



MOULDENS

SOLICITORS

DOMESTIC PARTNERS

Amendments to a number of South Australian Acts which took effect on 1 June 2007 have given new legal rights and duties to persons defined to be "Domestic Partners".

These include same sex de facto partners and other partners who may not be in a sexual relationship but have lived together on a general domestic basis as a couple, that is, as close companions or life partners:

- (a) for a period of 3 years or more;
- (b) for periods aggregating 3 of the past 4 years; or
- (c) who are both the parents of a child, whether or not the child is still living.

Domestic partners do not include persons who are simply flat mates or those with boarding arrangements such as live in housekeepers or paid carers.

New rights granted to domestic partners by the amendments include:

1. If a domestic partner dies without making a Will and the partners had continued to live together up to the date of death, the surviving

partner will be able to inherit some or all of the estate and can apply to be appointed administrator.

2. A domestic partner may be able to take an inheritance action for a share of the estate.
3. If a domestic partnership breaks down at any time and the partners separate they can ask the Court for an order allocating a share of the other partner's property based on their respective financial and non-financial contributions during the relationship.
4. If a domestic partner who shared a house transferred it from their name to the other partner's name or into both their names there will be no stamp duty payable.
5. Domestic partners will be able to give consent to medical treatment because of incapacity.
6. Domestic partners will be able to apply to be appointed the other partner's legal guardian or to administer the partner's property.
7. If one domestic partner dies the surviving partner will be able to make the decisions about organ

donation, post-mortem examination and cremation of the body.

8. Domestic partners may make a written Domestic Partnership Agreement setting out the living arrangements and arrangements in relation to the disposal of property in the event the relationship ends. The Agreement may enforced by the Court which also has the authority to override the Agreement if it finds that its terms are unjust.

If you would like to enquire about entering into a Domestic Partnership Agreement or have any enquiries about the rights and obligations of domestic partners please contact our estate lawyers.

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