



## CHAPTER 12: *Family Law*

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## 12.1 What is this chapter about?

This chapter addresses the problems facing a same-sex couple on the breakdown of their relationship.

The issue of divorce never arises for same-sex couples, since they cannot legally marry. However, a same-sex couple, like an opposite-sex de facto couple, may need the assistance of a court to resolve property and child-related issues if their relationship breaks down.

Married, opposite-sex de facto and same-sex couples can all access the federal Family Court to resolve child-related matters. But some same-sex couples will be at a disadvantage when it comes to the determination of parental responsibility and child support after a relationship breaks down.

Only married couples can access the federal Family Court to determine how to divide the property of a relationship. Same-sex and opposite-sex de facto couples must currently go to the relevant state or territory jurisdictions to decide property-related matters. Accessing two different jurisdictions creates additional costs. In addition, state and territory jurisdictions cannot consider the same range of assets when making a property settlement. Thus, de facto couples may end up with less comprehensive property settlements than those available to married couples.

New legislation proposed by the federal government should allow opposite-sex de facto couples to access the federal Family Court for property matters. However, the government has indicated that this new legislation will not assist same-sex couples. If this occurs there will be discrimination against same-sex couples as compared to opposite-sex de facto couples.

Further, discrimination regarding the care of children after relationship breakdown arises because the lesbian co-mother and gay co-father of a child is not considered a 'parent' for the purposes of determining parental responsibility or child support liability.

This chapter outlines in more detail how family law discriminates against same-sex couples when a relationship breaks down. The chapter examines the human rights breaches caused by this discrimination and recommends changes to the law in order to address those breaches.

Specifically, this chapter addresses the following questions:

- Why can't same-sex couples access the federal Family Court for property settlements?
- How are same-sex couples worse off in property settlements?
- Do both same-sex parents have access to child support?
- How is parental responsibility divided between same-sex parents on separation?
- Does family law legislation regarding separation breach human rights?
- How should family law legislation be amended to avoid future breaches?

For a discussion about the recognition of same-sex relationships, see Chapter 4 on Recognising Relationships. For a discussion about the recognition of the relationship of same-sex parents and their children, see Chapter 5 on Recognising Children.

## **12.2 Why can't same-sex couples access the federal Family Court for property settlements?**

If a married couple separates, they can go to the federal Family Court of Australia to dissolve their marriage and resolve all their property and child-related issues. However, for constitutional reasons, de facto couples are denied access to the federal Family Court for property matters.

The effect of this constitutional anomaly is that, other than in Western Australia, a separating de facto couple with children must initiate proceedings in two different jurisdictions if their relationship breaks down.<sup>1</sup> They must go to the relevant state or territory court to resolve property issues, and the federal Family Court to resolve child-related issues.

### **12.2.1 Some states and territories have referred power to the federal government**

Over the past few years NSW, Queensland, Victoria and the Northern Territory have agreed to refer their constitutional power regarding property division to the federal government.<sup>2</sup>

In other words those jurisdictions will give up their power to deal with property division for de facto couples so that all separating couples can have their property and child-related matters dealt with in one court. It is envisaged that as a result of these referrals separating de facto couples will have the same access to the federal Family Court as separating married couples.

So far, all of the constitutional referrals signed by the state and territory governments have specified that de facto same-sex relationships are to be included.<sup>3</sup>

### **12.2.2 The federal government will not accept referrals regarding same-sex couples**

The federal government has indicated that while it intends to accept the constitutional referral regarding opposite-sex de facto couples, it does not intend to accept the referral of power regarding same-sex couples.<sup>4</sup>

## **12.3 How are same-sex couples worse off in property settlements?**

At the moment, the federal Family Court can only deal with property settlements between two 'spouses'. A 'spouse' is defined as a party to a marriage.<sup>5</sup>

If the federal government accepts constitutional referrals of state power over property division for opposite-sex couples, separating same-sex de facto couples will be the only group of people denied access to the federal property division regime.

Instead, same-sex couples will have to use the state and territory property division regimes, which all include same-sex couples within their jurisdiction.<sup>6</sup>

### 12.3.1 The federal property division regime has many benefits

The federal property division regime has the following advantages over the state regimes. The federal property division regime:

- covers a larger pool of the couple's shared assets, including superannuation assets<sup>7</sup>
- tends to attribute a higher value to non-financial homemaking contributions<sup>8</sup>
- has broader powers to make property orders or issue injunctions against third parties, including creditors and family companies which are not in the legal control of one partner<sup>9</sup>
- includes broad consideration of future needs as well as past contributions when making property adjustments<sup>10</sup>
- uses informal dispute resolution systems which are cheaper and faster than the state regimes<sup>11</sup>
- contains provision for periodic or lump sum spousal maintenance payments where appropriate (such as in cases where one party has a very limited earning capacity or where a party has extensive financial resources but few assets available for division).<sup>12</sup>

In short, the federal property division regime covers a larger pool of the couple's shared assets, can divide such assets with a far greater degree of flexibility, and takes into account a wider range of factors and circumstances of the parties during and after the relationship in making any adjustments.

### 12.3.2 Same-sex couples cannot access these benefits

Since it appears that same-sex couples will continue to be excluded from accessing the federal Family Court, they will remain at a disadvantage regarding property settlement.<sup>13</sup> Same-sex couples with children will also face the additional cost and inconvenience of having to access two jurisdictions.

The Equal Opportunity Commission of Victoria describes the additional hurdles faced by same-sex couples as follows:

Once the Commonwealth legislates to act upon the referral of de facto spouse property matters pursuant to the Commonwealth Powers (De Facto Relationships) Act 2004 under the Family Law Act heterosexual de facto couples will be able to access the convenience of one jurisdiction to resolve their property and child matters on the event of relationship breakdown; significantly this will include access to primary dispute resolution procedures. This will result in a significant advantage to heterosexual de facto couples and the exclusion of same-sex de facto couples will cause significant detriment to them and their children.<sup>14</sup>

## 12.4 Do both same-sex parents have access to child support?

Generally, when a couple with children separates, one member of the couple will have primary responsibility for caring for the child and the other member of the couple will provide financial assistance to help carry out that responsibility (child support).

The *Child Support (Assessment) Act 1989* (Cth) (Child Support (Assessment) Act) provides a formula for assessing the amount of child support payable by a 'parent'.

Chapter 5 on Recognising Children notes that when children are born to a lesbian or gay couple their parents may include a birth mother, lesbian co-mother, birth father or gay co-father.<sup>15</sup>

The narrow definition of 'parent' in the Child Support (Assessment) Act means that a birth mother or birth father cannot pursue child support from the lesbian co-mother or gay co-father of a child – even if the co-parent had a parenting order to look after the child.

### 12.4.1 Only a birth or adoptive parent is a 'parent' for child support purposes

A 'parent' is defined under the Child Support (Assessment) Act as follows:

'parent' means:

- (a) when used in relation to a child who has been adopted--an adoptive parent of the child; and
- (b) when used in relation to a child born because of the carrying out of an artificial conception procedure--a person who is a parent of the child under section 60H of the Family Law Act 1975.<sup>16</sup>

Section 60H of the *Family Law Act 1975* (Cth) (Family Law Act) makes presumptions about who are the 'parents' of a child conceived through assisted reproductive technology (an ART child).

As discussed further in Chapter 5 on Recognising Children, section 60H of the Family Law Act presumes that the woman giving birth to the child (the birth mother) is always a 'parent' of an ART child, irrespective of whether it is her egg involved in conception.

Section 60H of the Family Law Act also presumes that the *male partner* of the birth mother (the birth father) will be the parent of the ART child if he consents to the process, irrespective of whether it is his sperm involved in conception.

However, the Family Law Act does not presume that the *female partner* of the birth mother (lesbian co-mother) is a parent of the ART child if she consents to the process.

Thus, the lesbian co-mother of an ART child will not be a 'parent' for the purposes of child support, even though the birth father of an ART child born to an opposite-sex couple will be a 'parent'.

Further, the male partner of a birth father (a gay co-father), and any other person who takes on a parenting role (social parent), will also be excluded from the definition of 'parent'. This is the case even if the social parent had a parenting order in respect of the child before the couple separated. Chapter 5 on Recognising Children explains why this may be important for many same-sex couples caring for children.

### 12.4.2 A lesbian co-mother and gay co-father may be an 'eligible carer'

A person will be an 'eligible carer' if he or she is:

- (a) a person who is the sole or principal provider of ongoing daily care for the child
  - (b) a person who has major care of the child
  - (c) a person who shares ongoing daily care of the child substantially equally with another person
- or
- (d) a person who has substantial care of the child.<sup>17</sup>

Therefore, a person in a same-sex couple need not be a 'parent' to qualify as an 'eligible carer'. This gives scope for any of the birth mother, birth father, lesbian co-mother, gay co-father(s) or social parent(s) with a parenting order to be an 'eligible carer'.

However, a 'parent' or 'legal guardian' (a person with a parenting order) has some control over who else may qualify as an 'eligible carer'.<sup>18</sup> People other than a 'parent' or 'legal guardian' can only be an 'eligible carer' if:

- the child is in the person's care with the consent of the parent or legal guardian<sup>19</sup>
- or
- the child is in the care of the person without the consent of the parent or legal guardian, and the Family Court Registrar believes that it would be unreasonable for the child to be in the care of the parent or legal guardian.<sup>20</sup>

### 12.4.3 Only a 'parent' is liable for child support

To pursue child support a person must be an 'eligible carer'.<sup>21</sup> But the only person liable to pay child support is a 'parent'. Under the Child Support (Assessment) Act, there can only be one 'parent' in a same-sex couple.

Therefore, if a same-sex couple separates and the child ends up with the lesbian co-mother or gay co-father with a parenting order ('eligible carer'), that eligible carer can pursue child support from the birth mother or birth father ('parent').

But if the child ends up with a birth mother or birth father ('parent'), that parent cannot pursue the lesbian co-mother or gay co-father for child support.<sup>22</sup>

A parent of a lesbian mother told the Inquiry that:

If separation occurs, my daughter could be left to totally supporting herself and her daughter... Ironically even fathers who don't pay maintenance are still recognised as parents.<sup>23</sup>

A mother told the Inquiry:

I have two daughters one is four months old and one is two years old. The four month is my biological daughter and the two year old is the biological daughter of my partner. ACT law allows us both to be considered parents. But this does not help us with issues covered by Commonwealth law, for example child support on separation.<sup>24</sup>

## 12.5 How is parental responsibility divided between same-sex parents on separation?

The division of parental responsibility after separation can have flow-on effects for the purposes of child support and other financial benefits throughout a child's life.

Some submissions to the Inquiry expressed concern about how parental responsibility is divided between same-sex parents on separation.<sup>25</sup> Changes to the Family Law Act on 1 July 2006 enhanced the rights of the people recognised as a 'parent' under that legislation.<sup>26</sup> This may disadvantage the lesbian co-mother and gay co-father who may have been caring for a child since birth.

### 12.5.1 Only a birth or adoptive parent is a 'parent' for family law purposes

The Family Law Act defines a parent to *include* an adoptive parent.<sup>27</sup> The definition assumes that a birth mother and birth father will be a parent. This will include the male partner (birth father) of a woman having an ART child, but exclude the female partner (lesbian co-mother).<sup>28</sup>

The definition of parent will also exclude the gay co-father and any other same-sex parent who has a parenting order in his or her favour. A person with a parenting order will be one of the 'other people significant to [the child's] care, welfare and development', but not a 'parent'.<sup>29</sup>

### 12.5.2 Spending time with a 'parent' is a primary consideration on separation

When deciding custody arrangements on separation, the Family Court must focus on a child's best interests. Under the new amendments, the child's best interests are divided into 'primary' and 'additional' considerations.<sup>30</sup>

The Family Court must consider the 'benefit to the child of having a meaningful relationship with both of the child's parents' as a primary factor.<sup>31</sup>

The relationship between a child and any other person, including a lesbian co-mother and gay co-father, will be an 'additional' consideration for the Family Court, but not a primary consideration.<sup>32</sup>

Therefore, the lesbian co-mother and gay co-father will be at a disadvantage when trying to gain custody of a child after separation – even if he or she has a parenting order in favour of the child, and has otherwise cared for the child since birth.

### 12.5.3 The narrow definition of 'parent' creates uncertainty for a child on separation

The Inquiry heard from a number of people who are concerned that the children of a same-sex couple are not adequately protected following separation.

The Action Reform Change Queensland (ARCQ) and Queensland AIDS Council comment:



[We] are aware of some same sex couples for whom ongoing contact with children is difficult for the non-biological partner following a break down of the relationship. This is exacerbated by the lack of protection at family law and in federal legislation. While the [HREOC] research paper acknowledges that some people may be recognised if they have a parenting order through the Family Court, it is understood that this is an expensive way to gain parenthood status and in practical terms may not be widely used.<sup>33</sup>

One parent told the Inquiry of the uncertainty that can be created when a biological parent dies:

In a same-sex relationship where there's children concerned, if the biological mother does pass away, the child does not automatically get to stay with the non-biological parent...If one member of the biological mother's family comes forth to take that child out of that house, that child is gone. You would have to fight it in the Family Court – it is not a right of ours for the child to stay where it has grown up.<sup>34</sup>

## 12.6 Does family law legislation regarding separation breach human rights?

This chapter sets out the difficulties facing same-sex families on separation.

The first problem is that same-sex (and opposite-sex) de facto couples cannot access the federal Family Court property division regime, which has significant advantages over state property regimes. New legislation proposed by the federal government would allow opposite-sex de facto couples to access the federal regime but not same-sex couples.

If this new legislation comes into force in its intended form, it will breach the right of same-sex couples to non-discrimination under article 26 of the *International Covenant on Civil and Political Rights* (ICCPR).

The second problem is that a narrow definition of 'parent' in the Family Law Act and the Child Support (Assessment) Act puts some same-sex couples at a disadvantage when it comes to the determination of parental responsibility and liability for child support. In particular, a birth mother or birth father is unable to pursue child support from a lesbian co-mother or gay co-father.

Thus, the main finding of this chapter is that the exclusionary definition of 'parent' in the Child Support (Assessment) Act and the Family Law Act breaches the right to non-discrimination under article 26 of the ICCPR.

This discrimination against same-sex parents may also result in a breach of Australia's obligations under the *Convention on the Rights of the Child* (CRC). This is because:

- the *best interests of a child* being raised in a same-sex family do not appear to be a primary consideration – if they were, a same-sex parent could pursue child support from his or her former partner and the child's relationship with both his or her same-sex parents would be a 'primary' consideration in determining custody arrangements (CRC, articles 2(1), 3(1))
- the narrow definition of 'parent' in the Child Support (Assessment) Act and the Family Law Act does not *recognise and support the common responsibilities of both* same-sex parents to fulfil child-rearing responsibilities (CRC, article 18(1), article 2(1))

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- a same-sex parent who is unable to pursue child support from his or her former partner may be at a financial disadvantage when compared to an opposite-sex parent in the same position. This amounts to *discrimination* against the child on the basis of the status of his or her parents (CRC, article 2(2))
- the narrow definition of ‘parent’ in the Family Law Act creates uncertainty for the child of a same-sex couple when their parents separate. This may amount to *discrimination* against the child on the basis of the status of his or her parents (CRC, article 2(2)).

There may also be a breach of the right to protection of the family without discrimination under the ICCPR (articles 23(1), 2(1)) and the *International Covenant on Economic, Social and Cultural Rights* (articles 10, 2(2)).

Australia’s human rights obligations to same-sex couples and families are set out in more detail in Chapter 3 on Human Rights Protections.

## **12.7 How should family law legislation be amended to avoid future breaches?**

Same-sex families face a range of hurdles on relationship breakdown.

Same-sex and opposite-sex de facto couples are denied access to a range of property settlement mechanisms, which are available to married couples, because of constitutional limitations.

The birth parents of a child cannot pursue child support against the lesbian co-mother or gay co-father. And the lesbian co-mother and gay co-father do not have equal consideration as the birth parents in determining custody arrangements.

The following sections summarise the cause of the problems and how to fix them.

### **12.7.1 Narrow definitions of ‘parent’ are the main problem in child support and family law on separation**

The narrow definition of ‘parent’ in the Child Support (Assessment) Act and the failure to recognise the lesbian co-mother of an ART child as a ‘parent’ under the Family Law Act creates discrimination against same-sex parents and children. These definitions should change.

The problem of denying same-sex (and opposite-sex de facto) couples access to the federal property division regime is caused by constitutional issues. But it can be rectified if the federal government accepts the referral of constitutional power being offered by state governments.

## 12.7.2 The solution is to amend the definitions and recognise both same-sex parents

Chapter 5 on Recognising Children sets out how to better protect the rights of both the *children of same-sex couples* and the parents of those children.

The Inquiry recommends that the federal government implement parenting presumptions in favour of a lesbian co-mother of an ART child. This would mean that a lesbian co-mother would automatically be a ‘parent’ (in the same way as a father of an ART child is a ‘parent’).

Chapter 5 also suggests that it should be easier for a lesbian co-mother and gay co-father to adopt a child. Again, if this occurred then they would automatically qualify as a ‘parent’.

The Inquiry also recommends that the federal government pass legislation accepting the referral of state power regarding property division between opposite-sex *and* same-sex separating couples.

The following list sets out the definitions which would need to be amended according to these suggested approaches.

## 12.7.3 A list of legislation to be amended

The Inquiry recommends amendments to the following legislation discussed in this chapter:

### ***Family Law Act 1975 (Cth)***

Parenting presumptions for an ART child (s 60H – amend to include a parenting presumption in favour of a lesbian co-mother)

‘parent’ (s 4 – no need to amend if s 60H is amended and a gay co-father or lesbian co-mother may be recognised through reformed adoption laws)

### ***Child Support (Assessment) Act 1989 (Cth)***

‘eligible carer’ (s 7B – no need to amend if ‘parent’ recognises a gay co-father or lesbian co-mother through reformed parenting presumptions or adoption laws)

‘parent’ (s 5 – no need to amend if section 60H of the Family Law Act is amended and a gay co-father or lesbian co-mother may be recognised through reformed adoption laws)

#### **12.7.4 New legislation should accept constitutional referrals regarding property division for separating same-sex couples**

Same-sex and opposite-sex de facto couples should both have access to the federal Family Court for property and child-related matters. This requires:

- all states to refer their constitutional powers to the federal government regarding same-sex and opposite-sex de facto couples
- the federal government to accept those referrals.

Once those referrals are accepted there may need to be following consequential amendments:

##### ***Family Law Act 1975 (Cth)***

‘spouse’ (s 90MD – amend to include a person in a ‘de facto relationship’)

‘de facto relationship’ (insert new definition)<sup>35</sup>

## Endnotes

- 1 Western Australia administers its own Family Court. Since the introduction of the *Family Court Amendment Act 2002* (WA), the Western Australian Family Court administers child-related matters and property settlements for married and de facto (including same-sex) couples.
- 2 *Commonwealth Powers (De Facto Relationships) Act 2003* (NSW); *Commonwealth Powers (De Facto Relationships) Act 2003* (Qld); *Commonwealth Powers (De Facto Relationships) Act 2004* (Vic); *De Facto Relationships (Northern Territory Request) Act 2003* (NT).
- 3 *Commonwealth Powers (De Facto Relationships) Act 2003* (NSW), ss 3-4; *Commonwealth Powers (De Facto Relationships) Act 2003* (Qld), ss 3-4; *Commonwealth Powers (De Facto Relationships) Act 2004* (Vic), ss 3-4; *De Facto Relationships (Northern Territory Request) Act 2003* (NT), ss 3-4.
- 4 Gabrielle Mackey, A/g Assistant Secretary, Human Rights Branch, Attorney-General's Department, to Vanessa Lesnie, Director, Human Rights Unit, Human Rights and Equal Opportunity Commission, 16 November 2006.
- 5 *Family Law Act 1975* (Cth), s 90MD.
- 6 See J Millbank, 'Recognition of Lesbian and Gay Families in Australian Law – Part One: Couples', *Federal Law Review*, vol 34, no 1, 2006, p39. Note that the *Statutes Amendment (Domestic Partners) Act 2006* (SA) had not commenced as at 10 April 2007. When the Act does commence, the SA property division regime will apply to same-sex couples.
- 7 State regimes are unable to divide superannuation assets, which often make up a significant portion of a couples' asset pool. Since 2002 the *Family Law Act 1975* (Cth) grants the power under pt VIIIIB to deal with superannuation funds of the parties to a marriage. Some state superannuation legislation specifies that state public superannuation benefits are an asset for the purposes of federal family law property division schemes. A same-sex partner is thereby explicitly excluded from accessing this benefit on separation: J Millbank, 'Recognition of Lesbian and Gay Families in Australian Law – Part One: Couples', *Federal Law Review*, vol 34, no 1, 2006, pp39-40. See also *Judges Pensions Act 1971* (SA), pt 2A; *Parliamentary Superannuation Act 1974* (SA), pt 4A; *Police Superannuation Act 1990* (SA), pt 5B; *Southern State Superannuation Act 1994* (SA), pt 5A; *Superannuation Act 1988* (SA), pt 5A; *Solicitor-General Act 1983* (Tas), sch 1; *Administrators Pensions Act* (NT), s 9; *Superannuation Act* (NT), pt 3, Division 3; *Superannuation Guarantee (Safety Net)* (NT) s 7.
- 8 See J Millbank, 'Recognition of Lesbian and Gay Families in Australian Law – Part One: Couples', *Federal Law Review*, vol 34, no 1, 2006, p39. See also L Willmott, B Matthews and G Shoebridge, 'De facto Relationships Property Adjustment Law – A National Direction', *Australian Journal of Family Law*, vol 17, January 2003; *In the Marriage of Waters and Jurek*, (1995) 19 FamLR 190; B Fehlberg, 'With all my Worldly Goods I Thee Endow?: The Partnership Theme in Australian Matrimonial Property Law', *International Journal of Law, Policy and the Family*, vol 19, no 2, 2005, pp176 -193.
- 9 J Millbank, 'Areas of Federal Law that Exclude Same-Sex Couples and their Children', Inquiry Research Paper, September 2006, available at <http://www.humanrights.gov.au/samesex/index.html>, p49. See *Family Law Act 1975* (Cth), ss 90AC-AF.
- 10 *Family Law Act 1975* (Cth), ss 75(2), 79. Only half of the state and territory regimes consider any form of future needs, and not all do so as broadly as the federal regime. Tasmania and the ACT are the broadest: see *Domestic Relationships Act 1994* (ACT), s 15(1)(e); *Relationships Act 2003* (Tas), ss 40(1)(e), 47.
- 11 For example, family dispute resolution and family arbitration are available at the federal Family Court: *Family Law Act 1975* (Cth), ss 10F, 10L.
- 12 *Family Law Act 1975* (Cth), s 75(2). Spousal maintenance provisions vary between states and territories and in some cases can be more restrictive than the federal *Family Law Act 1975* (Cth). See *Property (Relationships) Act 1984* (NSW), ss 26-27; *Evans v Marmont* (1997) 42 NSWLR 70 at 78-79; *De Facto Relationships Act 1991* (NT), ss 24, 26; *Domestic Relationships Act 1994* (ACT), ss 18-19. In Tasmania see *Relationships Act 2003* (Tas), s 47. Queensland, South Australia and Victoria have no maintenance provisions for de facto couples at all: *Property Law Act 1958* (Vic); *De Facto Relationships Act 1996* (SA); and *Property Law Act 1974* (Qld).

- 13 See also Associate Professor Jenni Millbank, Submission 27a; Australian Lawyers for Human Rights, Submission 286; Dr Samantha Hardy, Dr Sarah Middleton and Dr Lisa Butler, Submission 125; Gay and Lesbian Rights Lobby (NSW), Submission 333; Human Rights Law Resource Centre, Submission 160; Kingsford Legal Centre, Submission 309; Law Institute of Victoria, Submission 331.
- 14 Equal Opportunity Commission of Victoria, Submission 327.
- 15 For an explanation of these terms see the Glossary of Terms.
- 16 *Child Support (Assessment) Act 1989* (Cth), s 5.
- 17 *Child Support (Assessment) Act 1989* (Cth), s 7B(1).
- 18 There is no definition of 'legal guardian' in the *Child Support (Assessment) Act 1989* (Cth). 'Guardianship' is a term that has not been used for some years in the *Family Law Act 1975* (Cth), where it was replaced by the concept of 'parental responsibility'. By implication, it seems likely that a person with parenting orders granting them sole or shared parental responsibility under the *Family Law Act 1975* (Cth) would be taken as a 'legal guardian' for the purposes of the *Child Support (Assessment) Act 1989* (Cth). See *Family Law Act 1975* (Cth), ss 61B, 61D, 64B(1).
- 19 *Child Support (Assessment) Act 1989* (Cth), s 7B(2).
- 20 *Child Support (Assessment) Act 1989* (Cth), s 7B(3).
- 21 *Child Support (Assessment) Act 1989* (Cth), s 25.
- 22 The only avenues available would be to pursue a promissory estoppel claim or a limited maintenance claim under state property law – both avenues are expensive and uncertain. See *W v G* (1996) 20 Fam LR 49. Under the *Property (Relationships) Act 1984* (NSW), s 27, maintenance is only available on very limited grounds.
- 23 Speaker, Launceston Public Forum, 25 September 2006.
- 24 Liz, Canberra Hearing, 20 November 2006. See also Inner City Legal Centre, Submission 292; The Hon. Penny Sharpe MLC, Submission 341.
- 25 See also Australian Lawyers for Human Rights, Submission 286; Coalition of Activist Lesbians, Submission 171; Good Process, Submission 284; The Hon. Penny Sharpe MLC, Submission 341.
- 26 *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth).
- 27 *Family Law Act 1975* (Cth), s 4. See further Chapter 5 on Recognising Children.
- 28 *Family Law Act 1975* (Cth), s 60H.
- 29 *Family Law Act 1975* (Cth), s 60B(2).
- 30 *Family Law Act 1975* (Cth), s 60CC.
- 31 *Family Law Act 1975* (Cth), s 60CC(2)(a).
- 32 *Family Law Act 1975* (Cth), s 60CC.
- 33 Action Reform Change Queensland and Queensland AIDS Council, Submission 270a.
- 34 Adelaide Public Forum, 28 August 2006.
- 35 See Chapter 4 on Recognising Relationships.