andrew warren associates
SOLICITORS & BARRISTERS

ACCREDITED SPECIALIST
FAMILY LAW

# Changes for defacto couples

New Commonwealth laws for the division of property for people in de facto relationships that break down commenced on 1 March 2009. The laws have application in New South Wales and they apply to opposite and same sex couples.

The new laws enable defacto couples to access, as married couples can, the Family Court of Australia and the Federal Magistrates Court (the Family Law Courts) for property and spousal maintenance matters. Cases between de facto couples concerning their children have been within the Federal Family Law regime since 1988.

The new laws provide for de facto couples, when they separate, to obtain property settlements on the principles that apply under the Family Law Act 1975 to married couples.

This is a change from the laws that applied before 1 March 2009. Those laws differed depending on the particular State or Territory law that applied.

The new laws enable the Family Law Courts to order a division of any property that the couple own, either separately or together with each other. Superannuation that each partner has can also be split (married couples have been able to split superannuation since 2002).

The Family Law Courts can make these orders if satisfied of one of the following:

- The period (or the total of periods) of the de facto relationship is at least 2 years, or
- There is a child of the de facto relationship, or
- One of the partners made substantial financial or non-financial contributions to their property or as homemaker or parent and serious injustice to that partner would result if the order was not made, or
- The de facto relationship has been registered in a State or Territory with laws for the registration of relationships.

The new laws apply to de facto relationships that break down on or after 1 March 2009.