

Gay & Lesbian Rights Lobby

Relationships rights in NSW

Lesbian and gay relationships are recognised

After a long fight by the lesbian and gay community, since 28 June 1999 same sex couples have enjoyed most of the same rights in NSW as heterosexual de factos.

If you are in a de facto or domestic relationship you have many rights and responsibilities under NSW law.

De facto relationships are relationships between two adults who live together as a couple. Domestic relationships include those who live together where one provides the other with domestic support and personal care. This doesn't cover flatmates or paid carers but is intended to include other carers.

Other requirements sometimes have to be met. The most important is that, in some cases, people need to have lived together for 2 years. This depends on the right in question.

Important areas where we have rights

♦ **Inheritance**

Same sex partners can automatically inherit a partner's assets if they die without a will. We no longer lose our homes, businesses and personal mementos when we lose our partners.

♦ **Decision making in case of incapacity or death**

Same sex partners can now get information about sick lovers and participate in vital decisions. We can say good-bye to partners who are dying.

♦ **Compensation**

Same sex partners can now claim compensation if their partner dies in an accident. This also applies to claims for psychological injury. We should no longer face being left impoverished if we are financially dependent.

♦ **Stamp Duty**

Same sex partners can transfer property to joint ownership without paying stamp duty, saving many thousands of dollars. Similarly it can be transferred out of joint ownership if the relationship breaks down.

♦ **Property division on relationship breakdown**

Couples and carers can get court assistance to disentangle their finances.

♦ **Other**

Other areas which are covered include bail applications; notification of partners of patients with mental illness; and provision for partners when a person is unable to manage his/her own affairs.

We're not equal yet

Although we now enjoy many rights, some problems remain and we do not yet have full equality. Changes to the Anti-Discrimination Act and some smaller pieces of NSW legislation still need to be made. Other relationships, including those of couples who don't live together, don't have sufficient legal protection. And there have been no changes made to important areas of law which are governed by the Federal Government, including superannuation.

FACT SHEET

frequently asked questions

my partner and I want to keep our property separate, can we?

Yes. It is possible to arrange your property the way you like. Those couples who wish to can make a cohabitation agreement when entering into or during a relationship. You can modify the way the law operates in other ways too – for example, by making a will or appointing a guardian to make decisions in case of illness.

what if we don't live together?

Couples who don't live together are not covered and currently have few rights. The Lobby has proposed that couples who don't live together (or who haven't lived together for long enough) should have rights in some circumstances - for example where they own property together and need help dividing it up or where one is financially dependant on the other who dies without a will.

do we have to go to court if we break up?

No. This option is only to assist people who need it. There is nothing to stop you just dividing things up. This can be formalised as a separation agreement if you wish.

I want the law to stay out of my life, how do I arrange that?

You can limit the application of the new law by ordering your affairs - for example by making a will or appointing a guardian.

Unfortunately, no-one can guarantee the law will stay out of his/her life completely. Sometimes it steps in when it is unclear what should happen – for example when people can't agree or if you die without a will. Where all of this is decided in advance, it's not so likely to be needed.

what if I bring a casual partner home, will s/he be able to claim my property?

No. The basic rule for these sorts of rights is that partners can only make a claim if you have lived together for 2 years or if you have a child together. Casual partners have no rights to property. Even when someone does have the right to apply, they still have to prove that they have made a *contribution* to the property in order to be actually entitled to a share

what does a court take into account when it's dividing property?

It basically looks at the contributions that each person has made. This contribution may be financial or non-financial and can include home-making and child-rearing.

will the changes apply to me and my ex?

If your relationship ended before 28 June 1999, the changes won't apply.

but won't I lose my social security?

No, social security isn't affected. Social security is governed by the Federal Parliament. This Act only deals with NSW laws.

will this fix up the problems with superannuation?

Superannuation is also generally Federal and has to be dealt with separately. This means most same sex couples are not recognised for super purposes but members of some State super schemes are covered. Check with your fund.

The Lobby fights discrimination against gay men and lesbians. If you would like to help or make a donation to our work, please contact us.

You don't have to be experienced to get involved. You just have to want to make a difference.

For more information or to find out about the campaign for equal rights contact us at:
info@glrl.org.au ▼ www.glrl.org.au
PO Box 9, Darlinghurst NSW 1300 ▼ ph (02) 9360 6650 fax (02) 9331 7963