

Caring Relationships under the *Relationships Act*

The *Relationships Act 2003 (Tas)* recognises different types of relationships such as de facto relationships, including same-sex relationships and also what is known as a caring relationship.

A caring relationship in the legal sense, is different to being a carer in a married or de facto relationship. Whilst you can be a carer in any type of relationship, a caring relationship has a specific meaning at law.

Recognition of a caring relationship is for the benefit of those who do not fit within the de facto or marital definitions. It allows different relationships that are non-intimate to be afforded the same rights as a de facto or marital couple.

What is a Caring Relationship?

A caring relationship is a non-intimate relationship between two adults living in Tasmania, where one or both provide the other with help at home and personal care. You can be related to each other. To be in a caring relationship you cannot be married or in another significant or caring relationship. You also cannot be receiving payment for the care of the other person, with the exception of a carers payment from Centrelink.

The following factors can be considered when working out if two people are in a caring relationship:

- a) the length of their relationship;
- b) whether they live together;
- c) how they manage their finances;
- d) whether they own or use any property together;
- e) their commitment to a shared life;
- f) how household duties are shared;
- g) how others view the relationship;
- h) the personal care and domestic support that is provided by the parties to each other or by one person to the other.

What does it mean to register a Caring Relationship?

Registration of a caring relationship is done through the Tasmanian Registry of Births, Deaths and Marriages. Registering a caring relationship can provide proof that a relationship exists and allows parties to have relationship rights. These include rights in dealing with government agencies, superannuation, taxation, insurance, wills, property

division, employment conditions (such as bereavement leave), emergency situations, health care and hospital visitation.

Even if a relationship is not registered you are entitled to relationship rights if the relevant criteria are met, however registration may assist in proving the existence of your relationship.

To register, both parties need to provide identification, and proof of residency in Tasmania. In addition, a certificate completed by a legal practitioner must be provided that states that both parties received independent legal advice about registering a relationship.

If a partner dies, marries or registers another relationship, the deed of relationship will be revoked. The registration of the relationship can also be revoked by an order of a court or by an application to the Registrar of Births Deaths and Marriages to have the application revoked.

Be aware that registering a caring relationship provides the parties with the ability to divide property at the breakdown of a relationship, and that the relationship does not need to have been for two years for an application to be made.

When a Caring Relationship breaks down

A caring relationship is defined as a personal relationship for the purposes of dividing property when a relationship breaks down. This means that you can apply to the Magistrates Court or Supreme Court for court orders to divide the property or for maintenance to be paid to one party.

Generally eligibility is based on the relationship being for a period of at least two years or where substantial contributions have been made to the relationship that could not be compensated for unless the interest in the property was adjusted. If the relationship has been registered, these requirements do not have to be met. An application to Court for property orders must be done within 2 years of separation.

To divide the property in a just and equitable manner the court takes into account the non-financial and financial contributions that the parties have made to the relationship, the financial resources of the parties, how long the parties have been together and the care provided to each or one of the parties. The age and state of health of the parties can also be a factor, along with any other fact or circumstance that the court thinks is relevant.

Are there alternatives?

Those in a caring relationship can also consider Powers of Attorney and Enduring Powers of Attorney as an alternative, or in conjunction with registering a caring relationship.

A Power of Attorney allows another person (your Attorney) to do anything that you can legally do in relation to financial and property matters. It does not allow them make personal, medical or lifestyle decisions for you.

An Enduring Guardian gives your Attorney the power to make personal, medical and lifestyle decisions for you when you are no longer able to make those decisions for yourself.

It is important that when you consider what is best for both parties within a caring relationship, that you receive legal advice about all the options and their consequences.

You could also consider an application to the Guardianship and Administration Board for Guardianship or Administration orders.

How can I find out more information?

If you would like more information on caring relationships you can contact the Women's Legal Service on **1800 682 468** or to register your relationship you can contact the Registry of Births, Deaths and Marriages - <http://www.justice.tas.gov.au/bdm>

"Caring Relationships" is intended to give general information. Whilst we have made every effort to ensure the contents of this publication are accurate at the time of publication the law and services do change. Legal and service exactness is not possible in a publication of this nature. This publication should not be used as a substitute for legal advice.

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