

Article Information

Authors: Donna Bengé, Rod Jones

Service: Estate & Succession Planning

Sector: Private Clients

Likely amendments to the Wills Act (SA) 1936

The South Australian Government proposes a bill to provide couples with an opportunity to legally register their relationship regardless of their sex or gender identity.

The South Australian Government proposes a bill to provide couples with an opportunity to legally register their relationship regardless of their sex or gender identity.

If passed, such an amendment should be considered by all financial planners, accountants and other trusted advisors whom may have affected clients.

Ms Katrine Hildyard, member of the Australia Labor Party has recently introduced the Relationship Register Bill to the South Australian Parliament.

One of the motivating factors for the bill was due to the death of an English tourist earlier this year, Mr David Bulmer-Rizzi. His death received considerable media coverage.

David and his husband Marco were honeymooning in Adelaide but in a freak accident David fell down a flight of stairs and was placed into an induced coma. Sadly, David died days later. In 2015, the couple had married in the United Kingdom but under South Australian law their marital status was not recognised. This meant that David's death certificate was published as "never married" and all funeral arrangements and decisions were formally made by David's father, not by Marco as his husband.

The object of the proposed bill is to provide couples with the opportunity to have their relationship legally recognised and registered, regardless of their sex or gender identity.

During her second reading speech to Parliament, Ms Hildyard stated:

"This bill, when passed, will create an option for couples in any relationship to more easily demonstrate their status when dealing with various bodies, including government agencies and service providers, in order to have their relationship rightly respected and to access their rights and entitlements."

The bill proposes that the Registrar of Birth, Deaths and Marriages will administer the register.

Registration by couples will be voluntary and upon receipt of a valid application and after a 28 day cooling-off period, the Registrar will be bound to register the relationship. Couples would then receive a certificate of registration, which would provide formal recognition of their relationship.

The proposed bill allows for registration to be revoked if one the parties dies or marries. Furthermore, it permits couples to apply for their registration to be revoked in cases where the relationship has broken down.

Fundamentally, the bill provides for the potential recognition of interstate registered relationships and the regulations may declare that a class of relationships registered or recognised under a corresponding law of another state or territory or another country are 'registered relationships' for the purpose of the proposed act. This would ensure that the circumstances experienced by Mr Bulmer-Rizzi's family could be avoided in the future.

In the event that the bill is passed, it would also bring South Australia into line with other jurisdictions that have relationship registers, including the Australian Capital Territory, New South Wales, Victoria and Tasmania.

If the proposed bill is passed it will mean that upon the registration or revoking of a registered relationship it will have the effect of revoking a person's last will. However, a will can still be made in contemplation of the registration of a registered relationship.

The bills is still subject to further debate by the South Australian Parliament and the Piper Alderman [Private Client Services team](#) will continue to provide further updates.