

(The Gender Centre advise that this article may not be current and as such certain content, including but not limited to persons, contact details and dates may not apply. Where legal authority or medical related matters are cited, responsibility lies with the reader to obtain the most current relevant legal authority and/or medical publication.)

Changes to the Law regarding Same-Sex Couples

What do these Changes mean for Transgender people?

Submitted by [Jasmin Hunter](#) on behalf of the [Inner City Legal Centre](#) 

Article appeared in Polare magazine: **April 2009** Last Update: **October 2013** Last Reviewed: **September 2015**

At the end of 2008 the Federal Government passed laws that recognise 'same-sex couples' in de facto relationships. This was an important law reform for the gay and lesbian community, but what do the changes mean for transgender people?

Under Federal law, 'same-sex' couples and 'opposite-sex' couples in de facto relationships are now treated the same. This means that all relationships are acknowledged. Regardless of what your birth certificate says, if you are in a relationship you will be recognised. This brings a range of benefits and obligations for people whose relationships were not recognised before.

Centrelink

From 1st July 2009, Centrelink will recognise all de facto relationships, regardless of the sex of the partners.

Am I a 'member' of a couple?

Centrelink recognises certain relationships and will look at:

- whether you share finances;
- the nature of your household;
- the social aspects of your relationship;
- whether it is a sexual relationship; and
- the nature of your commitment to each other.

If you are unsure whether you need to declare your relationship to Centrelink, ask for advice from the Welfare Rights Centre on (02) 9211 5300 or 1800 226 028.

What do I have to do?

If you are in a relationship with an 'opposite-sex' partner you will already have obligations to declare your relationship to Centrelink. If you are not sure whether this includes you, you should obtain legal advice.

From 1st July 2009 all couples will have an obligation to declare their relationships. This means:

- If you are applying for new Centrelink benefits you must declare your relationship;
- If you are already receiving Centrelink benefits you must notify them that you are living with your partner;
- If you start a new relationship, you must tell Centrelink within fourteen days.

If you and your partner are currently receiving Centrelink benefits you will change from receiving two single pensions to a couple's pension. This could mean a drop in your joint income.

If you are receiving Centrelink benefits and your partner is working, your partner's income and assets will be taken into account when working out your benefits.

What if I don't tell Centrelink about my relationship?

Centrelink has the power to investigate people who are receiving benefits. This could include contacting your neighbours and accessing your records held with other government departments to see if there is any record of your being in a relationship.

Family Law

Changes to family law have already started. These changes mean:

- If you are in a de facto relationship and you separate after 1st March 2009, you can apply to the Family Court or the Federal Magistrates Court for orders about your property;
- All couples who have children are now recognised by the family law system. This includes a range of different situations, including donor insemination, surrogacy and other arrangements

If you have concerns or questions about what the family law changes might mean for you, you should obtain legal advice.

Other changes

A number of other changes have come in that will mean that all de facto couples are treated equally. These changes are in the areas of Medicare, superannuation, taxation, aged care, veterans benefits, immigration, child support and citizenship.

Where else can I obtain advice?

Inner City Legal Centre can give you some free legal advice, either at the Gender Centre or at our office in Kings Cross. If you live outside Sydney, we can provide legal advice over the phone. Call the Gender Centre (02 9519 7599) or the Inner City Legal Centre (02 9332 1966) for an appointment.

This information is only intended as a guide to the law and should not be used as a substitute for legal advice. We strongly suggest you seek legal advice.

For the full text of the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws—General Law Reform) Act 2008 - C2008A00144* please visit the Australian Government's 'ComLaw' website. 

Polare Magazine is published quarterly in Australia by The Gender Centre Inc., which is funded by the Department of Family & Community Services under the S.A.A.P. program and supported by the N.S.W. Health Department through the AIDS and Infectious Diseases Branch. Polare provides a forum for discussion and debate on gender issues. Unsolicited contributions are welcome, the editor reserves the right to edit such contributions without notification. Any submission which appears in Polare may be published on our internet site. Opinions expressed in this publication do not necessarily reflect those of the Editor, The Gender Centre Inc., the Department of Family & Community Services or the N.S.W. Department of Health.

The Gender Centre is committed to developing and providing services and activities, which enhance the ability of people with gender issues to make informed choices. We offer a wide range of services to people with gender issues, their partners, family members and friends in New South Wales. We are an accommodation service and also act as an education, support, training and referral resource centre to other organisations and service providers. The Gender Centre is committed to educating the public and service providers about the needs of people with gender issues. We specifically aim to provide a high quality service, which acknowledges human rights and ensures respect and confidentiality.