

# Caring Relationships

## What is a caring relationship?

A Caring Relationship is defined in the *Relationships Act 2003 (Tas)* (“the Act”) as a relationship between two people (referred to as “the parties”), where either party provides care to the other, but where the parties are not married or in a ‘significant relationship’ (an unmarried couple).

A Caring Relationship can exist whether or not the parties are related by family. A person can provide care to a spouse, or a de facto partner, but it will not be considered a Caring Relationship for the purpose of the Act.

It will also *not* be considered a Caring Relationship if the person providing the care receives a fee or payment for their services, or an employment relationship exists between the parties. The carer may, however, be receiving a Carer Payment from Centrelink and still be considered to be in a Caring Relationship.

## Registering a caring relationship

A Caring Relationship may be registered by lodging an application with [Births, Deaths and Marriages](#). Both parties need to provide identification and proof that they are living in Tasmania. They also need to provide , along with a certificate signed by a legal practitioner stating that they have obtained independent legal advice about the effect of registering the relationship.

Registering a Caring Relationship means you will be able to prove the existence of the relationship in emergency situations and when dealing with government agencies.

## If a Caring Relationship is not registered

The relationship does not need to be registered, but if a government agency or one of the parties dispute the nature of the relationship, then a Court may need to decide whether a Caring Relationship exists. In that case, the following factors may be taken into consideration:

- The length of the relationship;
- Whether the parties live together;
- How the parties manage their finances;
- Whether they own or use any property together;
- The parties’ commitment to a shared life;
- How any household jobs are shared;
- How others view the relationship; and
- Any personal care and domestic support that is provided by the parties to each other or by one person to the other.

## When a caring relationship ends

If a party to a Caring Relationship dies, gets married, or registers another relationship, the Caring Relationship automatically comes to an end. A Caring Relationship can also end if one party makes an application to the Court to end a registered relationship. This is referred to as “revoking the deed of relationship.”

If a relationship is not registered, then the Caring Relationship may be considered to have ended when the factors listed above no longer apply, for example, if the parties stop living together or stop providing care.

## Division of property of the caring relationship

Once a Caring Relationship comes to an end, both parties or either party may make an application to the Magistrates Court or the Supreme Court for orders dividing any property owned individually or together. When considering how to divide the property, the Court must take into consideration

each party's financial and non-financial contributions made towards the relationship and the property. The property includes things like real estate, cars, bank accounts, personal loans and credit card debts.

Financial contributions can include things like mortgage payments, payments made towards bills and groceries, debts, and other expenses that have benefited the other person. Non-financial contributions can include things like work done to the property, cooking and cleaning, including any care provided.

The Court takes these contributions into account, along with any factors that mean one party has greater 'future needs' than the other party (such as age, health, and income), and decides how the property should be divided. The Court must order a division that is considered 'just and equitable' (fair).

An application for a property division must be made within two years after the date the Caring Relationship ended. Usually the Court will only allow a party to make an application if the Caring Relationship existed for at least two years, unless the relationship was registered.

### **Alternatives to a caring relationship**

Depending on the situation, it may be more appropriate to become, or nominate your carer to become, a Power of Attorney or Enduring Guardian (see out fact sheet 'Wills, Power of Attorney and Enduring Guardianship'). You may consider nominating a Power of Attorney and/or an Enduring Guardian *and* registering a Caring Relationship.

Before considering any of these options it is important that you understand what they mean, and that you get legal advice.

### **How can I find out more information?**

- **Births, Deaths and Marriages:** (03) 6233 3084

- **Women's Legal Service Tasmania:** 1800 682 468

*"Caring Relationships" is intended to give general information. Whilst we have made every effort to ensure the contents of this document 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 document should not be used as a substitute for legal advice. Women's Legal Service (Tasmania) does not accept responsibility for any loss, damage or injury, financial or otherwise, suffered by any person acting on information contained in this publication or omitted from it.*

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