

Two year de facto anniversary may have the bells ringing

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The estimated half a million de facto couples across Australia might not know it, but they celebrated an important anniversary on March 1 2011.

March 1, marked two years since the Federal Government introduced major changes to the *Family Law Act*, giving de facto couples the same laws that govern married couples, in the event of a break-up. And the changes include same-sex couples.

For some it may be a nice and touching thought. For others, it's a new reality that may send their heads spinning and their hearts pulsating for all the wrong reasons.

The new laws are Australian wide, except for de facto couples in Western Australia who are still covered by their State laws. And de facto couples in South Australia came into the new system on July 1, 2010, so they have to wait for their new anniversary.

The changes mean that de facto couples must live together for at least two years to meet the new uniform definition of a "de facto relationship".

The two-year period can be shortened if there is a child or if one person has made substantial contributions to the other person's or joint assets.

So now, for better or worse, if either partner leaves a de facto relationship they can take their disputes over property and spousal maintenance to the Federal Magistrates' Court or the Family Court in exactly the same

way as a married couple.

Before these changes, there was a fair degree of variation in the laws from State to State and disputes between former de facto couples could have ended up in multiple jurisdictions and courts. For example, if a de facto couple separated and there was a dispute about property and the children, the couple could wind up having one set of proceedings in the State court and another in the Federal Magistrates' Court or even Family Court.

The previous system meant that legal costs were often much higher and the courts in which matters could be heard were not as accustomed to dealing with disputes over property or relationship breakdowns as the Family Court or Federal Magistrates' Court.

Another major change is that de facto couples can now "split" their superannuation entitlements as part of a final settlement.

The new regime makes it simpler for lawyers to give advice on de facto entitlements based on 35 years of decisions on property distribution in the Family Court.

Under the previous State legislation, de facto proceedings have typically been dealt with in the Supreme Courts of each State which makes them more costly and cumbersome than under the Family Law Act.

Disputes between de facto couples about property division entitlements and arrangements for the children can now be heard in the one court

and that will also be far more convenient and far less costly than before.

It's a fact that the number of people marrying in Australia has been on the decline since 1970. The Australian Bureau of Statistics puts the fall down to changes in attitudes towards marriage and alternative living arrangements.

The latest statistics also show that the number of de facto couples continues to rise, as more people decide to cohabite before officially getting hitched or never marrying at all. De facto relationships are also popular amongst people who have previously been separated or divorced.

Matters of the heart are not all about legalities – there's always much more involved. But for the majority of de facto couples in Australia, affairs of the heart have a legal anniversary. ●

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