

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
FAMILY COURT OF AUSTRALIA

Question No. 5

Senator Brandis asked the following question at the hearing on 23 May 2012:

Senator BRANDIS: ...The failure to proclaim the legislation took place in 2009, so presumably all relevant orders of the court between 2009 and the remedial legislation earlier this year were affected by it. Do you have an estimate as to how many orders were involved?

Mr Foster: Sorry, Senator, I do not have that information with me—but obviously many.

Senator BRANDIS: It affected all de facto orders, didn't it?

Mr Foster: That is right.

Senator BRANDIS: All orders in relation to separating de facto couples.

Mr Foster: That is right.

Senator BRANDIS: Can you tell me, even if only approximately, since the 2009 changes to the law, how many de facto matters the court has dealt with?

Mr Foster: I will try and get that information by phone, but otherwise I will need to take it on notice.

Senator BRANDIS: Well, can you do that urgently? It would be fair to say, would it not, Mr Foster, that since the change to the law in 2009 the Family Court or the Federal Magistrates Court deal as routinely with de facto separations as matrimonial separations and divorces?

Mr Foster: Absolutely.

Senator BRANDIS: I understand that, in relation to de facto arrangements, many separations and terminations of relationships happen informally without judicial intervention. That is right, isn't it?

Mr Foster: That is right.

Senator BRANDIS: However, would it be fair to surmise that, as the court's jurisdiction over de facto couples becomes more routine and familiar to everyday citizens, the proportion of its orders dealing with de facto terminations would reflect the same relativity to matrimonial separations as do de facto relationships to marriages?

Mr Foster: You would think so, but I would not like to speculate. I would rather get the information.

Senator BRANDIS: All right. But you do keep statistics on the number of de facto matters?

Mr Foster: Yes, we do.

Senator BRANDIS: Can you get those statistics for me please?

Mr Foster: Yes.

...

Mr Foster: In relation to the numbers, we will have to do a special computer run to get the numbers, so I have to take it on notice.

Senator BRANDIS: We are certainly talking about—

Mr Foster: A significant number.

Senator BRANDIS: Thousands and thousands of orders. I want every order in relation to a debate factio matter between the commencement of the legislation 2009 and the passage of the remedial legislation at the beginning of 2012.

Mr Foster: We can do that, but we need to take it on notice if that is okay.

Senator BRANDIS: Yes, it is okay.

The answer to the honourable senator's question is as follows:

Summary of Defacto Property Applications Finalised between 01 Mar 2009 and 10 Feb 2012**

		Parenting & Financial	Financial	Total
Consent Orders	FCOA	306	1,864	2,170
Final Orders	FCOA	84	331	415
	FMC	344	1,330	1,674
Total		734	3,525	4,259

** Please note that the failure to proclaim the legislation in 2009 only affected financial orders for de facto couples. Parenting orders for de facto couples were not affected.