



Marriage Celebrants Programme

December 2017

Recognition of foreign same-sex marriages and divorce

On 9 December 2017, amendments to the *Marriage Act 1961* commence to redefine marriage as the 'union of 2 people to the exclusion of all others, voluntarily entered into for life'. The right to marry under Australian law is no longer determined by sex or gender.

This fact sheet provides information about the recognition of foreign same-sex marriages and divorce.

Recognition of foreign same-sex marriages

From 9 December 2017, Part VA of the *Marriage Act* generally recognises existing and future same-sex marriages solemnised overseas under the law of a foreign country where the marriage is valid under the foreign law. Same-sex marriages solemnised in Australia by a diplomatic or consular officer under the law of a foreign country before 9 December 2017 are also recognised.

Access to Australia's divorce system

From 9 December 2017, same-sex couples who married overseas will have access to the Australian divorce system. Under the *Family Law Act 1975* there is a single ground for divorce: irretrievable breakdown of marriage. To meet this condition, a court needs to be satisfied that the parties to the marriage have lived separately and apart for at least 12 months prior to the application for divorce being filed, and that there is no reasonable likelihood of reconciliation between the parties.

Foreign same-sex divorces

Same-sex divorces granted overseas under a foreign law before 9 December 2017 will generally be recognised in Australia. Same-sex divorces granted overseas after 9 December 2017 will need to meet the requirements of the *Family Law Act* for the divorce to be recognised (generally, the couple must have some connection to the country in which they divorce).