

## Marriage equality: Remember to get expert advice on estate planning when tying the knot, says Equity Trustees

With the survey result on marriage equality in (62% voted yes), and the prospect of wedding celebrations for same sex couples on the horizon, one of Australia's largest independent executors and holders of more than 50,000 Wills has urged those planning to marry to remember to review their Wills.

"There are some legal aspects that same sex couples will need to take into consideration if they plan to marry and they are the same for any couple planning to marry." said Stephen Hardy, National Manager Estate Planning, Equity Trustees.

"Given most people marry with a commitment that includes 'til death do us part' then it is apt to take into account the estate planning implications of a marriage under Australian law. The main one is that marriage revokes any previous Will – unless the will was written specifically 'in contemplation of a marriage'," he explained.

"If the contemplation of marriage is not clear or worded correctly, your marriage will revoke your existing Will and any careful planning that may have been articulated in it will be lost."

Mr Hardy said that while the rights of same sex couples have over time improved by changes in some laws relating to adoption, assisted reproductive therapies, inheritance and superannuation, one issue that legal marriage resolves is to put the relationship beyond question.

"One reason this is so important is that before a person can claim on the estate of their deceased partner, authorities such as Trustees and Courts require evidence that the relationship exists," said Mr Hardy. He added that while Australian States and territories have introduced relationship registers in an attempt to assist all unmarried couples prove their relationship status, the laws vary between locations.

"Giving same sex couples the right to marry under Australian law ends ambiguity. It would mean that at a time of grief and loss when a partner dies, they do not have the added burden of 'proving' the relationship was real."

"This situation is especially stressful currently, when a person dies without a Will, leaving the remaining partner with the task of proving the relationship, proving their entitlement and dealing with estate distribution issues in accordance with different state laws. Being able to readily prove the marital relationship will greatly assist a surviving spouse."

"A great start to a marriage for everyone, including same sex couples now able to contemplate marrying, includes getting your estate planning in order and making sure the Will you have in place does what you intend it to do – before and after the marriage ceremony," Mr Hardy concluded.

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