

House of Assembly

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South Australia

Statutes Amendment (Registered Relationships) Bill 2017

A BILL FOR

An Act to amend the *Family Relationships Act 1975* and various other Acts to make provision for registered relationships.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Statutes Amendment (Registered Relationships) Act 2017*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Family Relationships Act 1975*

4—Amendment of section 11—Interpretation

(1) Section 11, definition of *close personal relationship*—delete "gender" and substitute:
sex or gender identity

(2) Section 11—after the definition of *close personal relationship* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act.

5—Substitution of section 11A

Section 11A—delete the section and substitute:

11A—Domestic partners

A person is, on a certain date, the *domestic partner* of another if—

- (a) the person is, on that date, in a registered relationship with the other; or
- (b) the person is, on that date, living with the other in a close personal relationship and—
 - (i) the person—
 - (A) has so lived with the other continuously for the period of 3 years immediately preceding that date; or
 - (B) has during the period of 4 years immediately preceding that date so lived with the other for periods aggregating not less than 3 years; or
 - (ii) a child, of whom the 2 persons are the parents, has been born (whether or not the child is still living at that date).

6—Amendment of section 11B—Declaration as to domestic partners (other than domestic partners in registered relationship)

- (1) Section 11B(1)—delete "A" and substitute:

Subject to subsection (3), a

- (2) Section 11B(1)(a)—delete "he or she" and substitute:

the person

- (3) Section 11B—after subsection (2) insert:

- (2a) This section does not apply to domestic partners who are in a registered relationship who may provide evidence that they were, on a certain date, in the registered relationship by producing a certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the *Relationships Register Act 2016*.

Part 3—Amendment of *Administration and Probate Act 1919*

7—Amendment of section 4—Interpretation

- (1) Section 4, definition of *domestic partner*—delete the definition and substitute:

domestic partner, in relation to a deceased person, means—

- (a) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the deceased as at the date of the deceased person's death; or

- (b) a person who was in a registered relationship with the deceased as at the date of the deceased person's death;
- (2) Section 4—after the definition of *Public Trustee* insert:
registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 4—Amendment of *Civil Liability Act 1936*

8—Amendment of section 3—Interpretation

- (1) Section 3(1), definition of *domestic partner*—delete the definition and substitute:
domestic partner, in relation to any cause of action arising under this Act, means—
 - (a) a person declared under the *Family Relationships Act 1975* to have been a domestic partner on the day on which the cause of action arose; or
 - (b) a person who was in a registered relationship on the day on which the cause of action arose;
- (2) Section 3(1)—after the definition of *pure mental harm* insert:
registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 5—Amendment of *Governors' Pensions Act 1976*

9—Amendment of section 2—Interpretation

- (1) Section 2, definition of *domestic partner*—delete the definition and substitute:
domestic partner—
 - (a) in relation to a deceased Governor, means—
 - (i) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the Governor as at the date of the Governor's death; or
 - (ii) a person who was in a registered relationship with the Governor as at the date of the Governor's death;
 - (b) in relation to a deceased former Governor, means—
 - (i) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the former Governor as at the date of the former Governor's death; or
 - (ii) a person who was in a registered relationship with the former Governor as at the date of the former Governor's death;

- (2) Section 2—after the definition of *pension* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 6—Amendment of *Housing Improvement Act 2016*

10—Amendment of section 4—Interpretation

- (1) Section 4(1)—after the definition of *director* insert:

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

- (2) Section 4(1)—after the definition of *residential tenancy agreement* insert:

spouse—a person is the spouse of another if they are legally married;

Part 7—Amendment of *Inheritance (Family Provision) Act 1972*

11—Amendment of section 4—Interpretation

Section 4, definition of *domestic partner*—delete the definition and substitute:

domestic partner, in relation to a deceased person, means—

- (a) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the deceased as at the date of the deceased person's death, or at some earlier date; or
- (b) a person who was in a registered relationship with the deceased as at the date of the deceased person's death, or at some earlier date;

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 8—Amendment of *Judges' Pensions Act 1971*

12—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *domestic partner*—delete the definition and substitute:

domestic partner—

- (a) in relation to a deceased Judge, means—
 - (i) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the Judge as at the date of the Judge's death; or
 - (ii) a person who was in a registered relationship with the Judge as at the date of the Judge's death;
- (b) in relation to a deceased former Judge, means—

- (i) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of the former Judge as at the date of the former Judge's death; or
 - (ii) a person who was in a registered relationship with the former Judge as at the date of the former Judge's death;
- (2) Section 4(1)—after the definition of *notional pension* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 9—Amendment of *Parliamentary Superannuation Act 1974*

13—Amendment of section 5—Interpretation

Section 5(1)—after the definition of *putative spouse* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

14—Amendment of section 7A—Putative spouses

- (1) Section 7A(1)—after paragraph (b) insert:
- or
- (c) the person is, on that date, in a registered relationship with the other person.
- (2) Section 7A(2)—delete subsection (2) and substitute:
- (2) Subject to subsection (2a), a person whose rights depend on whether—
- (a) the person and another person; or
 - (b) 2 other persons,
- were, on a certain date, putative spouses 1 of the other may apply to the District Court for a declaration under this section.
- (2a) A person whose rights depend on whether—
- (a) the person and another person; or
 - (b) 2 other persons,
- were, on a certain date, in a registered relationship may provide evidence that they or those persons, were, on that date, in the registered relationship by producing a certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the *Relationships Register Act 2016*.

Part 10—Amendment of *Police Superannuation Act 1990*

15—Amendment of section 4—Interpretation

Section 4(1)—after the definition of *putative spouse* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

16—Amendment of section 4A—Putative spouses

(1) Section 4A(1)—after paragraph (b) insert:

or

(c) the person is, on that date, in a registered relationship with the other person.

(2) Section 4A(2)—delete subsection (2) and substitute:

(2) Subject to subsection (2a), a person whose rights depend on whether—

- (a) the person and another person; or
- (b) 2 other persons,

were, on a certain date, putative spouses 1 of the other may apply to the District Court for a declaration under this section.

(2a) A person whose rights depend on whether—

- (a) the person and another person; or
- (b) 2 other persons,

were, on a certain date, in a registered relationship may provide evidence that they or those persons, were, on that date, in the registered relationship by producing a certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the *Relationships Register Act 2016*.

Part 11—Amendment of *Public Trustee Act 1995*

17—Amendment of section 3—Interpretation

(1) Section 3, definition of *domestic partner*—delete the definition and substitute:

domestic partner, in relation to a deceased person, means—

- (a) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of that person as at the date of the deceased person's death; or
- (b) a person who was in a registered relationship with the deceased person as at the date of the deceased person's death;

- (2) Section 3—after the definition of *Public Trustee* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

Part 12—Amendment of *Southern State Superannuation Act 2009*

18—Amendment of section 3—Interpretation

- Section 3(1)—after the definition of *putative spouse* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

19—Amendment of section 7—Putative spouses

- (1) Section 7(1)—after paragraph (b) insert:

or

- (c) the person is, on that date, in a registered relationship with the other person.

- (2) Section 7(2)—delete subsection (2) and substitute:

- (2) Subject to subsection (2a), a person whose rights depend on whether—

- (a) the person and another person; or
(b) 2 other persons,

were, on a certain date, putative spouses 1 of the other may apply to the District Court for a declaration under this section.

- (2a) A person whose rights depend on whether—

- (a) the person and another person; or
(b) 2 other persons,

were, on a certain date, in a registered relationship may provide evidence that they or those persons, were, on that date, in the registered relationship by producing a certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the *Relationships Register Act 2016*.

Part 13—Amendment of *Superannuation Act 1988*

20—Amendment of section 4—Interpretation

- Section 4(1)—after the definition of *putative spouse* insert:

registered relationship means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;

21—Amendment of section 4A—Putative spouses

- (1) Section 4A(1)—after paragraph (b) insert:
- or
- (c) the person is, on that date, in a registered relationship with the other person.
- (2) Section 4A(2)—delete subsection (2) and substitute:
- (2) Subject to subsection (2a), a person whose rights depend on whether—
- (a) the person and another person; or
- (b) 2 other persons,
- were, on a certain date, putative spouses 1 of the other may apply to the District Court for a declaration under this section.
- (2a) A person whose rights depend on whether—
- (a) the person and another person; or
- (b) 2 other persons,
- were, on a certain date, in a registered relationship may provide evidence that they or those persons, were, on that date, in the registered relationship by producing a certificate issued by the Registrar of Births, Deaths and Marriages under section 21 of the *Relationships Register Act 2016*.

Part 14—Amendment of *Supreme Court Act 1935*

22—Amendment of section 13H—Pre-retirement leave

- (1) Section 13H(4c), definition of *domestic partner*—delete the definition and substitute:
- domestic partner*, in relation to a deceased judge or master, means—
- (a) a person declared under the *Family Relationships Act 1975* to have been the domestic partner of that judge or master (as the case may be) as at the date of the judge's or master's death; or
- (b) a person who was in a registered relationship with the judge or master (as the case may be) as at the date of the judge's or master's death;
- (2) Section 13H(4c)—after the definition of *members of the family* insert:
- registered relationship* means a relationship that is registered under the *Relationships Register Act 2016*, and includes a corresponding law registered relationship under that Act;