on the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.

Amendment of Act No. 178, 1983.

3. The Mental Health Act, 1983, is amended in the manner set forth in Schedule 1.

Application of Act.

4. Where the day appointed and notified under section 2 (2) of the Mental Health Act, 1983, in respect of Part X of that Act is not later than the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984, the amendments made to the Mental Health Act, 1983, by this Act shall apply to and in respect of—

- (a) an application under Division 1 of Part X of the Mental Health Act, 1983, for consent to perform psychosurgery on a patient, being an application which has not been finally determined before the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984; and

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- (b) the performance on a patient of a surgical operation referred to in Division 3 of Part X of the Mental Health Act, 1983, being a surgical operation which has not been performed on the patient before the day appointed and notified under section 2 (2) of the De Facto Relationships Act, 1984.
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SCHEDULE 1.

(Sec. 3.)

AMENDMENTS TO THE MENTAL HEALTH ACT, 1983.

- (1) Section 146 (1), definition of "nearest relative"—
- (a) In paragraph (b), before "where", insert "except as provided by paragraph (b1),".
 - (b) From paragraph (b), omit "or" where lastly occurring.
 - (c) After paragraph (b), insert:—
 - (b1) where the patient is not married but—
 - (i) in the case of a man, is living with a woman as her husband on a bona fide domestic basis—the woman; or
 - (ii) in the case of a woman, is living with a man as his wife on a bona fide domestic basis—the man; or
 - (d) In paragraph (c), after "spouse" wherever occurring, insert ", de facto spouse".
- (2) (a) Section 175 (1) (b)—
- Before "where", insert "except as provided by paragraph (b1),".
- (b) Section 175 (1) (b)—
- Omit "or" where lastly occurring.

Mental Health (De Facto Relationships) Amendment 1984

SCHEDULE 1—*continued.*

AMENDMENTS TO THE MENTAL HEALTH ACT, 1983—*continued.*

(c) Section 175 (1) (b1)—

After section 175 (1) (b), insert:—

(b1) where the patient or person is not married but—

- (i) in the case of a man, is living with a woman as her husband on a bona fide domestic basis—the woman; or
- (ii) in the case of a woman, is living with a man as his wife on a bona fide domestic basis—the man;
or

(d) Section 175 (1) (c) —

After “spouse” wherever occurring, insert “, de facto spouse”.

In the name and on behalf of Her Majesty, I assent to this Act.

J. A. ROWLAND,
Governor.

*Government House,
Sydney, 10th December, 1984.*