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LawTalk Blog



Is my overseas marriage recognised in Australia?

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The *Marriage Act 1961* (Cth) is the legislation which determines whether a marriage is valid in Australia.

The definition of marriage under that Act is:

"the union of a man and a woman to the exclusion of all others, voluntarily entered into for life."

If an Australian citizen is married overseas, that marriage may also be recognised in Australia if:

- the marriage was valid under the local law at the time it was entered into;
- the marriage would have been recognised under Australian law if it took place in Australia;
- the parties at the time were not legally married to any other person;
- the parties at the time were of marriageable age, being 18 years of age;
- the parties were not in a prohibited relationship, being a relationship of child/parent, sibling/half sibling or adopted child/adopting parent;
- both parties at the time gave clear consent to the marriage and understood the nature and effect of the marriage ceremony.

This unfortunately means that [marriages overseas of same-sex couples](#) are not recognised in Australia.

What about same-sex marriages overseas?

In 2013 the Australian Parliament considered the *Marriage Act Amendment (Recognition of Foreign Marriages for Same-Sex Couples) Bill 2013*. This bill was drafted given the increase in countries who were enacting legislation allowing for same-sex marriages. Such countries include New Zealand, Ireland and the United States. This legislation was unsuccessful in being passed in Parliament in Australia and no further proposal has been considered to date. It does, however, remain a very topical issue.

Please note, this Blog is posted in Adelaide, South Australia by Andersons Solicitors. It relates to Australian Federal legislation. Andersons Solicitors is a medium sized law firm servicing metropolitan Adelaide and regional South Australia across all areas of law for individuals and businesses.