

Draft Table of SA Laws Discriminating Against LGBTIQ Australians - Alphabetical

This table lists all South Australian laws and in some cases, related regulations, that SALRI has identified as having a potentially discriminatory impact on the grounds of sexual orientation, gender identity and/or intersex status.

The table organises the laws into three Groups that correspond with the Groups discussed in the Audit Report. This is to assist readers to locate where the particular law is likely to be discussed or referred to in the Audit Report.

The table also identifies Possible Options for Reform. These options for reform coincide with the recommendations made in the Audit Report. Some of these recommendations can be advanced immediately, while others require further review and report by SALRI.

A summary of SALRI's recommendations is provided at the beginning of the Audit Report.

Act or Regulation	Relevant provision/s	Discriminatory impact on grounds of sexual orientation, gender identity or intersex status	Group of Laws <i>As discussed in Audit Report</i>	Possible Options for Reform <i>For Recommendations see Audit Report</i>
Aboriginal Heritage Act 1988	Section 7 of the Act deals with the composition of the Aboriginal Heritage Committee. It provides that the Minister must, as far as practicable, appoint equal numbers of men and women to the Committee.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Acts Interpretation Act 1915	<p>The term 'gender' is not defined in the dictionary section of this Act.</p> <p>However, sections 26 and 36A contain relevant provisions relating to the meaning to be given to gendered terms.</p> <p>Section 26 provides that in every Act: 'every word of the masculine gender will be construed as including the feminine gender': (s26(a)); and 'every word of the feminine gender will be construed as including the masculine gender' (s26(ab)).</p> <p>Section 36A deals with gender balance in</p>	These provisions also make a material distinction between sex/gender but does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	<p>Amend section 4 to include the terms 'gender identity' and 'intersex status' in the dictionary section of the Act, to be defined by reference to or in identical terms as the relevant terms in the <i>Sex Discrimination Act 1984</i> (Cth).</p> <p>Replace the existing gender-related rule in</p>

	<p>nomination of persons for appointment to statutory bodies. It sets out how many men and women should form part of a selection panel to ensure gender equity, for example. Subsection 36A(4) makes it clear that this section does not derogate from the need to properly assess merit in selecting persons for appointment.</p>			<p>section 26 with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: ‘words importing a gender include every other gender’.</p> <p>Amend the existing gender balance on board provision in section 36A to make it clear that, for the purposes of this provision, a person who identifies as a woman should be included in the mix of appointments that are legislated to include a minimum number of female/women positions, regardless of the person's sex as legally recorded. Similarly, a person who identifies as a man should be included in the mix of appointments that are legislated to include a minimum number of male/men positions, regardless of the person's sex as legally recorded.</p>
--	--	--	--	--

Adelaide Cemeteries Authority Act 2001	Section 12(4) provides that at least two Board directors must be women and at least two must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Adelaide Dolphin Sanctuary Act 2005	Section 12(6) provides that at least 2 members of the Board must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Adelaide Festival Centre Trust Act 1971	Section 6 of the Act deals with the composition of the Adelaide Festival Centre Trust. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

		discrimination.		
Adelaide Festival Corporation Act 1985	Section 8 of the Act deals with the composition of the board that is to act as the governing authority for the Corporation. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Adelaide Park Lands Act 2005	Section 6 of the Act deals with the composition of the board of management. It provides that the Minister must ensure that they appoint at least 1 woman and at least 1 man to the board of management.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Adoption Act 1988	Section 4 contains interpretive provisions, including definitions of 'birth parent'; 'child born outside of lawful of marriage'; and 'marriage relationship'. Section 12 deals with the criteria applied to prospective adoptive parents. It requires adoptive parents to provide evidence of cohabitation in a 'marriage relationship' (defined in s4 as the relationship between	Each of these interpretive provisions is based around concepts of marriage and heterosexual relationships. The law discriminates primarily on the basis of marital status and, thus, also indirectly discriminates on the basis of sexual	2	The Adoption Act is currently under review by the Department of Education and Child Development. Subject to the findings and recommendations of that review, reform options

	two people cohabitating as husband and wife or defacto husband and wife).	orientation (as well as intersex status and gender identity to a lesser extent). The criteria in section 12 excludes non-heterosexual couples from meeting the criteria for prospective adoptive parents under the Act.		include: Removing the requirement in s12 that prospective adoptive parents be in a 'marriage relationship'; or Replacing this requirement with a requirement to be in a 'domestic partnership' (as defined under the <i>Family Relationships Act</i>) [or in a 'registered relationship' if the above recommendations regarding the establishment of a Relationships Register are adopted].
Adoption Regulations 2004	Regulation 19(3) sets out criteria for who will be excluded from selection as an application for an order for adoption of a particular child, unless the Chief Executive is satisfied that special circumstances apply. These criteria include people who are 'non cohabitating with another in a marriage relationship' (19(3)(c)).	This Regulation picks up the definition of 'marriage relationship' in the Adoption Act, which is defined as a heterosexual marriage or particular kind of defacto relationship. As a result, the Regulation discriminates primarily on the basis of marital status and, thus, also	2	Reform options include those described above re Adoption Act.

		indirectly discriminates on the basis of sexual orientation (as well as intersex status and gender identity to a lesser extent).		
Aboriginal Lands Tax Act 2013	Sections 11 and 36 of the Act deal with the composition of the Land Trust and related Committees. These sections require the panel/ Minister to, 'as far as is reasonably practicable, endeavour to achieve a gender balance' in the appointment of people to the Trust or Board.	This provision is designed to promote gender equity in board membership. By using the term 'gender balance' this provision avoids reliance on adopting binary concepts of gender. However, further clarity may be required to ensure that the provision is inclusive of a person who is intersex or gender diverse.	1	<p>Amend section 4 to include the terms 'gender identity' and 'intersex status' in the dictionary section of the Act, to be defined by reference to or in identical terms as the relevant terms in the <i>Sex Discrimination Act 1984</i> (Cth).</p> <p>Replace the existing gender-related rule in section 26 with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: 'words importing a gender include every other gender'.</p>
Administration and Probate Act	Interpretive provisions refer to both 'spouse' (legally married) and 'domestic	These provisions reflect efforts made via the <i>Statutes</i>	3	Reform options include:

<p>1919</p>	<p>partnership' as defined in the <i>Family Relationships Act</i> (which can include same sex couples).</p> <p>'Spouses' and 'domestic partners' are then given certain rights in the following provisions: s37 - appointment of special administrator; s71 - payment without production of probate or letters of administration; s72 payment of ADI of sums not exceeding \$2000; s72E presumption of survivorship; s72F value of interstate estate; s72G distribution of interstate estate; s72H division of estate when deceased survived by spouse or domestic partner.</p>	<p><i>Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>
<p>Aged and Infirm Persons' Property Act 1940</p>	<p>Interpretive provisions refer to both 'spouse' (legally married) and 'domestic partnership' as defined in the <i>Family Relationships Act</i> (which can include same sex couples).</p> <p>Under other provisions in the Act (including ss10,12, 13) certain persons that include 'spouses' and 'domestic partners' can be appointed by the court to be a 'manager' of the property of a 'protected</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p>	<p>3</p>	<p>Reform options include: The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require</p>

	<p>person' under the Act, and be invested with certain powers and rights, including powers to deal with property.</p>	<p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>
<p>Anangu Pitjantjatjara Yankunytjatjara Land Rights Act 1981</p>	<p>This Act contains provisions regulating entry to Mintabie precious stones field.</p> <p>Section 29C refers to rights of 'spouses' and 'domestic partners' to enter, and defines these terms within the provision. 'Domestic partner' is defined in the same terms as the <i>Family Relationships Act</i>.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children,</p>	3	<p>Reform options include: The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>

		and in particular for same sex couples who do not have the legal option of marriage.		
ANZAC Day Commemoration Act 2005	<p>Application of the fund established under the Act and administered by the Council.</p> <p>S16 provides that the fund can be used for matters including: payments for the welfare of spouses, domestic partners and children of deceased veterans.</p> <p>'Domestic partner' is given the same meaning as under the <i>Family Relationships Act</i>.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and, in particular, for same sex couples who do not have the legal option of marriage.</p>	3	<p>Reform options include:</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>
Aquaculture Act 2001	Section 65(2) of the Act deals with the composition of the Aquaculture Advisory Committee. It requires that at least 1 member of the AAC must be a woman and	This provision is designed to promote gender equity in board membership, however by adopting binary concepts	1	Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition

	at least 1 must be a man.	of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		provisions include people who identify as the specified gender (see AIA entry).
Art Gallery Act 1939	Section 5 of the Act deals with the composition of the Art Gallery Board. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Assisted Reproductive Treatment Act 1988	Part 2 of this Act deals with the process of registration and authorisation for practitioners to provide assisted reproductive treatment. Section 5 prohibits unauthorised provision of such treatments. However subsection (2) provides an exception for (a) assisted insemination provided by a health professional approved by the Minister; or (b) assisted insemination provided other than for fee or reward. Section 9 sets out the conditions that must be satisfied to be registered to provide such treatments. These conditions include	These provisions limit access to assisted reproductive treatment to a limited category of people, based on their sex, marital and relationship status and/or infertility. As a result, these provisions discriminate on the grounds of sex, sexual orientation and/or relationships by preventing or limiting access to reproductive treatment.	2	Reform options include: Amending section 9 so as to clarify that a person can access assisted reproductive treatment if, in the person's circumstances, they are unlikely to become pregnant other than by an assisted reproductive treatment, and amending the section so as to include the guiding principle that people

	that reproductive treatment must not be provided to anyone other than infertile women or infertile men who are living on a genuine domestic basis with a woman or if there appears to be a risk that a serious genetic defect, serious disease or serious illness would be transmitted to a child conceived naturally.			seeking to undergo assisted reproductive treatment procedures must not be discriminated against on the basis of their sexual orientation or marital status (see the relevant provisions of the <i>Assisted Reproductive Treatment Act 2008</i> (Vic);
Births Deaths and Marriages Registrations Act 1996 and Births Deaths and Marriages Regulations 2011 See also Official Form for Registering a Birth in South Australia	<p>Part 3 of the Act deals with the registration of births. If a child is born in SA, the 'responsible person' must notify the Registrar and lodge a statement containing the information required by regulation within 60 days after the birth. This information includes the 'sex' of the child (see <i>Births Deaths and Marriages Regulations 2011</i>).</p> <p>Some details - such as the child's name or parentage - can be changed on the Registrar, provided the criteria in the Act is followed (e.g. Part 4 sets out process for changing a name). There is no process for changing a person's sex under the Act.</p> <p>The Registrar has powers of inquiry (s41)</p>	<p>This Act requires every child born in SA to be identified in the Births Deaths and Marriages Registrar.</p> <p>The Regulations require information about a person's sex to be included in the information provided to the Registrar.</p> <p>The official form required only permits a person's sex to be entered as 'male' or 'female'. Gender diversity or intersex status is not recognised.</p> <p>The Act does not set out a</p>	2	<p>Possible reform options include:</p> <p>Repeal the <i>Sexual Reassignment Act 1988</i> and amend Part 3 of the <i>Births Deaths and Marriages Registration Act 1996</i> to (a) broadly reflect Division 2.2 of the <i>Births Deaths and Marriages Registration Act 1997</i> (ACT), which sets out a process for recording non-binary sex on the register and allows a third category of sex to</p>

	<p>and powers to change the registrar, but only in relation to a 'registrable event'.</p> <p>Under s4: "registrable event" means a birth, change of name, death or marriage and includes the making or discharge of a surrogacy order.</p>	<p>process for changing a person's sex once registered.</p> <p>For example, a 'registrable event' does not include change of sex.</p> <p><i>NB it is possible to change a person's sex on the BDM Registrar in the very limited circumstances prescribed by the Sexual Reassignment Act.</i></p>		<p>be indicated on the register and (b) insert a new 'Part 4A Change of Sex' based on Part 4 <i>Births Deaths and Marriages Registration Act 1997</i> (ACT) - which sets out a process to alter the register to record a change of sex that requires certain evidence (that could include a statutory declaration and/or documentation from doctor or psychologist) but does not require evidence of surgery.</p>
Burial and Cremation Act 2013	<p>Section 3 of this Act explains that a 'close relative' of a deceased person includes a spouse or domestic partner of the deceased.</p> <p>This has implications for the issue of cremation permits (s10), and service of documents before disposal of bodily remains (s12).</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria</p>	3	<p>Reform options include:</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership</i></p>

		(including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		<i>Property Act</i> and the <i>Family Relationships Act</i> .
Carer's Recognition Act 2005	<p>Section 4 of the Act includes definitions of 'spouse' and 'domestic partner'. These definitions refer to the relevant provisions in the <i>Family Relationships Act</i>.</p> <p>Section 5 of the Act defines 'carer' and provides that a person will be a carer for the purposes of this Act only because the person is a spouse, domestic partner, parent or guardian of the person to whom the care or assistance is being provided.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'de facto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the</p>	3	<p>Reform options include:</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>

		legal option of marriage.		
Carrick Hill Trust Act 1985	Section 5 of the Act deals with the composition of the Carrick Hill Trust. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Children's Protection Act 1993	Section 6 of the Act contains definitions of key terms. "Parent" is defined to include a stepmother or stepfather of the child; 'family' means the child's immediate family (including all guardians) and the child's extended family (that is to say, all other persons to whom the child is related by blood or marriage) and, in relation to an Aboriginal or Torres Strait Islander child, includes any person held to be related to the child according to Aboriginal kinship rules, or Torres Strait Islander kinship rules, as the case may require. 'Guardian', of a child, means a parent of the child, a person (other than the Minister) who is the legal guardian of the child or has the legal custody of the child or any other person who stands <i>in loco parentis</i> to the child and has done so for a significant length of time.	Under section 6 of this Act, the terms 'parent' and 'family' are defined largely along binary and heterosexual lines. This may operate to exclude families involving non-heterosexual parents or parents who are sex and/or gender diverse. For example, this provision indirectly discriminates against homosexual couples because they cannot marry.	1	Possible reform options include broadening the definition of parent to explicitly include all categories of parents under the <i>Family Relationships Act</i> . Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

	<p>These definitions have implications for other provisions in the Act, most significantly for the fundamental principles applying to the Act. Section 4 sets out these principles which include the need to preserve and strengthen relationships between the child, the child's parents and grandparents and other members of the child's family (whether or not the child is to reside with those parents, grandparents or other family members).</p> <p>Other relevant provisions include ss20,21,37,38 which relate to the court's powers to make orders in respect of children at risk as a result of drug abuse by a parent, guardian or other person</p> <p>The Act also contains provisions relating to the composition of the Child Death and Serious Injury Review Committee and the Council for the Care of Children. In both cases, the total number of members of the Committee must be men and at least one-third must be women.</p>			
Civil Liability Act 1936	<p>Section 3 of this Act contains an interpretation section. It defines: 'child' as including 'son, daughter, grandson, granddaughter, step-son and step-daughter'; 'domestic partner', as a person declared under the <i>Family Relationships Act 1975</i> to have been a domestic partner</p>	<p>Under section 3 of this Act, the terms 'parent' and 'child' are defined largely along binary and heterosexual/marital lines. This may operate to exclude families involving</p>	3	<p>Reform options include ensuring that the term 'parent' is broad enough to cover all parents recognised under the <i>Family Relationships Act</i>. The introduction a</p>

	<p>on the day on which the cause of action arose; a 'parent' as including a 'father, mother, grandfather, grandmother, step-father and step-mother'; and a 'spouse', as 'a person who was legally married to another on the day on which the cause of action arose'.</p> <p>These definitions have implications for a number of rights under the Act.</p> <p>Section 24 provides that a civil action brought under the Act in respect of a person whose death has been caused by a wrongful act or neglect will be for the benefit of the spouse, domestic partner, parent, brother, sister and child of the deceased person, and shall be brought by and in the name of the executor or administrator of the person deceased.</p> <p>Sections 29 and 30 set out the principles of liability that apply (and compensation payable) in respect of a surviving spouse or domestic partner of person wrongfully killed.</p> <p>Section 58 deals with the payment of damages in respect of gratuitous service. It provides that damages are not to be awarded for the recompense of gratuitous services except services of a parent, spouse, domestic partner or child of the injured person; or to allow for the</p>	<p>non-heterosexual parents or parents who are sex and/or gender diverse.</p> <p>The reference to 'domestic partners' in section 3 reflects efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>Consideration may also need to be given to whether the definition of 'domestic partner' in section 3 of this</p>	<p>Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p> <p>Or, in the alternative, clarifying that 'domestic partner' includes couples who fall within the definition of 'domestic partner' under the <i>Family Relationships Act</i> even if they are not registered as such under the Act.</p>
--	---	--	--

	<p>reimbursement of expenses, other than reasonable out-of-pocket expenses, voluntarily incurred, or to be voluntarily incurred, by a person rendering gratuitous services to the injured person.</p> <p>Section 65 provides limits circumstances in which a spouse or domestic partner may claim for loss or impairment of consortium suffered on account of personal injury arising from an motor accident.</p>	<p>Act requires a formal declaration of partnership by the court to be made or whether it would include a couple who falls within the definition of 'domestic partner' under the <i>Family Relationships Act</i>.</p>		
Climate Change and Greenhouse Gas Emissions Reduction Act 2007	<p>Section 9 of the Act deals with the composition of the Premier's Climate Change Council. It provides that at least 1 member must be a woman and at least 1 must be a man.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004	<p>Section 4A of the Act deals with the appointment of Assistant Commissioners. It provides that the Government must appointment 2 Assistant Commissioners - 1 must be male and the other female.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

<p>Consent to Medical Treatment and Palliative Care Act 1995</p>	<p>Under section 4 of this Act, 'parent' is defined as including a 'step parent' and 'an adult who acts <i>in loco parentis</i> in relation to the child;.</p> <p>Part 2 of the Act deals with consent to medical treatment generally, and section 12 deals specifically with the administration of medical treatment to a child. It sets out the circumstances in which a medical practitioner may administer medical treatment to a child, which include where the parent or guardian consents.</p> <p>Section 13 deals with the circumstances in which a medical practitioner can administer medical treatment in an emergency. It provides that if the patient is a child, and a parent or guardian of the child is available to decide whether the medical treatment should be administered, the parent's or guardian's consent to the treatment must be sought but the child's health and well-being are paramount and if the parent or guardian refuses consent, the treatment may be administered despite the refusal if it is in the best interests of the child's health and well-being.</p> <p>Part 2A of the Act deals with consent to medical treatment if a person has an impaired decision-making capacity. This</p>	<p>Under section 6 of this Act, the term 'parent' is defined largely along binary and heterosexual/marital lines. This may operate to exclude families involving non-heterosexual parents or parents who are sex and/or gender diverse.</p> <p>Reference is also made to a person's 'domestic partner' as having certain dispute resolution related rights under the Act.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples,</p>	<p>3</p>	<p>Options for reform include :</p> <p>Broadening the definition of parent to explicitly include all categories of parents under the <i>Family Relationships Act</i>.</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
---	---	---	----------	--

	<p>Part of the Act defines ‘prescribed relative’ of a patient to include a person who is legally married to the patient and an adult domestic partner of the patient (within the meaning of the <i>Family Relationships Act 1975</i>). ‘Prescribed relative’ also includes an adult related to the patient by blood or marriage; an adult related to the patient by reason of adoption; and an adult of Aboriginal or Torres Strait Islander descent who is related to the patient according to Aboriginal kinship rules or Torres Strait Islander kinship rules (as the case requires). The section also provides that if a man and woman are married according to Aboriginal tradition, they will be regarded as legally married for the purposes of this Part.</p> <p>Part 3A of the Act deals with dispute resolution. It sets out the people who are eligible to participate in dispute resolution, reviews and appeals. This includes a ‘parent’ or ‘guardian’, or any other person who satisfies the Public Advocate or Tribunal (as the case requires) that he or she has a proper interest in the matter.</p>	resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		
Community Titles Act 1996	Section 3 of this Act contains interpretive provisions. Under this section ‘domestic partner’ means a person who is a domestic partner within the meaning of the <i>Family Relationships</i>	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same	3	Options for reform include: The introduction a Relationships Register,

	<p><i>Act 1975</i>, whether declared as such under that Act or not; 'relative' means 'the spouse, domestic partner, parent or remoter lineal ancestor, son, daughter or remoter issue or brother or sister of the person'. Further, 'spouse' refers to a person who is legally married.</p> <p>These definitions have implications for whether or not someone is considered an 'associate' of another person for the purpose of the Act. Section 4 defines who constitutes an 'associate'. This includes relatives, and a guardian and a child or a guardian and partners.</p> <p>This in turn has implications for other provisions in the Act, primarily those dealing with who can vote at General Meetings and who is entitled to institute or participate in dispute resolution processes (see sections 79, 84, 87 and 142).</p>	<p>sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
Cooperatives Act 1997	<p>Section 6(2) of the Act deals with 'democratic member control'. It provides that '[m]en and women' serving as elected representatives are accountable to the membership.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

<p>Correctional Services Act 1982</p>	<p>Section 4 of this Act contains interpretive provisions. Under this section 'domestic partner' means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'immediate family' of a victim means a spouse or domestic partner, a parent, a grandparent, a child or grandchild or a brother or sister; 'parent' includes a person who stands in the position, and undertakes the responsibilities, of a parent; and 'spouse' relates to two people who are legally married.</p> <p>Section 23 of the Act sets out the process for the initial and periodic assessment of prisoners. In carrying out such assessments regard must be had to a range of personal characteristics about the prisoner, including their 'sex' and their 'family ties' (s23(3)).</p> <p>Section 37 sets out the process for searching a prisoner's person or property.</p> <p>Subparagraph 37(2)(a) provides that 'those present at any time during the search when the prisoner is naked, except a medical practitioner, must be of the same sex as the prisoner'. Searches can involve a prisoner being required to: open his or her mouth, strip, adopt particular</p>	<p>This Act contains provisions that refer to binary notions of sex and gender that may operate to have a discriminatory impact on gender diverse people and some people with intersex variants. In particular, section 23 of the Act (which deals with assessments) and section 37 (which deals with searches) require a person's 'sex' to be considered and require a person of the same 'sex' as a prisoner to be present when the prisoner is naked (for the purposes of a search).</p> <p>Other provisions of the Act reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria</p>	<p>1</p> <p>3</p>	<p>Reform options include:</p> <p>Amending sections 23 and 37 to enable the person subject to the search or assessment to request that it be conducted by a person of the same sex or gender identity (unless the person being searched or assessed requests otherwise);</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation; and</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
--	--	--	-------------------	--

	<p>postures or 'do anything else reasonably necessary for the purposes of the search'.</p> <p>Section 68 of the Act sets out the conditions that can be placed on a person released on parole. These include a condition preventing the prisoner from providing or offering to provide accommodation to a child who is not related to the prisoner by blood or marriage or of whom the prisoner does not have lawful custody.</p> <p>The Act also provides for the continued existence of the Correctional Services Advisory Council, and requires that (among other criteria) one of the members of the Advisory Council must be a woman and at least one must be a man (s10).</p> <p>Section 55 of the Act provides for the continuation of the Parole Board Of South Australia and requires, along with other criteria, that the Board include 'both women and men'.</p>	<p>(including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The Board composition provisions aim to facilitate equal representation of men and women on the Board. They do not include non-binary concepts of sex or gender.</p>		
Criminal Assets Confiscation Act 2005	<p>Pursuant to section 3 of this Act, a 'dependant' of a person means: a spouse or domestic partner of the person; or a child of the person who depends on the person for support; or a member of the person's household who depends on the person for support. 'Domestic partner' means a person who is a domestic</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic</p>	3	<p>Options for reform include:</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples</p>

	<p>partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; and 'spouse' means a person who is legally married.</p> <p>The meaning of these terms has implications for other provisions in the Act. Pursuant to section 7, which sets out what does and does not constitute proceeds of an offence, property ceases to be proceeds of an offence or an instrument of an offence if it has been distributed in accordance with an order in proceedings under the Domestic Partners Property Act 1996 and 6 years have elapsed since that distribution (s7(2)(d)).</p> <p>The meaning of these terms also has relevance for the provisions relating to restraining orders. Section 131 provides that if an application for a restraining order has been made, or a restraining order is in force, the court may examine a spouse or domestic partner of the person subject to the restraining order about the affairs of the person. Section 132 contains a similar provision, authorising the examination of spouses and domestic partners in respect of a person subject to an application for an order for confirmation of forfeiture.</p>	<p>partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>
Criminal Law (Forensic	Section 3 of this Act defines the term 'closest available next of kin'. In relation to	The key terms used in this Act relating to 'kin' reflect	3	Options for reform include:

<p>Procedures) Act 2007</p>	<p>a child, this means a parent of the child, a brother or sister of the child, a guardian of the child. In relation to any other person, this means the spouse or domestic partner of the person, a son or daughter of the person, a parent of the person, a brother or sister of the person. Section 3 defines 'domestic partner' by reference to the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; and 'spouse' as two people who are legally married. Section 3 also defines 'intrusive forensic procedure' as including 'a forensic procedure that involves exposure of, or contact with, the genital or anal area, the buttocks or, in the case of a female, the breasts ...'.</p> <p>Part 2 of the Act deals with the process of authorisation of forensic procedures. Division 1 relates to Volunteers and victims procedures. Section 6 is the interpretation provision for this Division. Under a forensic procedure proposed to be carried out on a protected person (that is a child or other vulnerable person) under this Division, — the closest available next of kin of the child ; or he person's guardian or, if the person does not have a guardian, the closest available next of kin of the person.</p> <p>Part 3 of the Act deals with how forensic</p>	<p>binary notions of sex and gender (e.g. 'brother', 'sister', 'son' daughter' etc) and heterosexual notions of family.</p> <p>It is not clear that terms such as 'parent' and 'child' (undefined in this Act) would include same sex families.</p> <p>However, some interpretive guidance may be gained from the fact that the Act also includes a 'domestic partners' within the definition of 'kin', reflecting efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples,</p>	<p>1</p>	<p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation;</p> <p>Amend relevant provisions in Part 3 relating to forensic procedures to remove the reference to 'female' and provide that the person subject to the procedure has the right to have the procedure undertaken by a person of the same sex or gender identity (unless otherwise requested); and</p> <p>Amend s21 to replace the term 'opposite sex' with the term 'different sex'; and</p>
------------------------------------	--	--	----------	--

	<p>procedures are carried out. Section 21 provides that forensic procedures are to be carried out humanely. Subsection 21(3) provides that if reasonably practicable, a forensic procedure that involves exposure of, or contact with, the genital or anal area, the buttocks or, in the case of a female, the breasts must not be carried out by a person of the opposite sex (other than at the request of the person on whom the forensic procedure is to be carried out).</p> <p>Part 4 of the Act deals with how forensic material is to be dealt with. Section 35 sets out particular rights of representation for children and other 'protected persons' by their closest available next of kin or guardian. These rights of representation apply in respect of the destruction of forensic material obtained by carrying out volunteers and victims procedure (s39).</p> <p>Part 5 of the Act deals with the DNA database system. Section 43 sets out the specific consent required for storage of DNA profile on a volunteers index. It provides for children and protected persons to be represented by their closest available next of kin or guardians.</p>	<p>resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The Act also contains specific provisions relating to intrusive forensic procedures taken in respect of a 'female'. These provisions are designed to promote gender sensitivity, but as currently drafted may discriminate against sex and/or gender diverse people who identify as female but may not legally be recognised as such.</p>		
Criminal Law Consolidation	Section 5 is a general interpretation provision. It defines 'domestic partner' in	This Act contains a range of criminal offences relating to	3	Reform options include: Including an inclusive

<p>Act 1935</p>	<p>the same terms as the <i>Family Relationships Act 1975</i>. 'Spouse' is defined as a person who is legally married.</p> <p>Section 5 defines 'sexual intercourse' as including any activity (whether of a heterosexual or homosexual nature) consisting of or involving (a) penetration of a person's vagina, labia majora or anus by any part of the body of another person or by any object; or (b) fellatio; or (c) cunnilingus, and includes a continuation of such activity.</p> <p>Further interpretative provisions are contained throughout the Act including section 269A which defines "next of kin" as a person's spouse, domestic partner, parents and children.</p> <p>Section 5AA deals with aggravated offences. Aggravated offences include circumstances where the offender committed the offence knowing that the victim of the offence was: a current or former spouse or domestic partner of the offender; or a child of whom the offender or a spouse/domestic partner of the offender has custody as a parent or guardian or a child who normally resides with the offender or a spouse/domestic partner of the offender.</p>	<p>the abuse of children, some of which incorporate references to the child's parent, or guardian. The term 'parent' is not defined in the Act.</p> <p>This Act also contains offence provisions that involve conduct directed at or involving women - such as female genital mutilation and abortion.</p> <p>The Act also contains offence provisions relating to sexual activity that include defences for people who are legally married.</p> <p>Some provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria</p>	<p>definition of 'parent' that would explicitly include all categories of parents under the <i>Family Relationships Act</i> and/or parents in non-heterosexual relationships or sex and/or gender diverse parents;</p> <p>Removing the defence of marriage in certain sexual offences or alternatively, considering extending these defences to include 'domestic partners', as defined under the <i>Family Relationships Act</i> and/or as per the proposed introduction of a Relationship Register based on the NSW approach;</p> <p>Reviewing Division 8 of Part 3 (dealing with offences relating to female genital mutilation) to consider whether and how these offences could be</p>
------------------------	--	---	---

	<p>This Act contains numerous offences involving children, some of which also refer to the child's parent or guardian. A number of these offences refer to the 'parent, guardian or other person, having the lawful care of the child'.</p> <p>The Act contains a number of offences that refer to the spouse or domestic partner of the person.</p> <p>For example, section 49 of the Act makes sexual intercourse a criminal offence in certain circumstances including where a person who has sexual intercourse with a person under the age of seventeen years. Subsection (8) provides that this section does not apply to sexual intercourse between persons who are married to each other.</p> <p>Section 51 prohibits sexual exploitation of person with a cognitive impairment, but subsection (3) states that this provision does not apply in relation to a person who is legally married to the person with a cognitive impairment or is the domestic partner of that person. 'Domestic partner' is defined in the same terms as the <i>Family Relationships Act</i>.</p> <p>The Act also contains offences that apply to a particular sex or gender. Section 59 prohibits the abduction of any 'male or</p>	<p>(including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	<p>extended to provide protection against unnecessary, non-consensual surgery on children with intersex variants, having regard to the findings of the Senate Standing Committees on Community Affairs, Parliament of Australia, Canberra, <i>Report into the involuntary or coerced sterilisation of people with disabilities in Australia</i> (2012); and</p> <p>Reviewing Division 17 of Part 3 to remove the reference to 'females' who are pregnant.</p>
--	--	---	---

	<p>female person' with intent to marry, or to have sexual intercourse with, that other person; or with intent to cause that other person to be married to, or to have sexual intercourse with, a third person.</p> <p>Section 72 of the Act prohibits incest, which it defines to mean sexual intercourse with a 'close family member'. 'Close family member', is defined in subsection 72(3) to mean a parent, child, sibling (including half brother or sister), grandparent, or grandchild of the person, 'but does not include such a family member related to the person by marriage or adoption alone.'</p> <p>Division 8 of Part 3 - of the Act deals with female genital mutilation. Section 33 defines 'female genital mutilation' as (a) clitoridectomy; or (b) excision of any other part of the female genital organs; or (c) a procedure to narrow or close the vaginal opening; or (d) any other mutilation of the female genital organs, but does not include a sexual reassignment procedure or a medical procedure that has a genuine therapeutic purpose. 'Sexual reassignment procedure' is defined as a surgical procedure to give a female, or a person whose sex is ambivalent, genital characteristics, or ostensible genital characteristics, of a male.</p>			
--	--	--	--	--

	<p>Section 33A contains a general prohibition of female genital mutilation, which applies irrespective of whether the victim, or a parent or guardian of the victim, consents to the mutilation. Section 33B contains the offence of removal of child from the State for genital mutilation.</p> <p>Division 17 of Part 3 deals with abortion. Section 81 makes it an offence for a 'woman' who is with child to procure her own miscarriage. Other offences in this Division include: section 82, procuring drugs etc to cause abortion; section 83 concealment of birth, and section 82A medical termination of pregnancy. For the purposes of these provisions, 'woman' means any female person of any age.</p> <p>Section 22 deals with conduct that falls outside the ambit of the Act because the victim lawfully consented to the conduct causing harm. Subsection 22(2) provides that 'lawful consent given on behalf of a person who is not of full age and capacity by a parent or guardian will be taken to be the consent of the person for whom the consent was given'. Subsection 22(3) provides that a person may consent to harm (including serious harm) if the nature of the harm and the purpose for which it is inflicted fall within limits that are generally</p>			
--	---	--	--	--

	accepted in the community. This provision gives the following example of such conduct: '[a]person may (within the limits referred to above) consent to harm that has a religious purpose (e.g. male circumcision but not female genital mutilation).'			
Development Act 1993	<p>Section 8(4) of the Act deals with the composition of the Advisory Committee. It provides that at least 1 member must be a woman and at least 1 member must be a man.</p> <p>Section 10(4) deals with the composition of the Development Assessment Commission. It provides that at least 1 member must be a woman and at least 1 member must be a man.</p> <p>Section 56A(3) deals with the composition of Development Assessment Panels. It provides that, insofar as it is reasonably practicable, the panel should consist of equal numbers of men and women.</p>	These provisions are designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Disability Services Act 1993	Schedule 1 contains the principles that should be applied to the provision of disability services under the Act. These principles include references to the right of people with disability to realise their potential for sexual development, and that discrimination on the grounds of gender	The discriminatory impact of this provision depends upon the meaning attributed to 'gender'. The term is not currently defined in the <i>Acts Interpretation Act</i> and could be interpreted to apply exclusively to binary notions	1	Amend section 4 to include the terms 'gender identity' and 'intersex status' in the dictionary section of the Act, to be defined by reference to or in identical terms as the relevant terms in the <i>Sex</i>

	<p>also be taken into account.</p> <p>Schedule 2 sets out the objectives that apply to the delivery and administration of disability services. These objectives include taking into account any further disadvantage suffered as a result of their gender, (and other listed attributes).</p>	<p>of gender (i.e. male and female).</p>		<p><i>Discrimination Act 1984</i> (Cth).</p> <p>Replace the existing gender-related rule in section 26 of the AIA with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: 'words importing a gender include every other gender'.</p>
<p>Domicile Act 1980</p>	<p>Section 7 of this Act provides that a person is capable of having an independent domicile if they are 18 years old or over, or if they have been married (subject to provisions relating to mental incapacity).</p> <p>Section 8 of the Act deals with the domicile of children. For this purpose of this provision, 'child' means 'a person under the age of eighteen years who is not, and has not at any time been, married', and references to the parents of a child include references to parents who are not married to each other. The provision sets out the rules that apply to determine the domicile of a child whose parents are living separately and apart, as well as the rules that apply to the domicile of a child who is adopted.</p>	<p>These provisions contain certain rules for determining a person's domicile that include references to 'marriage'. As a result, some of these provisions may operate to exclude non-heterosexual couples, however, the provisions relating to the domicile of children apply equally to children of parents who are not married.</p> <p>The Act also contains a provision (s5) designed to remove a discriminatory presumption relating to the domicile of married women.</p>	3	<p>Possible reform options include:</p> <p>Repealing the reference to marriage in section 7 or replacing this term with a term that includes 'domestic partners' (or 'registered relationships' should the above recommendation be adopted).</p>

	Section 5 of this Act abolishes the rule of law whereby a married woman has at all times the domicile of her husband.			
Dog and Cat Management Act 1995	Section 12(4) of the Act deals with the composition of Board. It provides that at least 1 member must be a woman and at least 1 member must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Domestic Partners Property Act 1996 <i>No regulations</i>	<p>This Act sets out a framework for the making of 'domestic partnership agreements'. These agreements are about the division of property on the termination of a domestic partnership or any other matter related to a domestic partnership. They must be in writing and signed by each party (s5) and can be certified by lawyers and adjudicated by a court.</p> <p>Section 3 defines key terms in the Act.</p> <p>A 'domestic partner' is a person who lives in a close personal relationship (including those about to enter such a relationship, and those who have previously lived in such a relationship).</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>The introduction of the framework for the making of 'domestic partnership agreements' has improved the rights of non-heterosexual couples and families to manage their property and to</p>	3	<p>Possible reform options include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>

	<p>A 'child' of domestic partners is defined as a child of which the domestic partners are the natural parents or a child of the female partner whose male partner is presumed to be the father of the child under an Australian law; or a child adopted by the partners; 'close personal relationship' is defined in the same terms as under the <i>Family Relationships Act</i> (i.e. includes 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis).</p> <p>A domestic partnership is subject to, and enforceable under, the law of contract (s6) can be revoked by a written or oral agreement (unless certified, in which case it may only be varied by a certified domestic partnership agreement (s7). Under section 8 of the Act, the court retains the power to set aside or vary the agreement to avoid injustice.</p> <p>After a domestic partnership ends, either of the domestic partners may apply to a court for the division of property (s9) provided certain criteria are met. This includes the requirement that the domestic partnership existed for at least 3 years or there is a child of the domestic partners.</p> <p>On an application for the division of</p>	<p>form agreements as to how matters should be handled in the event of the termination of the relationship.</p> <p>However, discrimination may still arise from this Act when compared with the approach taken to the distribution of property between separated married couples, and their rights to enter into agreements as to how matters should be handled in the event of the termination of the relationship.</p> <p>For example, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		
--	---	--	--	--

	<p>property after the end of a domestic partnership, the court may make such orders as it considers necessary to divide between the domestic partners the property of either or both partners in a way that is just and equitable (s10). Section 11 of the Act sets out the matters for consideration by a court when making an order for the division of property. These include the financial and non-financial contributions made directly or indirectly by or on behalf of the domestic partners to the property of either partner, the financial circumstances of each partner, as well as the contributions (including homemaking or parenting contributions) made by either of the domestic partners to the other partner or to children of the partners or either of them. The court must also have regard to the term of the domestic partnership agreement.</p>			
<p>Education and Early Childhood Services (Registration and Standards) Act 2011</p>	<p>Section 22 provides that in addition to meeting a range of other requirements, the Minister should, as far as is reasonably practicable, endeavour to achieve a gender balance on the Board.</p>	<p>This provision is designed to promote gender equity in board membership. By using the term 'gender balance' this provision avoids reliance on adopting binary concepts of gender. However, further clarity may be required to ensure that the provision is</p>	<p>1</p>	<p>Amend section 4 to include the terms 'gender identity' and 'intersex status' in the dictionary section of the Act, to be defined by reference to or in identical terms as the relevant terms in the <i>Sex Discrimination Act 1984</i></p>

		inclusive of a person who is intersex or gender diverse		(Cth). Replace the existing gender-related rule in section 26 with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: 'words importing a gender include every other gender'.
Economic Development Act 1993	Section 9(3) of the Act deals with the composition of the Board. It provides that at least 1 member must be a woman and at least 1 member must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Electoral Act 1985	Section 29 of this Act deals with entitlement to enrolment. Subsection 29(4) deals with prisoners and their place of residence. It contains a number of presumptions as to the prisoner's place of residence immediately prior to imprisonment and subparagraph 29(4)(b) refers to 'a parent, spouse, domestic	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic	3	Possible reform options include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic

	partner or child of the prisoner'. Subsection 29(6) defines 'domestic partner' as a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i> , whether declared as such under that Act or not; 'spouse' is defined as a person who is legally married.	partner' in the <i>Family Relationships Act</i> . However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i> .
Electricity Corporations Act 1994	Section 42(4) of the Act deals with the composition of the Board. It provides that at least 1 member must be a woman and at least 1 member must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender, it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Emergency Management Act 2004	Section 6(5) of the Act deals with the composition of the Board. It provides that at least 1 member must be a woman and at least 1 member must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as

		person who is intersex or gender diverse, leaving open the possibility of discrimination.		the specified gender (see AIA entry).
Equal Opportunity Act 1984	<p><i>Meaning of Key Terms</i></p> <p>Section 5 of the Act defines key terms including: 'close personal relationship' and 'domestic partner' which are defined in the same terms as the <i>Family Relationships Act</i>.</p> <p>Pursuant to s5, 'marital or domestic partnership status' means the status or condition of (a) being single; or (b) being married; or (c) being married but living separately and apart from one's spouse; or (d) being divorced; or (e) being widowed; or (f) being a domestic partner.</p> <p>The term 'near relative' of a person is defined to mean a spouse, domestic partner, parent, child, grandparent, grandchild, brother or sister.</p> <p>The term 'sexuality' means 'heterosexuality, homosexuality or bisexuality'.</p> <p>The term 'spouse' refers to a person who is legally married.</p> <p>Subsection 5(2) also makes it clear that a reference in the Act to the provision of a service does not include 'the carrying out</p>	<p>While this Act aims to prohibit certain forms of discrimination on the grounds of a person's sex, sexuality or 'chosen gender', some provisions contain features that fail to provide adequate protection against discrimination for gender diverse and intersex people.</p> <p>For example, the Act does not include a reference to the term 'intersex'.</p> <p>The concept of 'chosen gender' may be particularly problematic, as it may not adequately reflect the experience of gender diverse people for whom their gender is integral to their identity rather than being an attribute that is 'chosen'.</p> <p>The test for demonstrating when discrimination has occurred may also give rise to considerable barriers for</p>	2	<p>Possible reform options include:</p> <p>Amend ss5, 29 and Part 3 of the <i>Equal Opportunity Act 1984</i> (SA) to:</p> <p>Replace the term 'sexuality' with '<i>sexual orientation</i>' to be defined as per SDA (Cth) s4; replace the term 'chosen gender' with '<i>gender identity</i>' defined as per SDA (Cth) s4; insert a new provision 5(6) '<i>intersex status</i>' to be defined as per SDA (Cth) s4; and replace the term 'opposite sex' with the term 'different sex'.</p> <p>Initiate a separate, detailed review of all exceptions and exemptions to unlawful discrimination under the <i>Equal Opportunity Act 1984</i></p>

	<p>of either of the following fertilisation procedures: (a) artificial insemination; or (b) the procedure of fertilising an ovum outside the body and transferring the fertilised ovum into the uterus.'</p> <p>Pursuant to subsection 5(5) a person is a person of a "chosen gender" if — (a) the person identifies on a genuine basis as a member of the opposite sex by assuming characteristics of the opposite sex (whether by means of medical intervention, style of dressing or otherwise) or by living, or seeking to live, as a member of the opposite sex; or (b) the person, being of indeterminate sex, identifies on a genuine basis as a member of a particular sex by assuming characteristics of the particular sex (whether by means of medical intervention, style of dressing or otherwise) or by living, or seeking to live, as a member of the particular sex.</p> <p><i>Prohibition on Unlawful Discrimination</i></p> <p>Part 3 of the Act prohibits discrimination on ground of sex, chosen gender or sexuality.</p> <p>Section 29 details the test to be applied when determining whether unlawful discrimination has occurred on these</p>	<p>sex and/or gender diverse people, including intersex people, particularly in light of the use of the comparator test.</p> <p>The range of exemptions that authorise discrimination that is otherwise illegal may also undermine the protective aims of these laws, and leave people who experience discrimination in these circumstances on the grounds of sex, sexuality or 'chosen gender' without legal remedy.</p>		<p>(SA). This should be done with a view to determining whether each exception or exemption remains necessary. n.</p>
--	---	---	--	---

	<p>grounds. This test is based around the concept of 'unfavourable treatment' because of the protected attribute and incorporates both direct and indirect forms of discrimination.</p> <p>Division 2 of Part 3 deals with discrimination on these grounds against workers. Subsection 34 contains exceptions.</p> <p>Division 3 of Part 3 deals with discrimination by other bodies. Subsections 35(2) and (2a) provide exemptions for discrimination on the grounds of sex, sexuality and chosen gender in relation to certain aspects of association membership or benefits or service.</p> <p>Division 4 of Part 3 deals with discrimination on the grounds of sex, sexuality or chosen gender in the area of education. Subsection 37(3) provides that this section does not apply to discrimination on the ground of sex in respect of an educational institution established wholly or mainly for students of the one sex.</p> <p>Division 5 of Part 3 deals with discrimination in relation to land, goods, services and accommodation. Subsection 39(2) explains that if 'the nature of a skill</p>			
--	--	--	--	--

	<p>varies according to whether it is exercised in relation to men or to women, a person does not contravene this section by exercising the skill in relation to men only, or women only, in accordance with the person's normal practice'.</p> <p>Section 40 deals with discrimination in relation to accommodation, making it unlawful to, for example, refuse an application for accommodation on the grounds of a person's sex, sexuality or chosen gender. Section 40 contains exceptions.</p> <p><i>General Exemptions from Part 3</i></p> <p>Division 7 of Part 3 contains a number of general exemptions from the prohibitions on discrimination outlined above.</p> <p>Section 45 provides that Part 3 does not affect a provision in a charitable instrument for conferring benefits.</p> <p>Section 47 provides that Part 3 does not render unlawful an act done for the purpose of carrying out a scheme or undertaking intended to be for the benefit of a person of particular sex, chosen gender, or sexuality.</p> <p>Section 48 deals with exceptions relating to sport. Section 49 deals with exemptions</p>			
--	---	--	--	--

	<p>relating to insurance.</p> <p>Section 50 deals with exemptions relating to religious bodies. It provides that Part 3 does not 'render unlawful discrimination in relation to (a) the ordination or appointment of priests, ministers of religion or members of a religious order; or (b) the training or education of persons seeking ordination or appointment as priests, ministers of religion or members of a religious order; or (ba) the administration of a body established for religious purposes in accordance with the precepts of that religion; or (c) any other practice of a body established for religious purposes that conforms with the precepts of that religion or is necessary to avoid injury to the religious susceptibilities of the adherents of that religion.'</p> <p><i>Other relevant provisions</i></p> <p>Section 86 of the Act contains a general prohibition on victimisation.</p> <p>Section 87 contains a prohibition on sexual harassment (which includes making a statement of a sexual nature to a person, or in the presence of a person) in a wide variety of circumstances including at the workplace, at an educational authority, or in the course of offering or supplying goods or services</p>			
--	--	--	--	--

	<p>or providing accommodation.</p> <p>Section 87A contains a prohibition on refusing an application of accommodation on the grounds that the applicant intends to share that accommodation with a child.</p> <p>Section 87B contains specific protections against discrimination for a student who is breastfeeding.</p> <p>Section 89 sets out the process that is required when an insurance company proposes to discriminate against a person based on actuarial or statistical data. Part 7 of the Act empowers the Tribunal to grant exemptions from a provision of the Act in relation to a person or group of people, or class of activity. Such an exemption can be conditional or apply unconditionally. The maximum period for such an exemption is 3 years.</p>			
Evidence Act 1929	<p>Section 4 contains the interpretation provision. It provides that 'domestic partner' means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'spouse' means a person who is legally married.</p> <p>Section 21 of the Act deals with competence and compellability of witnesses. Subsection 21(2) provides</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p>	3	<p>Options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years</p>

	<p>that “[w]here a person is charged with an offence and a close relative of the accused is a prospective witness against the accused in any proceedings related to the charge (including proceedings for the grant, variation or revocation of bail, or an appeal at which fresh evidence is to be taken) the prospective witness may apply to the court for an exemption from the obligation to give evidence against the accused in those proceedings.’</p> <p>Subsection 21(3) then provides the court with the discretion to exempt the prospective witness, wholly or in part, from the obligation to give evidence against the accused in the proceedings before the court. Subsection (7) provides that for the purpose of the section, ‘close relative’ of an accused person means a spouse, domestic partner, parent or child.</p> <p>Section 34H of the Act provides that ‘[i]n any proceedings a husband or wife may give evidence proving or tending to prove that he or she did or did not have sexual relations with his or her spouse, notwithstanding that any such evidence would prove or tend to prove that any child born to the wife during marriage was illegitimate.’</p>	<p>However, the current definition of ‘domestic partner’ includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The Act also refers to husband and wife (s34H) and ‘illegitimate’ children. This provision discriminates against non-heterosexual couples and assumes binary notions of sex and gender. However, its implications appear limited to clarifying that a husband or wife may give evidence proving or tending to prove that he or she did or did not have sexual relations with his or her spouse. As a result, the discriminatory impact of this provision is likely to be limited.</p>		<p>of cohabitation</p> <p>Repeal s34H.</p>
--	---	--	--	--

<p>Fair Work Act 1994</p>	<p>Section 4 of the Act defines 'domestic partner' in the same terms as the <i>Family Relationships Act 1975</i>. The term 'family' is defined to include: a spouse or domestic partner; a child; a parent; any other member of the person's household; or any other person who is dependent on the person's care. The term 'spouse' is defined as a person who is legally married.</p> <p>Section 6 deals with the application of the Act, and makes it clear that the Act does not apply to employment by the employee's spouse, domestic partner.</p> <p>Section 77 deals with the form and content of an enterprise agreement and provides that such an agreement must 'provide that sick leave is available, subject to limitations and conditions prescribed in the agreement, to an employee if the leave becomes necessary because of the sickness of a child, spouse, domestic partner, parent or grandparent (unless the agreement specifically excludes the extension of sick leave to such circumstances)' (s77(1)(e)).</p> <p>Section 90A deals with equity in remuneration and provides that when making an award regulating remuneration, the Commission must take all reasonable</p>	<p>This Act contains provisions designed to promote equity in remuneration for men and women doing work of equal or comparable value is applied (insofar as may be relevant).</p> <p>The binary nature of terms 'men' and 'women' may exclude some people who are sex or gender diverse, however this discrimination may be justified on the grounds that is a measure designed to ensure substantive gender equality in the area of remuneration or to provide for maternity leave for women following birth.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'de facto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p>	<p>1</p> <p>3</p>	<p>Reform options include:</p> <p>Replace the existing gender-related rule in section 26 with a new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: 'words importing a gender include every other gender'.</p> <p>Remove references to 'female' employees being pregnant; and instead refer simply to employees who are pregnant - so as to permit any pregnant employee (regardless of previous or current gender) to access relevant benefits.</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
----------------------------------	--	--	-------------------	---

	<p>steps to ensure that the principle of equal remuneration for men and women doing work of equal or comparable value is applied (insofar as may be relevant).</p> <p><u>Maternity Leave</u></p> <p>Section 3 of the Act provides that maternity leave is to start 6 weeks before birth - that is, a female employee who has given notice of her intention to take parental leave for the birth of a child must start the leave 6 weeks before the expected date of birth unless a medical practitioner has certified that the employee is fit to work close to the expected date of birth.</p>	<p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued</p> <p>discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		
<p>Family Relationships Act 1975 and Family Relationships Regulations 2011 - only indirectly relevant as they refer to</p>	<p>Interpretive provisions:</p> <p>Section 5 includes reference to 'child born outside of marriage'.</p> <p>Part 2 of the Act deals with children and includes provisions governing 'recognition of paternity'.</p> <p>Section 8 contains a presumption of paternity for children born within a marriage, or within 10 months of a dissolution of a marriage. This</p>	<p>While important changes have been made in the last 9 years, many provisions of this Act assume couples to be heterosexual and married.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace</p>		<p>Possible areas for reform include:</p> <p>Making it clear that a domestic partnership can include two people whether or not of the same or opposite sex or gender;</p> <p>Removing provisions that impose strict cohabitation</p>

<p><i>counselling services required under surrogacy provisions</i></p>	<p>presumption extends to a couple in a "qualifying relationship", which is defined in section 10A as including 'a marriage-like relationship' between 2 people who are domestic partners (whether of the same or opposite sex).</p> <p>Section 9 of the Act sets out a process for obtaining a declaration of a parentage, which can be obtained if there is a dispute or uncertainty as to the child's father or 'co-parent'.</p> <p>Part 2A of the Act deals with children conceived following fertilisation procedures.</p> <p>For the purposes of this Part of the Act 'married woman' or 'wife' includes a woman who is living with a man as his wife on a genuine domestic basis; and 'husband' has a correlative meaning; 'qualifying relationship' means a marriage-like relationship between 2 people who are domestic partners (whether of the same or opposite sex) (s10A).</p> <p>Section 10C sets out the rules relating to parentage in respect of children conceived as a result of a fertilisation procedure. These rules provide that if a woman who is legally married or in a qualifying relationship undergoes, with the consent of her husband or domestic</p>	<p>the term 'defacto' with a new definition of 'domestic partner' (see in particular Part 3).</p> <p>The category of 'domestic partner' provides important legal recognition for same sex couples that can then be referred to in other provisions in the Act - and in other SA laws - that previously attributed rights or status to 'defacto couples'.</p> <p>However, as outlined in this table, this process was not comprehensive and discriminatory treatment that disadvantages same sex couples remains.</p> <p>In particular, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the</p>	<p>requirements on non-married parents who have children born as a result of assisted reproductive treatments;</p> <p>Reforming the definition of 'qualifying relationship' with one term that could encompass married couples and domestic partners without elevating the status of married partners;</p> <p>Replacing the references to 'marriage' in the presumption of paternity provisions with an approach that applies equally to married parents and those in a domestic partnership;</p> <p>Reform Part 2A of the Act to remove references to 'married woman' or 'wife' and other gendered terms and instead refer to a particular 'qualifying relationship' that would</p>
---	--	--	--

	<p>partner (as the case requires), a fertilisation procedure in consequence of which she becomes pregnant, then, for the purposes of the law, the husband or domestic partner will be taken to be the father or co-parent of any child born as a result of the pregnancy. The same result will be presumed even if the pregnancy arises from a fertilisation process involving the sperm of another man (i.e. not the husband or co-parent).</p> <p>Part 2B of the Act deals with lawful surrogacy and makes it clear that only 'recognised surrogacy agreements' (that do not involve any commercial exchange or financial reward) are lawful.</p> <p>Surrogacy agreements are subject to a range of conditions set out in s10HA. These include the requirement that the 'the commissioning parents' are either legally married or have cohabited continuously together as <i>de facto</i> husband and wife for a prescribed period. This provision makes it clear that 'husband' and 'wife' does not include same sex couples.</p> <p>Part 3 of the Act concerns 'domestic partners'.</p> <p>Section 11A defines who can fall within the category of 'domestic partners'. It provides that "[a] a person is, ... the</p>	<p>legal option of marriage.</p> <p>Given that same sex couples remain excluded from the definition of 'marriage' the concept of 'domestic partners' itself can be seen as discriminating on the grounds of sexuality. Unlike heterosexual couples, same sex couples have no option for increasing the legal status of their relationship.</p> <p>This Act has been amended six further times since 2006, with amendments since relating to assisted reproductive treatment, surrogacy and defacto relationships.</p> <p>These amendments have provided non-married heterosexual defacto couples with almost identical rights to legally married couples when it comes to presumptions of parentage, access to ART and surrogacy agreements (although for childless couples, qualifying time frames apply).</p>	<p>include heterosexual and non-heterosexual parents and sex/gender diverse people;</p> <p>Reform Part 2B, and in particular section 10A to replace the term 'opposite sex' with different sex, as well as reforming section 10HA, to remove references to 'husband and wife' and instead refer to a particular 'qualifying relationship' that would include heterosexual and non-heterosexual parents and sex/gender diverse people;</p> <p>Alternatively, replacing Part 2B with a separate Act regulating surrogacy which permits access to limited forms of altruistic surrogacy to same sex couples provided that qualifying criteria are met (see the <i>Surrogacy Act 2012</i> (Tas))</p>
--	--	---	--

	<p>"domestic partner" of another person if he or she is, ... living with that person in a 'close personal relationship'. Qualifying time periods also apply, unless a child has been born within the relationship- generally a continuous 3 year period of cohabitation.</p> <p>'Close personal relationship' is defined in s11 as 'the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis,' but does not include married couples or relationships involving paid domestic support or care. The definition contains a note that makes it clear that '[t]wo persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.'</p> <p>Section 11B sets out a process for seeking a court declaration as to whether two people are 'domestic partners'. While the court has discretion in relation to some matters, the requirement for a 'close personal relationship' to exist is a mandatory condition of such a declaration.</p>	<p>Some provisions of the Act place same sex couples, in the same position as heterosexual couples (e.g. presumption of parentage), however same sex couples remain excluded from Part 2B of the Act which only permits legally married couples or heterosexual couples living as 'husband' and 'wife' access to the lawful surrogacy provisions. This discriminates on the ground of sexual orientation and gender identity.</p> <p>Lesbian couples (and perhaps couples involving gender diverse people where one gives birth) are afforded access to some of the parenting rights contained in Part 2A of the Act relating to children born as a result of a fertilisation procedure. These provisions permit the domestic partner of a woman who gives birth following a fertilisation process to be recognised as the co-parent of the child (provided</p>	<p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i> to ensure that current references to 'spouses' or 'domestic partners' included relationships registered on the Relationships Register.</p>
--	--	---	---

		<p>qualifying time periods and cohabitation criteria are met).</p> <p>Many of the provisions in Parts 2A and 2B also exclude gender diverse people by referring to binary notions of sex and gender (such as 'woman', 'man', husband' and 'wife').</p> <p>Section 11 in Part 3 of the Act relating to domestic partners can include 2 people living in a 'close personal relationship' 'irrespective of gender'. As a result, any discrimination arising from this Part of the Act depends upon the meaning attributed to the term 'gender'.</p>		
First Home Housing and Construction Grants 2000	<p>Section 3 refers to 'close personal relationship' which is given the same meaning as in the <i>Family Relationship Act</i> (i.e. it refers to 2 adult persons 'irrespective of gender', in addition to other qualifying criteria).</p> <p>Section 6 contains definitions of 'spouse'</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new</p>	3	<p>Reform options include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples</p>

	<p>(legally married) and 'domestic partner' (couples living together in a 'close personal relationship').</p> <p>These definitional provisions relate directly to eligibility for applying for a First Home Owners grants, Seniors Housing Grant, and House Construction Grants (e.g. ss10 and 11 exclude applications where a spouse or domestic partner of the applicant has already applied for the grant).</p>	<p>definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
<p>Family and Community Services Act 1972</p>	<p>Definitions</p> <p>Section 6 contains an interpretation provision. Subsection 6(1) contains the following relevant definitions:</p> <p>'child born outside marriage' includes a child born to a married woman of which a man other than her lawful spouse is the father;</p> <p>'foster parent' means a person (not being a guardian or relative of the child) who, for monetary or other consideration, maintains and cares for a child on a residential basis, but does not include the licensee of a children's residential facility;</p>	<p>This Act contains a range of key terms that assume heterosexual parents and binary notions of sex and gender - many of which refer directly to marriage relationships. These terms have implications for the rights and powers contained in the Act. This has discriminatory impacts on same sex couples or sex/gender diverse people, particularly parents.</p> <p>For example, under section 6,</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p> <p>Replacing references to a 'child born outside of marriage' etc with provisions that would</p>

	<p>‘guardian’, in relation to a child, means a parent of the child and any person (other than the Minister or the Chief Executive Officer) who is the legal guardian of the child;</p> <p>‘Minister’ means the Minister for Family and Community Services;</p> <p>‘near relative’ in relation to a child means a parent or step-parent of the child;</p> <p>‘parent’ includes a person who has (a) adopted a child in accordance with the law of this State, or the law of another State or Territory of the Commonwealth; or (b) adopted a child in accordance with the law of any other country or State, if the adoption is recognised under the law of this State;</p> <p>‘relative’ in relation to a child, means a step-parent, brother, sister, uncle, aunt, grandfather or grandmother of the child;</p> <p>‘step-parent’ in relation to a child means a person (not being a parent of the child) (a) who (i) is married to a parent of the child; or (ii) was married to a deceased parent of the child at the date of death of the parent; and (b) who at any time during that marriage accepted the child as a member of a household formed with the parent; and</p>	<p>as non-heterosexual couples cannot be married, they are not able to be considered step children.</p> <p>In addition, preliminary expenses are only available to women from men, thus non-heterosexual couples are excluded from claiming maintenance payments.</p> <p>However, the definition of ‘foster parent’ is sufficiently broad to permit same sex couples to be approved as ‘foster parents’.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term ‘defacto’ with a new definition of ‘domestic partner’ in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of ‘domestic partner’ includes criteria (including minimum periods of cohabitation) that do not</p>	<p>apply to a particular ‘qualifying relationship’ that would include heterosexual and non-heterosexual parents and sex/gender diverse people;</p> <p>Removing or replacing provisions requiring the evidence of a mother to be corroborated in certain circumstances where the child is born outside of a marriage.</p> <p>Replace references to ‘step parent’ with an alternative description that would encompass non-married families, such as those involving domestic partners.</p>
--	---	--	---

	<p>'woman' means any female person.</p> <p>Subsection 6(2) makes it clear that for the purposes of this Act, where a marriage exists between a man and a woman, whether the marriage is monogamous or polygamous, the man and woman will, if the marriage is lawful and valid in the place in which it was solemnised, be regarded as husband and wife.</p> <p>Subsection 6(3) provides that a person will not be recognised under this Act as the father of a child born outside marriage unless (a) he is so recognised under the Family Relationships Act 1975 ; or (b) he is adjudged in proceedings under this Act to be the father of the child.</p> <p>Support Services For Children</p> <p>Part 4 of the Act deals with support services for children, with Subdivision 3 being focused on foster care and licenced foster care agencies. This subdivision includes requirements for foster parents to be approved (s41), criteria for approving foster parents (s42) processes for approving foster parents (s43), processes for periodic review of foster parents (s43A) and cancellation of approval (s46).</p> <p>Other relevant provisions in Part 3 include the agreements that must be made by a</p>	<p>apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		
--	---	---	--	--

	<p>child's parent or guardian in relation to foster care residential facilities (s55), assistance to persons caring for children (s74), and the Minister's power to delegate powers to foster parents (s80).</p> <p><i>Maintenance Obligations</i></p> <p>Part 6 deals with the maintenance of children. Subdivision 1 deals with orders with respect to children. It contains provisions relating to the liability of near relatives for the maintenance of a children (s98), and issues of summons for maintenance of a child (s99).</p> <p>Subdivision 2 deals with orders in affiliation cases. It includes provisions relating to: the order of payment of preliminary expenses (s105), orders made during pregnancy (s104), the power of the court to make orders for the future maintenance of a child (s107), the liability of persons admitting sexual intercourse with the mother of the child (s109), the power to lay a complaint for support in respect of a child born outside of marriage against one or more persons (s110) and the provision for blood tests for the purpose of this subdivision (s112).</p> <p>Division 4 contains provisions relating to the commencement and duration of orders and to evidentiary matters. This includes</p>			
--	---	--	--	--

	<p>provisions relating to the maintenance of a child after they turn 18 (s135), rules relating to the evidence of the mother as to paternity of child born outside marriage requiring this evidence not to be accepted without corroboration except in certain cases (s140), and provisions relating to the variation of an order against a near relative of a child (s145).</p> <p>Division 7 relates to the enforcement of orders and supplementary provisions, including section 173 relating to the desertation of a child, which is an offence under certain circumstances.</p>			
Gift Duty 1968	<p>Section 4 of this Act contains a definitional section. It includes subparagraph 4(2)(b) that describes the test for determining whether a corporation is or is not under the control of not more than five persons. This provision refers to people who are 'related' to each other.</p> <p>Subsection 4(3) explains that for the purpose of the above test, 'a person shall be deemed to be related to another person if one of those persons is the lineal issue, brother, sister, lineal issue of a brother or sister, spouse, ancestor of the spouse, brother or sister of the spouse, spouse of the brother or sister of the spouse, lineal issue of the brother or sister of the spouse,</p>	<p>This Act contains a range of key terms that assume heterosexual parents and binary notions of sex and gender - many of which refer directly to marriage relationships. These terms have implications for the rights and powers contained in the Act. This has discriminatory impacts on same sex couples or sex/gender diverse people,</p>	3	<p>Reform options include:</p> <p>Replacing references to married spouses with references to 'domestic partners' or other prescribed relationships that do not discriminate on the basis of marital status or sexual orientation.</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples</p>

	<p>spouse of the lineal issue, spouse of a brother or sister, spouse of the lineal issue of a brother or sister, or spouse of the lineal issue of a brother or sister of the spouse, of the other of those persons.' (s4(3)(a)-(b)).</p> <p>Subsection 4(4) provides that a reference to 'lineal issue' includes a reference (a) to a step-child; and (b) to an adopted child; and (c) to a natural child, and a step-child shall, for the purposes of this section, be deemed to be related to any other person in the same manner as he would be if he were the child of both his step-parent and the spouse of his step-parent.</p> <p>Section 11A deals with reductions in duty in case of a gift of interest in the matrimonial home. This provision deals with the rights of a 'spouse' in these circumstances. "Matrimonial home" of a donor means a dwellinghouse (together with its curtilage) that constitutes in the opinion of the Commissioner the principal permanent home at which the donor and his spouse live together as husband and wife.</p>			<p>to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i></p>
Governors Pensions Act 1976	<p>Section 2 of the Act includes definitions of 'spouse' and 'domestic partner' in respect of living and deceased Governors. These definitions refer to the relevant provisions</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address</p>	3	<p>Reform options include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that</p>

	<p>in the <i>Family Relationships Act</i>.</p> <p>Under the substantive provisions of the Act, 'spouses' and 'domestic partners' are treated equally.</p>	<p>discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
Fire and Emergency Services Act 2005	<p>Section 11(2) of the Act deals with the composition of the South Australia Fire and Emergency Services Commission. It provides that at least 1 member must be a woman and at least 1 member must be a man.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
Firearms Act 1977	<p>Section 7(2a) of the Act deals with the composition of the Firearms Review</p>	<p>This provision is designed to promote gender equity in</p>	1	<p>Amend <i>Acts Interpretation Act 1915</i></p>

	Committee. It provides that the committee must include at least 2 women and at least 2 men.	board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		(SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Flinders University of South Australia Act 1966	Section 5(3a) of the Act deals with the composition of the Council of the University. It provides that the Council is, as far as practicable, to be constituted of equal numbers of men and women.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Gaming Machines Act 1992	Section 73B(4) of the Act deals with the composition of the board of the Charitable and Social Welfare Fund. It provides that the committee must include at least 2 women and at least 2 men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Genetically Modified Crops	Section 9(2) of the Act deals with the composition of the Advisory Committee. It	This provision is designed to promote gender equity in	1	Amend the <i>Acts Interpretation Act 1915</i>

Management Act 2004	provides that the committee must include at least 2 women and at least 2 men.	board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		(SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Government Financing Authority Act 1982	Section 18B(2) of the Act deals with the composition of the Board. It provides that at least 1 member of the Board must be a man and 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Guardianship and Administration Act 1993	Section 3 of this Act contains an interpretive provision. It includes the following relevant definitions: ‘domestic partner’ means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i> ; ‘guardian’ means a person appointed as a guardian under a guardianship order; ‘guardianship order’ means an order under this Act placing a person under full or limited guardianship;	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i> . However, the current definition of 'domestic	3	Reform options include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require

	<p>'person responsible' for another person, means: (a) any of the following persons if he or she has a close and continuing relationship with the other person: (i) a prescribed relative of the other person; (ii) a parent of the other person (including an adoptive parent and a step-parent); (iii) if the other person is under 18 years of age — an adult who acts <i>in loco parentis</i> in relation to the other person; (iv) an adult friend of the other person; or (b) an adult who is charged with overseeing the ongoing day-to-day supervision, care and well-being of the other person;</p> <p>'prescribed relative' — the following persons are prescribed relatives of a person: (a) a person who is legally married to the person; (b) an adult domestic partner of the person (within the meaning of the <i>Family Relationships Act 1975</i> and whether declared as such under that Act or not); (c) an adult related to the person by blood or marriage; (d) an adult related to the person by reason of adoption; (e) an adult of Aboriginal or Torres Strait Islander descent who is related to the person according to Aboriginal kinship rules or Torres Strait Islander kinship rules (as the case requires);</p> <p>'spouse' — a person is the spouse of</p>	<p>partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i></p>
--	--	--	--	--

	<p>another if they are legally married; and</p> <p>‘sterilisation’ means any treatment given to a person that results in, or is likely to result in, the person being infertile.</p> <p>Section 39 of the Act sets out the powers and duties of administrator appointed under this Act. Subsection 39(2) provides that subject to this Act and the terms of the administration order, an administrator may ... (w) apply, in the administrator’s discretion, and in such manner and to such extent as he or she thinks fit, any property for the maintenance or benefit of the protected person, the maintenance of the spouse or domestic partner of the protected person, or for the maintenance, education or advancement of the children or grandchildren of the protected person, or for the payment of the expenses of his or her funeral.</p>			
Guardianship of Infants Act 1940	<p>Section 3 of the Act contains the following relevant definitions:</p> <p>‘child born outside marriage’ includes a child born to a married woman of which a man other than her lawful spouse is the father;</p> <p>‘infant’ includes an infant born outside marriage;</p> <p>‘parent’ of an infant, in sections 8, 9, and</p>	<p>This Act contains a range of key terms that assume heterosexual parents and binary notions of sex and gender - many of which refer directly to ‘mothers’ and ‘fathers’ and marriage relationships. These terms have implications for the rights and powers contained</p>	3	<p>Reform options include:</p> <p>Repeal section 20 or amend it to replace the reference to ‘married’.</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual</p>

	<p>10, includes any person at law liable to maintain the infant or entitled to his custody;</p> <p>Subsection 3(2) provides that ‘a person shall not be recognised under this Act as the father of a child born outside marriage unless he is so recognised under the provisions of the <i>Family Relationships Act 1975</i>.</p> <p>Section 4 of the Act deals with the rights of guardianship and custody of an infant. It provides that, subject to the rest of the Act, ‘the mother and father of an infant shall jointly have the guardianship and custody of the infant, and each parent shall have equal powers, authority, rights and responsibilities with regard to the infant.’</p> <p>Section 6 of the Act empowers the court to make orders relating to the custody of and access to a child ‘upon the application of a person who has a proper interest in the welfare of an infant’. Section 7 sets out the powers of the court to make orders regardless of whether the mother and father are residing together. For example, subsection 7(2) provides ‘whether or not the mother and the father are residing together, the court may further order that the other parent shall pay to the parent having the custody of the infant such</p>	<p>in the Act. This has discriminatory impacts on same sex couples or sex/gender diverse people.</p> <p>These provisions also give rise to a range of financial ‘responsibilities’ arising from being recognised as the legal parent of an infant.</p> <p>Section 20 has the effect of denying a woman who is unmarried because she is in a non-heterosexual relationship or is gender diverse and unable to be married the right to sue as next friend and be appointed guardian ad litem on behalf of her own children.</p> <p>These laws have the effect of discriminating primarily on the basis of marital status and, thus, also indirectly discriminates on the basis of sexual orientation (and intersex status, gender identity to a lesser extent).</p>	<p>and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p> <p>Amend section 3 of the Act to align more directly with the parentage provisions of the <i>Family Relationships Act</i>.</p> <p>Amend the other provisions of the Act that refer to ‘mother’ and ‘father’ to refer to non-gendered terms such as ‘parent’ or similar (and define this term by reference to the <i>Family Relationships Act</i>).</p>
--	---	---	--

	<p>weekly or other periodical sums towards the maintenance of the infant as the court, having regard to the means of both parents, may think reasonable.'</p> <p>Section 8 provides the court with the power to make an order for the 'production of the infant' if the court is of the opinion that the parent has abandoned or deserted the infant, or engaged in other conduct that means the court should refuse to enforce the right to the custody of the infant.</p> <p>Section 9 empowers to the court to order repayment of costs of bringing up an infant if it is determined that the infant is being brought up by a person who is not the parent of the infant.</p> <p>Section 10 requires the court to have regard to the conduct of the parent when making orders for the delivery of the infant to the parent.</p> <p>Section 11 lists the principles upon which questions relating to the custody and upbringing of infants are to be decided. These principles require the court to have regard to the welfare of the infant as the first and paramount consideration, and 'shall not take into consideration whether from any other point of view the claim of the father, or any right at common law possessed by the father, in respect of such</p>			
--	--	--	--	--

	<p>custody, upbringing, administration or application is superior to that of the mother, or the claim of the mother is superior to that of the father.'</p> <p>Section 12 deals with the rights of a surviving parent as to guardianship and section 13 deals with the power of a father or mother to appoint testamentary guardians.</p> <p>Section 18 of the Act refers to how the court should deal with a separation agreement made between the mother and father of an infant.</p> <p>Section 20 clarifies that 'a married woman shall be capable of suing as next friend and of being appointed guardian <i>ad litem</i> on behalf of her own children or any other infants whatsoever.'</p>			
Health Care Act 2003	<p>Section 3 of the Act contains the following relevant definitions:</p> <p>'domestic partner' means a person is a domestic partner of another if the person is a domestic partner of the other within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not;</p> <p>'relative' means a person is a relative of another if the person is a spouse, domestic partner or parent of the other of or over</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current</p>	3	<p>Possible reform options include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation. This</p>

	<p>18 years of age and a brother, sister, son or daughter of the other; and</p> <p>‘spouse’ means a person is a spouse of another if they are legally married.</p> <p>Section 44 deals with fees payable to a hospital. Subsection 44(3) provides that such fees can be recoverable from (a) the person to whom the service was provided; or (b) the spouse or domestic partner of that person; or (c) if the service was provided to a person under the age of 18 years, the parent or parents of that person.</p>	<p>definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>would require consideration of related amendments to the <i>Domestic Partnership Property Act</i> and the <i>Family Relationships Act</i>.</p>
<p>Health Practitioner Regulation National Law (South Australia) Act 2010</p>	<p>Section 28 of the Act deals with the composition of the Pharmacy Regulation Authority SA. It provides that at least 1 member of the Authority must be a woman and 1 must be a man.</p> <p>Schedule 2 of the Act contains the Health Practitioners National Law. Section 123A deals with restricted birthing practices. It refers to ‘rendering assistance to a woman who is in labour or giving birth’.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p> <p>Schedule 2 also employs binary notions of gender. Birthing is described as a process only a woman can undertake, thus potentially excluding some gender</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p> <p>Replace the term 'woman in labour or giving birth' with 'person in labour or giving birth' in section 123A.</p>

		diverse individuals.		
Healthcare Act 2008	Section 9(4) of the Act deals with the composition of the Health Performance Council. It provides that, as far as possible, the persons appointed to the Council consist of equal numbers of men and women.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Heritage Places Act 1993	Section 5(3) of the Act deals with the composition of the South Australian Heritage Council. It provides that at least 1 member of the Council must be a woman and at least 1 member must be a man.	This provision is designed to promote gender equity in board membership, however, by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
History Trust of South Australia Act 1981	Section 5 of the Act deals with the composition of the Trust. It provides that at least 2 members be women and at least 2 members be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

		discrimination.		
Independent Gambling Authority Act 1995	Section 5 of the Act deals with the composition of the Authority. It provides that at least 2 members be women and at least 2 members be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Inheritance Family Provisions Act 1972	<p>Pursuant to section 4 of the Act, 'child' in relation to a deceased person includes a person who is recognised as a child of that person by virtue of the <i>Family Relationships Act 1975</i> and 'parent' has a correlative meaning; 'domestic partner', in relation to a deceased person, means a person declared under the <i>Family Relationships Act 1975</i> to have been the domestic partner of the deceased as at the date of his or her death, or at some earlier date; and 'spouse', in relation to a deceased person, means a person who was legally married to the deceased as at the date of his or her death.</p> <p>Section 6 sets out the categories of people (in respect of the estate of a deceased person) that are entitled to claim the benefit of the Act. This includes: (a) the spouse of the deceased person; (b) a</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children,</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	<p>person who has been divorced from the deceased person; (ba) the domestic partner of the deceased person; (c) a child of the deceased person; (g) a child of a spouse or domestic partner of the deceased person being a child who was maintained wholly or partly or who was legally entitled to be maintained wholly or partly by the deceased person immediately before his death; (h) a child of the child of the deceased person; (i) a parent of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime; (j) a brother or sister of the deceased person who satisfies the court that he cared for, or contributed to the maintenance of, the deceased person during his lifetime.</p> <p>Section 7 of the Act sets out the circumstances in which a spouse and other entitled persons (as set out in the Act, including in section 6) may obtain an order from the court for maintenance out of the estate of the deceased person.</p>	<p>and in particular for same sex couples who do not have the legal option of marriage.</p> <p>This Act also contains binary notions of sex and gender - such as references to 'brothers' and 'sisters' of a deceased person.</p>		
Intervention Orders Protection of Abuse Act 2009	<p>Section 3 of the Act defines 'domestic partner' as a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>.</p> <p>Section 8 of the Act sets out what 'domestic</p>	<p>This Act takes a broad, inclusive approach to the type of relationships between two people that could be categorised as 'domestic' when assessing whether</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that</p>

	<p>abuse' and 'non-domestic abuse' means for the purposes of the Act. Subsection 8(8) provides that abuse will be 'domestic abuse' if it is committed by a defendant against a person with whom the defendant is or was formerly in a relationship. Two persons are in a relationship if (a) they are married to each other; or (b) they are domestic partners; or (c) they are in some other form of intimate personal relationship in which their lives are interrelated and the actions of 1 affects the other. Two people will also be in a relationship if one of the people is a child and the other person is a parent or guardian, or grandparent of the child (subject to subparagraphs 8(d), (f), (g)), or if they are they are brothers or sisters or brother and sister (h)); or (i) they are otherwise related to each other by or through blood, marriage, a domestic partnership or adoption; or (j) they are related according to Aboriginal or Torres Strait Islander kinship rules or are both members of some other culturally recognised family group; or (k) 1 is the carer (within the meaning of the <i>Carers Recognition Act 2005</i>).</p> <p>Section 10 sets out the principles for intervention against abuse. Subparagraph 10(1)(a) provides that one of these</p>	<p>abuse is domestic or not. These include categories that are not based on sex or gender.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
--	---	---	--	--

	principles that must be taken into account in determining whether it is appropriate to issue an intervention order and in determining the terms of an intervention order is whether (a) abuse occurs in all areas of society, regardless of socio-economic status, health, age, culture, gender, sexuality, ability, ethnicity and religion.			
Judges Pension Act 1971	<p>Section 4 contains the following relevant definitions.</p> <p>‘domestic partner’, (a) in relation to a deceased Judge — means a person declared under the <i>Family Relationships Act 1975</i> to have been the domestic partner of the Judge as at the date of the Judge's death; (b) in relation to a deceased former Judge — means a person declared under the <i>Family Relationships Act 1975</i> to have been the domestic partner of the former Judge as at the date of the former Judge's death; and</p> <p>‘eligible child’ means the child or adopted child (a) of a deceased Judge or deceased former Judge; or (b) of the spouse or domestic partner of a deceased Judge or deceased former Judge, not being a child (i) born of a pregnancy that commenced after the death of the Judge or former Judge; or (ii) adopted after the death of the Judge or</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>

	<p>former Judge, who (c) has not attained the age of sixteen years; or (d) having attained that age, has not attained the age of twenty-five years and is in full time attendance at an educational institution recognised by the Minister for the purposes of this definition.</p> <p>Section 10C sets out the circumstances in which a child will be entitled to a benefit where there is no spouse or domestic partner pension payable.</p> <p>Section 10D deals with how a child benefit should be paid under the Act and provides that such as a benefit shall be paid to the spouse or domestic partner, if any, of the deceased Judge or deceased former Judge; or to the eligible child; or to some other person, as the Minister, in his discretion, determines.</p> <p>Section 17A provides that where a former judge is survived by a spouse or domestic partner who is entitled to a pension as the Judge's spouse or domestic partner under this Act, the Treasurer will, subject to subsection (5) on the application of the spouse or domestic partner, commute so much of the pension of the spouse or domestic partner as is required to provide a lump sum equivalent to the amount of the surcharge.</p>	<p>legal option of marriage.</p>		
--	---	----------------------------------	--	--

	Part 2A of the Act aims to facilitate the division under the <i>Family Law Act 1975</i> of the Commonwealth of interests between spouses who have separated. It does not include references to 'domestic partner', but sets out entitlements for the spouses of former judges.			
Juries Act 1927	<p>Section 60A of the Act provides that, if it is of the opinion by reason of the nature of the evidence or issue to be tried, the court can order that the jury for a trial should consist of men only, or women only. Such an order can be made upon application by one of the parties to the trial or by the court on its own initiative.</p> <p>Section 86 of the Act abolishes the concept of jury <i>De Ventre Inspiciendo</i>, making it clear that no jury is to inquire whether a woman is with child or not.</p> <p>Schedule 3 of the Act sets out the list of people who are ineligible for jury service. This lists includes references to 'domestic partners' - defined as a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not - and references to 'spouses' - defined as a person who is legally married to another.</p>	<p>Section 60A refers to juries of only women and only men.</p> <p>This does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Possible reform options include:</p> <p>Including a note or subsection in section 60A to make it clear that references to 'men' and 'women' in this provision include references to people who identify as a men or women.</p>
Land Tax Act	Section 5 defines relevant terms including "domestic partner" which is	These provisions reflect efforts made via the <i>Statutes</i>	3	Possible options for

<p>1936</p>	<p>defined as a person in a close personal relationship. "Close personal relationship" is defined to mean 'the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include (a) the relationship between a legally married couple; or (b) a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind.'</p> <p>This provision contains a note to clarify that two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.</p> <p>Section 5 defines 'close relative' as including: spouses, domestic partners, parent and child and brother and sister. The term 'relative' is also defined. It includes domestic partners and their children.</p>	<p><i>Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>
<p>Landlord and Tenant Act 1936</p>	<p>Section 44 provides an exemption for damage to property such as sewing machines. This provision provides that:</p> <p><i>It shall not be lawful to distain any sewing</i></p>	<p>Section 44 discriminates on the grounds of sex. The use of the word 'female' implies binary construction of</p>	<p>1</p>	<p>Section 44 should be repealed.</p> <p>Amendments could be made to section 66A</p>

	<p><i>machine, type writing machine, or mangle, the property of or under hire to any <u>female person</u> whether belonging to the tenant or otherwise, for any rent claimed in respect of the premises or place in which such sewing machine, typewriting machine or mangle may be: Provided that any such person shall not be entitled to have more than one sewing machine, one typewriting machine and one mangle protected from distress under this section.</i></p> <p>Section 66A deals with provision of commercial tenancy agreements for five years. It provides exceptions, including where the tenant is the landlord's spouse, parent, grandparent, step-parent, child, grandchild, step-child, brother or sister, or the spouse of the landlord's child, grandchild, step-child, brother or sister.</p>	<p>gender, and excludes those who do not fall within such definitions.</p> <p>Section 66A does not recognise relationships other than marriage and refers to binary concepts such as brother and sister.</p>		<p>refer to domestic partners.</p>
Law of Property Act 1975	<p>Section 60 of this Act deals with the rules governing who is a member of a particular class of persons. It refers to a 'male or female' and 'female'.</p> <p>This Act also contains a number of provisions relating to the property related rights of married women.</p> <p>Section 92 deals with the legal status of married women for the purposes of the Act. It provides that a married woman</p>	<p>This Act refers to binary notions of sex and as a result may discriminate against intersex people or gender diverse people.</p> <p>This Act contains numerous references to 'married women'.</p> <p>These references seek to address discriminatory aspects of the common law,</p>	1	<p>Amend section 60 to refer to 'person' instead of 'male or female' or 'female'.</p> <p>Consideration could be given to modernising these provisions perhaps with an omnibus statement that indicates that marital status does not impact upon a</p>

	<p>shall:</p> <p>(a) be capable of acquiring, holding, and disposing of, any property; and</p> <p>(b) be capable of rendering herself, and being rendered, liable in respect of any tort, contract, debt, or obligation; and</p> <p>(ba) be capable of appointing an agent or attorney to act on her behalf; and</p> <p>(c) be capable of suing and being sued, either in tort or in contract or otherwise; and</p> <p>(d) be subject to the law relating to the enforcement of judgments and orders,</p> <p>in all respects as if she were a <i>feme sole</i>.</p> <p>(2) This section has, since the date of its enactment, conferred on a married woman the same power as is possessed by a <i>feme sole</i> to dispose of property by will, or to make any other form of testamentary provision.</p> <p>Section 103 provides that every married woman after her marriage shall continue to be liable for all debts contracted, and all contracts entered into or wrongs committed by her before her marriage. It</p>	<p>particularly those affecting the property rights of married women.</p> <p>In so far as these provisions bestow any additional property rights on married women, (rather than merely preserving the pre-marriage property rights of women), they may discriminate against same sex couples, unmarried woman and sex and gender diverse people.</p>		<p>person's property rights unless indicated otherwise in the Act.</p>
--	--	--	--	--

	<p>further provides that every married woman may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable by her in the same manner as if she were a <i>Feme Sole</i> (i.e. divorced or single woman).</p> <p>Section 93 deals with property of a married woman. It provides that all property held by the woman before she married remains her property after marriage.</p> <p>Section 100 sets out the rules that apply in respect of assurance policies entered into by married men or married women</p> <p>Section 11 deals with acquisitions and dispositions of trust estates by married women.</p> <p>Other sections of the Act referring to the rights of married women include:</p> <p>82 — Request by married woman, infant, or person under disability</p> <p>101 — Married women to have same civil and criminal redress as a feme sole</p> <p>99 — Married woman may effect policy of assurance</p> <p>106 — Married woman as executrix or</p>			
--	---	--	--	--

	<p>trustee</p> <p>107 — Legal representative of married woman</p> <p>109 — Will of married woman</p> <p>97 — Acknowledgment by married woman not necessary</p> <p>94 — Abolition of husband's liability for wife's torts and antenuptial contracts, debts and obligations</p> <p>98 — Investments with money of husband</p> <p>102 — Act of wife rendering her liable to criminal proceedings</p> <p>110 — Invalidity of restraints upon anticipations</p> <p>104 — Implied agency of wife</p> <p>95 — Joint liability of husband and wife</p>			
Libraries Act 1982	<p>Section 9 of the Act deals with the composition of the Libraries Board of South Australia. It provides that at least 2 members be women and at least 2 members be men.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

Limitations of Actions Act 1936	Section 32 of the Act deals with rules applying to bringing legal proceedings relating to trusts. It refers to the rights of a 'married woman'.	This provision discriminates on the grounds of marital status as it excludes relationships that are not between a married woman and man.	3	Possible reform options include repealing the relevant subsections of section (32).
Local Government Act 1999	<p>Section 4 of the Act defines key terms including: 'domestic partner' which means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i> and 'spouse' which is defined as a person who is legally married.</p> <p>Section 15 of the Act deals with the composition of the Boundary Adjustment Facilitation Panel. It provides that at least one member of the Panel must be a woman and at least one member must be a man.</p> <p>Section 74 deals with conduct of members of councils. It requires members to disclose any interests that may have in a matter before the council and provide full and accurate details of that interest. A person with such an interest must not take part in the discussions of the matter or vote in the matter, although exemptions apply. For example, questions relating to allowances or benefits that a council is empowered to pay to, or confer on, members, their spouses, domestic partners or members of their families (s74(4)).</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>Schedule 3 contains several exclusions for persons who</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p> <p>Remove references to 'blood or marriage' and replace with provisions referring to marriage or registered relationships.</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

	<p>Section 80 deals with insurance for council members. It requires councils to take out insurance policies insuring every member of the council, and a spouse, domestic partner or another person who may be accompanying a member of the council, against risks associated with the performance or discharge of official functions or duties by members.</p> <p>Schedule 1A of the Act deals with the Stormwater Management Authority. Section 6 deals with the Board of the Authority and provides that at least 1 member of the Board must be a woman and at least 1 member a man.</p> <p>Schedule 3 to the Act sets out the financial information that must be disclosed in a register of interests 'ordinary return'. It contains numerous provisions that refer to persons 'related by blood or marriage'.</p>	<p>are 'related by blood or marriage'. This excludes de facto relationships and therefore is discriminatory against homosexuals.</p> <p>Section 15 and Schedule 1A are designed to promote gender equity in board membership, however by adopting binary concepts of gender it excludes gender diverse or intersex individuals.</p>		
Local Government Finance Authority Act 1983	<p>Division 2 of the Act deals with the Board of Trustees of the Authority. Section 7 deals with the composition of the Board. It provides that at least 1 member must be a woman and at least 1 member a man.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

<p>Legal Practitioners Act 1981</p>	<p>Section 5 of the Act defines key terms including: 'domestic partner', which is defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i> and 'spouse' — a person is the spouse of another if they are legally married.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	<p>3</p>	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
<p>Members of Parliament (Registration of Interests) Act 1983</p>	<p>Section 2 contains definitions for key terms including: 'domestic partner' defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'family', is defined to mean (in relation to a Member of Parliament), a spouse or domestic partner of the Member; and a child of the</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family</i></p>	<p>3</p>	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic</p>

	<p>Member who is under the age of eighteen years and normally resides with the Member. The term 'spouse' is defined as a person who is legally married.</p> <p>Section 4 deals with the information that should be included in a 'primary return'. A 'primary return' is required to be provided in the prescribed form and should include information such as where the Member or a member of his family held an office whether as director or otherwise in any company or other body. A 'primary return' should also include information about contributions to the cost of any travel beyond the limits of South Australia undertaken by the Member or a member of his family, as well as any gift of or above the amount or value of \$750 received by the Member or a person related to the Member during the return period from a person other than a person related by blood or marriage to the Member or to a member of the Member's family.</p>	<p><i>Relationships Act.</i></p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		partners without the need to demonstrate 3-4 years of cohabitation.
Mental Health Act 2009	<p>Section 3 contains definitions of key terms including: 'domestic partner' defined to mean a person is a domestic partner of another if the person is a domestic partner of the other within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'guardian' is defined to mean a person is a</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'de facto' with a new definition of 'domestic</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples</p>

	<p>guardian of another if the person is acting or appointed under any Act or law as the guardian of the other; 'relative' is defined to mean a person is a relative of another if (a) the person is related to the other by blood or marriage; or (b) the person is a domestic partner of the other; or (c) the person is of Aboriginal or Torres Strait Islander descent and related to the other according to Aboriginal kinship rules, or Torres Strait Islander kinship rules, as the case may require.</p> <p>Section 4 makes it clear that the Act applies to children in the same way as to persons of full age, but also provides that rights and obligations under the Act may be exercised by a parent or guardian on behalf of a child who is under 16.</p> <p>Section 16 deals with Level 2 community treatment orders. These orders can be made in respect of a person by a guardian, medical agent, relative, carer or friend of the person or any other person who satisfies the Tribunal that he or she has a proper interest in the welfare of the patient. Applications for the revocation of such orders can also be made by these categories of people.</p> <p>Section 29 contains similar provisions in respect of Level 3 inpatient treatment</p>	<p>partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>This Act also defines 'relative' by reference to 'blood or marriage', excluding families that involve non-married partners, such as domestic partners and/or same sex couples.</p>		<p>to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
--	---	---	--	--

	<p>orders.</p> <p>Section 47 deals with patients' rights to be supported by guardians. It permits such support being provided by a parent or guardian of the patient if the patient is a child, and a guardian, medical agent, relative, carer or friend of the patient who has been nominated by the patient for the purpose or who has or is assuming responsibility for the care of the patient.</p> <p>Section 103 provides that a medical practitioner or authorised health professional cannot sign any authorisation, certificate or order under this Act relating to the treatment of a person to whom the medical practitioner or authorised health professional is related by blood or marriage, or who is the domestic partner of the medical practitioner or authorised health professional.</p>			
Motor Accident Commission Act 1992	<p>Section 6 of the Act deals with the composition of the Board of Directors. It provides that at least 1 of the directors must be a man and at least 1 must be a woman.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

Motor Vehicles Act 1959	Section 129 of the Act deals with inquiries into premiums. It empowers the Minister to set up a committee for this purpose. Subsection 129(2) provides that at least 1 of the committee members must be a man and at least 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
National Parks and Wildlife Act 1972	Section 15 of the Act deals with the establishment and membership of the South Australian National Parks and Wildlife Council. Subsection 15(4) refers to the Minister's power to make certain appointments from a panel of two men and two women.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Native Vegetation Act 1991	Section 8 of the Act deals with the composition of the Native Vegetation Council. It provides that at least 1 member of the Council must be a man and at least 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

Natural Resources Management Act 2004	Sections 13(7), 25(6) and 48(5) of the Act deal with the composition of different boards and councils established under the Act. Among composition requirements, is the requirement that on each of these boards and councils, there is at least 1 (or 2) woman and at least 1 (or 2) man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender, it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Office for the Aging Act 1995	Part 3 of the Act deals with the establishment and membership of the Advisory Board on Aging. Subsection 8(3) provides that at least three members of the Board must be women and three men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Outback Communities (Administration and Management) Act 2009	Section 7 of the Act deals with the membership of the Outback Communities Authority. It provides that at least 1 of the members of the Authority must be a man and at least 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

Pastoral Land Management and Conservation Act 1989	Section 12 of the Act deals with the establishment of the Pastoral Board. It provides that at least 1 of member must be a man and at least 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Phylloxera and Grape Industry Act 1995	Section 10 of the Act deals with the establishment and membership of the Phylloxera and Grape Industry Selection Committee. It provides that at least 1 of the Selection Committee must be a man and at least 1 must be a woman.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Parliamentary Superannuation Act 1974	Section 5 contains general definitions (with further interpretive provisions located elsewhere in the Act). Pursuant to section 5 'eligible child' means the child or adopted child (a) of a deceased PSS 1 or PSS 2 member or deceased PSS 1 or PSS 2 member pensioner; or (b) of the spouse of a deceased PSS 1 or PSS 2 member or deceased PSS 1 or PSS 2 member pensioner, not being a child (i) born of a	This Act contains a number of provisions that attribute rights and liabilities a members' putative' spouse. The meaning given to 'putative spouse' closely reflects the term 'domestic partner' in the <i>Family Relationships Act</i> , with the additional requirement of	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years

	<p>pregnancy that commenced after the death of the member or pensioner; or (ii) adopted after the death of the member or pensioner; who (c) has not attained the age of 16 years; or (d) having attained that age, has not attained the age of 25 years and is in full time attendance at an educational institution recognised by the Board for the purposes of this Act. The term spouse is defined to include a 'putative spouse'.</p> <p>'Putative spouse' is defined in section 7A as a person who is (on a certain date) cohabiting with the other person as his or her wife or husband de facto and the person has been cohabiting with the other person continuously for the preceding period of 3 years (or 3 years of cohabiting within the past 4) or a child, of whom both persons are the parents, has been born (whether or not the child is still living). Subsection 7A(1)(b) deals specifically with two persons of the same sex, providing that a person will be a 'putative spouse' if 'he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other</p>	<p>cohabitation as de facto 'husband and wife'.</p> <p>As a result, these provisions have a discriminatory impact on people who cannot be or are not married as it requires them to adhere to more onerous criteria than married couples or even domestic partners. This has a particularly discriminatory impact on same sex couples who cannot get married.</p> <p>The use of terminology such as 'husband and wife' - even if defined to include same sex couples - entrenches the idea that the heterosexual, married couple is the most valued legal relationship.</p> <p>It is also noted that under these provisions (e.g. s36A) someone who is married to (but separated from) a deceased person who had a putative spouse, is entitled to a proportion of the benefits.</p>	<p>of cohabitation;</p> <p>Remove references to 'husband' and 'wife' and 'marriage like' relationship in the definition of 'putative spouse'; and/or</p> <p>Replace the references to 'putative' spouse with references to a Registered Relationship.</p>
--	---	--	---

	<p>characteristics arising from either of those characteristics) and the person has been so cohabiting with the other person continuously for the preceding period of 3 years; or (or 3 years of cohabitating within the past 4).'</p> <p>Subsection 7A(2) sets out a process for having a person declared by the District Court as a 'putative spouse' for the purposes of the Act.</p> <p>These definitions have implications for many other sections of the Act.</p> <p>These include section 13D dealing with co-contribution accounts, which requires the Board to establish a co-contribution account in the name of a member in respect of whom a co-contribution has been paid to the Board; and credit the account with the amount of any co-contribution paid to the Board in respect of the member, and if the member dies before the payment is made, to make the payment to the members spouse.</p> <p>Section 19 deals with reductions in pensions where a member pensioner occupies a prescribed office or position. This in turn impacts on the rights of any eligible spouses or children.</p> <p>Part 4 of the Act deals with pension and</p>			
--	---	--	--	--

	<p>benefits for former members. Division 2A deals with superannuation benefits for PSS 3 members. Section 21AF provides that if the relevant member dies, his or her superannuation component will be paid to their spouse or, if he or she left no surviving spouse, to the member's estate. Section 21AH also deals with the death of a PSS 3 member. It also provides rights to the deceased member's spouse.</p> <p>Sections 23AA-AD set out the rules that apply to members who are liable for a deferred superannuation contributions surcharge, including how much of a pension such a member can commute to a lump sum. These provisions provide rights and liabilities to the spouse of a relevant member who has died.</p> <p>Part 4A of the Act aims to facilitate the division under the <i>Family Law Act 1975</i> of the Commonwealth of superannuation interests between spouses who have separated. Section 23B picks up a number of relevant definitions from the <i>Family Law Act</i>. For example 'member spouse' has the same meaning as in Part VIIIB of the <i>Family Law Act 1975</i> of the Commonwealth; and 'non-member spouse' has the same meaning as in Part VIIIB of the <i>Family Law Act 1975</i> of the Commonwealth. This part deals with a range of matters including the</p>			
--	---	--	--	--

	<p>non-member spouse's entitlements.</p> <p>Part 5 deals with pensions for spouses and child benefits. Specific rules apply for PSS 1 members and PSS 2 members and their spouses. It picks up a number of definitions from the <i>Family Law Act</i> and provides that any spouse entitlement is subject to any Family Law determination (s26AAA).</p> <p>Division 2 deals with child benefits. It sets out the rules for determining the amount of the child benefit for each 'eligible child', as well as the circumstances in which child benefits cease.</p> <p>Part 6 deals with adjustment of pensions for pensioners (and their spouses and children) who had rights under the repealed Act.</p> <p>Schedule 3 contains a table that provides the commutation factors for spouse pensions.</p>			
Partnership Act 1891	<p>Section 1B contains definitions for relevant terms including 'domestic partner', defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; and 'spouse' defined as a person who is legally married.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic</p>

	<p>Section 2 sets out the rules for determining whether or not a partnership exists. It clarifies that a person who is a spouse, domestic partner or child of a deceased partner, who receives by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such.</p>	<p>partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>partners without the need to demonstrate 3-4 years of cohabitation.</p>
<p>Payroll Tax Act 2009</p>	<p>Section 53 of this Act deals with maternity and adoption leave. It provides that wages are exempt wages if they are paid or payable in respect of maternity leave to a female employee in connection with her pregnancy or birth of her child; and adoption leave being leave given to an employee in connection with the adoption of a child by him or her. Section 54 contains the administrative requirements to obtain the section 53 exemption.</p> <p>Part 5 of the Act deals with groupings of employers, and Division 2 deals with business groups. Section 73 deals specifically with groups arising from tracing of interests in corporations. For the</p>	<p>This Act refers to 'maternity leave' that is only available to a 'female employee'. These provisions discriminate on the grounds of sex, on the justifiable grounds of leave in recognition of childbirth. However, the reference to 'female' may unnecessarily exclude gender diverse individuals or people with intersex variants who may also have the potential to become pregnant or have previously been pregnant.</p> <p>The Act also refers to</p>	<p>1</p>	<p>Reform options include:</p> <p>Removing the word 'female' from section 53 - and referring simply to 'employees who are pregnant' etc.</p>

	<p>purposes of this provision, 'domestic partner' means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not. 'Related person' is defined in terms of natural persons and private companies. In terms to two natural persons, a 'related person' is the spouse or domestic partner of the other; or a relationship of parent and child, brothers, sisters, or brother and sister.</p>	<p>adoption leave. See above discussion as to discriminatory features of the existing adoption regime.</p>		
<p>Police Complaints and Disciplinary Proceedings 1985.</p>	<p>Section 3 contains definitions of key terms including 'close relative' which is defined to mean 'a spouse, domestic partner, parent or child of the person'. This definition has implications for the following provisions.</p> <p>Section 25 deals with investigations by the Internal Investigation Section. Subsection 25(10) provides that a 'designated officer may refuse to furnish information, produce property, a document or record or answer a question if the information, the property, the document or record or the answer to the question might tend to incriminate him or her or a close relative of his or hers, but any such refusal may be dealt with under the <i>Police Act 1998</i> or <i>Protective Security Act 2007</i> (as the case requires) as a breach of discipline'. A similar provision applies to</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children,</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	investigations conducted by the Ombudsman (s28).	and in particular for same sex couples who do not have the legal option of marriage.		
Prohibition of Human Cloning for Reproduction Act 2003	<p>Section 3 of this Act defines 'spouse', as including 'a person who, although not legally married to the person, is living with the person as the person's spouse on a <i>bona fide</i> domestic basis. It also defines 'woman' as a female human. It is noted that the term 'spouse' is not included elsewhere in the Act.</p> <p>This Act also uses the terms 'woman' and 'man' throughout'.</p>	<p>This Act contains a definition of 'spouse' that is broader than that of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>This Act refers to binary constructions of gender without specifying how it might apply to a person with intersex variants or a person who is gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Reform options include:</p> <p>Replacing the existing gender-related rule in section 26 with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: 'words importing a gender include every other gender'.</p> <p><i>NB this interpretative rule could be displaced by clear language to the contrary which may be considered necessary in the case of this Bill.</i></p>
Police Superannuation Act 1990	Section 4 defines 'eligible child' in relation to a deceased contributor to mean a child who is a child of the contributor; or a child in relation to whom the contributor had assumed parental responsibilities and who was cared for and maintained, wholly or in part, by the contributor up to the date of the contributor's death; and who is under the age of 16 years; or between the ages of	This Act contains a number of provisions that attribute rights and liabilities a members' putative spouse. The meaning given to 'putative spouse' closely reflects the term 'domestic partner' in the <i>Family Relationships Act</i> , with the	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need</p>

	<p>16 and 25 years and in full-time attendance at an educational institution recognised by the Board for the purposes of this definition.</p> <p>‘Spouse’ is defined to include a ‘putative spouse’. ‘Putative spouse’ is defined in section 4A to mean a person who is (on a certain date) cohabiting with the other person as his or her wife or husband de facto and the person has been cohabiting with the other person continuously for the preceding period of 3 years (or 3 years of cohabitating within the past 4) or a child, of whom both persons are the parents, has been born (whether or not the child is still living). Subsection 4A(1)(b) deals specifically with two persons of the same sex, providing that a person will be a ‘putative spouse’ if he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person has been so cohabiting with the other person continuously for the preceding period of 3 years; or (or 3 years of cohabitating within the past 4).</p>	<p>additional requirement of cohabitation as de facto ‘husband and wife’.</p> <p>As a result, these provisions have a discriminatory impact on people who cannot be or are not married as it requires them to adhere to more onerous criteria than married couples or even domestic partners. This has a particularly discriminatory impact on same sex couples who cannot get married.</p> <p>The use of terminology such as ‘husband and wife’ - even if defined to include same sex couples - entrenches the idea that the heterosexual, married couple is the most valued legal relationship</p>	<p>to demonstrate 3-4 years of cohabitation;</p> <p>Remove references to ‘husband’ and ‘wife’ and ‘marriage like’ relationship in the definition of ‘putative spouse’; and/or</p> <p>Replace the references to ‘putative’ spouse with references to a Registered Relationship.</p>
--	--	--	--

	<p>Subsection 4A(2) sets out a process for having a person declared by the District Court as a 'putative spouse' for the purposes of the Act.</p> <p>These definitions have implications for many other sections of the Act.</p> <p>Section 14 deals with payment of benefits made under the Act to a contributor, a deceased contributor's estate, a spouse or child of a deceased contributor.</p> <p>Part 5 of the Act deals with superannuation benefits. These include benefits payable on the contributor's death (s32), benefits payable to the contributor's estate (33) and resignation and preservation of benefits (s34). Division 2 of this Part includes provisions relation to commutation to pay deferred superannuation contributors surcharge.</p> <p>Part 4A of the Act aims to facilitate the division under the <i>Family Law Act 1975</i> of the Commonwealth of superannuation interests between spouses who have separated</p> <p>Section 38G picks up a number of relevant definitions from the <i>Family Law Act</i>. For example 'member spouse' has the same meaning as in Part VIIIB of the <i>Family Law Act 1975</i> of the Commonwealth; and 'non-</p>			
--	---	--	--	--

	member spouse' has the same meaning as in Part VIIIB of the <i>Family Law Act 1975</i> of the Commonwealth. This part deals with a range of matters including the non-member spouse's entitlements.			
Public Corporations Act 1993	Section 3 contains definitions of relevant terms including 'domestic partner' which is defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i> , whether declared as such under that Act or not. Relative is defined to mean 'the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person' and 'spouse' means a person who is legally married.	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i> . However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.
Public Sector Honesty and Accountability	Section 2 contains definitions of relevant terms including 'domestic partner' which is defined to mean a person who is a	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic</i>	3	Possible options for reform include: The introduction of a

Act 1995	domestic partner within the meaning of the <i>Family Relationships Act 1975</i> , whether declared as such under that Act or not. Relative is defined to mean 'the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the person' and 'spouse' means a person who is legally married.	<i>Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i> . However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.
Public Trustee Act 1995	Section 3 contains definitions of key terms including 'domestic partner', which is defined to mean, in relation to a deceased person, a person declared under the <i>Family Relationships Act 1975</i> to have been the domestic partner of the deceased as at the date of his or her death. 'Spouse', in relation to a deceased person, is defined to mean a person who was legally married to the deceased as at the date of his or her death.	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i> . However, the current	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.

	<p>These definitions have implications for other provisions in the Act.</p> <p>Section 9 sets out the rules applying to the administration of the estate of a deceased person. It includes rules in relation to the estate of a person who has died wholly or partially intestate, leaving property within this State, but not leaving a spouse, domestic partner or next of kin resident in the State who is of or above 18 years of age (s9(1)(b)).</p> <p>Section 35 of the Act deals with the powers of the Public Trustee as the manager of property under Part 6 (Unclaimed Property) of the Act. Among other powers, it authorises the Public Trustee to ‘apply the property, money, damages or mesne profits, or any part of or income from them, for the maintenance or education (including past maintenance or education) or the advancement or benefit, in such manner as the Public Trustee in the exercise of an absolute discretion thinks fit, of the spouse, domestic partner or children of the owner of the property or any other person of the property’.</p>	definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		
Problem Gambling Family Protection Orders Act 2004	Section 3 of this Act contains definitions of key terms including ‘close personal relationship’ defined as per the <i>Family Relationships Act</i> .	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register,</p>

	<p>The term 'family member' (in relation to the respondent) is defined to include a spouse, a domestic partner or former domestic partner and a child of the respondent or his or her spouse, former spouse, domestic partner or former domestic partner or a child with respect to whom the respondent has care and control.</p> <p>Section 5 sets out the content of a problem gambling family protection order obtained under this Act. It provides that such an order may impose such requirements as are necessary or desirable, including requirements to prevent the respondent from contacting, harassing, threatening or intimidating a family member, or any other person at a place where the family member resides or works, to demand or request money for the purposes of gambling activities.</p>	<p>discrimination against same sex couples and to replace the term 'de facto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		<p>based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
Real Property Act 1886	<p>Section 111 of this Act provides that the registered proprietor of any estate or interest in land may transfer such estate or interest, or any part thereof, to the wife or husband of such registered proprietor (as well as other specified persons) and upon the registration of any such transfer the estate or interest thereby dealt with or transferred shall vest in the transferee or</p>	<p>This provision invests a person's 'spouse' with certain property rights that are not available to couples who are not or cannot be legally married.</p> <p>As a result it discriminates against same sex and unmarried couples and</p>		<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need</p>

	transferees. No definition of 'spouse' is provided in this Act.	against sex and gender diverse people.		to demonstrate 3-4 years of cohabitation. Ensure that the term 'spouse' includes a Registered Relationship
Research Involving Human Embryos Act 2003	This Act refers to the word 'woman' throughout e.g. provisions that refer to 'body of the woman', 'treatment of the woman', and 'achieving pregnancy in a woman' etc.	The use of the term 'woman' implies a binary construction of gender which may discriminate against people with intersex variants and gender diverse people.	1	Reform options include: Replacing the existing gender-related rule in section 26 with an new interpretative rule based on section 23(a) of the <i>Acts Interpretation Act 1919</i> (Cth) which provides that: " words importing a gender include every other gender". <i>NB this interpretative rule could be displaced by clear language to the contrary which may be considered necessary in the case of this Bill.</i>
Residential Tenancies Act 1995	Section 81 of this Act deals with the termination of a periodic residential tenancy because possession is required by a landlord for certain	This provision invests a landlord with a 'spouse' with certain rights that are not available to couples who are	3	Possible options for reform include: The introduction of a Relationships Register,

	<p>purposes which include where the landlord requires possession of the premises for occupation by the landlord's spouse, child or parent; or occupation by the spouse of the landlord's child or parent .</p>	<p>not or cannot be legally married.</p> <p>As a result it discriminates against same sex and unmarried couples and against sex and gender diverse people.</p>		<p>based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p> <p>Ensure the term ' spouse is defined to include to a Registered Relationship.</p>
<p>Retirement Villages Act 1987</p>	<p>Section 3 of this Act contains definitions of key terms including: 'domestic partner' which means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>. The term 'resident' of a retirement village is defined to mean a person who has been admitted to occupation of a residence in accordance with the scheme and (subject to the terms of a residence contract) includes a spouse or domestic partner of such a person who is residing with that person; or was residing with that person at the time of his or her death. The term 'spouse' means a person who is legally married.</p> <p>The term 'retirement village scheme' or 'scheme' is defined to mean a scheme established for retired persons and their spouses or domestic partners, or predominantly for retired persons and</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	their spouses or domestic partners.	couples who do not have the legal option of marriage.		
Return to Work Act 2014	<p>Section 4 contains definitions of key terms including 'close personal relationship' which is defined to mean the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic basis, but does not include the relationship between a legally married couple; or a relationship where 1 of the persons provides the other with domestic support or personal care (or both) for fee or reward, or on behalf of some other person or an organisation of whatever kind. A note is provided to clarify that 2 persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.</p> <p>'Domestic partner' is defined as a person is the domestic partner of a worker if the person lives with the worker in a close personal relationship and the person has been so living with the worker continuously for the preceding period of 3 years (or 3 of the past 4 years); or has been living with the worker for a substantial part of a three year period and the Corporation considers that it is fair and reasonable that the person be regarded as</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	<p>the domestic partner of the worker for the purposes of this Act; or a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living).</p> <p>Section 3 also defines 'orphan child' as a child whose natural or adoptive parents are dead and includes a child, 1 of whose natural or adoptive parents is dead and who has no reasonable prospect of being supported by the surviving natural or adoptive parent. 'Parent', in relation to a deceased worker, includes a person who stood <i>in loco parentis</i> to the worker at the time of the worker's death.</p> <p>Section 59 contains the rules applying to weekly payments that are to be made if a worker dies as a result of a work injury. This includes, compensation in the form of weekly payments to a dependent spouse or domestic partner as well as to a dependent child. Relatives of the worker may also be entitled to compensation depending on factors including the extent of the relative's dependency on the deceased worker.</p> <p>Section 61 deals with lump sums. It has its own interpretative provisions, defining 'partner' as a spouse or domestic partner. This section provides that if a</p>			
--	--	--	--	--

	<p>worker dies as a result of a work injury, compensation in the form of a lump sum is payable in accordance with this section. It contains particular rules for the payment of compensation to the worker's partner or child.</p> <p>Section 63 provides that if a worker dies as a result of a work injury, a family member is entitled to be compensated for the cost of approved counselling services to assist the family member to deal with issues associated with the death.</p> <p>Subsection (5) provides that in this section "family member" means a spouse, domestic partner, parent, sibling or child of the worker or of the worker's spouse or domestic partner.</p>			
Serious and Organised Crime Control Act 2008	<p>Section 35 sets out what associations constitute 'criminal associations' for the purposes of this Act. Subsection 35(6) sets out the forms of associations will be disregarded for the purposes of this section, including associations between close family members. Subsection 35(11) provides that a person is a 'close family member' of another person if they are a spouse or former spouse or has been in a close personal relationship or is a parent or grandparent or brother or sister or guardian or carer of the other person.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	<p>The term 'close personal relationship' has the same meaning as in Part 3 of the <i>Family Relationships Act 1975</i>. Spouse is defined as a person who is legally married.</p> <p>Section 39V sets out the circumstances in which the Act applies to a child. It refers to notifying a child's 'parent' in certain circumstances.</p>	(including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.		
Settled Estates Act 1880	<p>This Act regulates dealings with 'settled estates' under SA law.</p> <p>It contains a number of provisions dealing with the rights and interests of married women.</p> <p>Section 40 sets out the process for 'a married woman applying to the court or consenting to be examined apart from her husband'.</p> <p>Section 49 sets out the process for the 'examination of [a] married woman'.</p> <p>Section 50 deals with how a married woman can give consent to applications made under the Act.</p>	<p>These clauses discriminate on the grounds of sex, sexual orientation and marital status on the basis that they exclude relationships which are not between a married woman and a man.</p> <p>The Act also contains binary assumptions of sex and gender - referring to concepts such as husband and wife that operate to exclude same sex couples or gender diverse people.</p>	3	<p>Reform options include:</p> <p>Repeal sections 40, 49, and 50.</p> <p>Or, in the alternative, replacing the references to 'married woman' with a gender neutral term, such as 'domestic partner'.</p>
Sexual Reassignment Act 1988 Sexual Reassignment	<p>This Act regulates the circumstances in which a person can undergo a sexual reassignment procedure. Section 4 provides that a recognition certificate can be obtained by a person who has undergone a reassignment procedure,</p>	<p>This Act discriminates against gender diverse people and some people with intersex variants as it assumes only two, binary concepts of sex and aims to</p>	2	<p>Reform options include:</p> <p>Repealing the Act and Regulations;</p> <p>Amending the <i>Births Deaths and Marriages Act</i></p>

<p>Regulations 2000</p>	<p>which certifies that the person is the sex to which the person has been reassigned.</p> <p>The process for obtaining a recognition certificate is set out in section 7. The person who has undergone the reassignment procedure (or the parent or guardian if the person was a child) can apply to the Magistrates Court for a recognition certificate. The application must be in the prescribed form and be accompanied by the prescribed fee. Before granting the certificate the Magistrate must be satisfied that the person '(i) believes that his or her true sex is the sex to which the person has been reassigned; and (ii) has adopted the lifestyle and has the sexual characteristics of a person of the sex to which the person has been reassigned; and (iii) has received proper counselling in relation to his or her sexual identity' (s7(8)).</p> <p>If the application relates to the child, the Magistrate must also be satisfied that it is in the best interests of the child that the certificate be issued (s7(9)).</p> <p>Subsection 7(10) provides that a recognition certificate cannot be issued to a person who is married.</p> <p>A recognition certificate is conclusive evidence that the person to whom it</p>	<p>strictly regulate and actively restrict the capacity of people to transition to another gender or undertake sexual reassignment.</p> <p>This Act also prevents individuals who are married and have undergone sex affirmation surgery from changing their registered sex and remaining married.</p> <p>The Act also contains a very prescriptive definition of what constitutes 'sexual reassignment' and a strict legislative process for approving the circumstances in which sexual reassignment surgery can occur.</p> <p>The Act also requires a Court to approve a certificate that provides proof that sexual reassignment has occurred.</p> <p>This onerous process also fails to recognise non-surgical transition between genders.</p>	<p>to reflect the approach adopted in the ACT, that permits direct applications to the Registrar to change registered sex and does not require sexual reassignment surgery to effect the change (see further discussion above).</p> <p><i>NB the Sexual Reassignment Act is currently the subject of a South Australian Parliamentary Inquiry. The recommendations from this Inquiry should be carefully considered when evaluating the above reform options.</i></p>
--------------------------------	---	---	---

	<p>refers has undergone a reassignment procedure; and is of the sex stated in the certificate (s8).</p> <p>If a recognition certificate relating to a person whose birth is registered in South Australia is produced to the Registrar of Births Deaths and Marriages, the Registrar must register the reassignment of sex. A one month waiting period applies before a registration certificate can be presented to the Registrar for this purpose.</p> <p>A 'reassignment procedure' is defined in section 3 as 'a medical or surgical procedure (or a combination of such procedures) to alter the genitals and other sexual characteristics of a person, identified by birth certificate as male or female, so that the person will be identified as a person of the opposite sex and includes, in relation to a child, any such procedure (or combination of procedures) to correct or eliminate ambiguities in the child's sexual characteristics'.</p> <p>'Sexual characteristics' are defined in section 3 to mean 'the physical characteristics by virtue of which a person is identified as male or female'.</p> <p>The Act also prohibits hospitals or medical practitioners from undertaking reassignment procedure unless the</p>			
--	--	--	--	--

	<p>hospital or medical practitioner has been approved by the Minister in accordance with the Act (s6). Penalties apply. The Act provides that the Minister will not approve a medical practitioner to carry out reassignment procedures of a particular kind unless satisfied that he or she is suitably qualified to carry out reassignment procedures of the relevant kind.</p> <p>The Act also empowers the Supreme Court to cancel a recognition certificate if it appears that the certificate was obtained by fraud or other improper means (s10).</p> <p>Appeals can also be brought in the Supreme Court against: (a) a refusal of the Minister to grant an approval; (b) a decision of the Minister to impose a particular condition in relation to an approval; (c) a decision of the Minister to revoke an approval; (d) a decision of a magistrate on an application for the issue of a recognition certificate (s11).</p> <p>The Act authorises the making of regulations, including regulations for the purposes of the keeping of records by hospitals and by persons who carry out reassignment procedures or provide associated treatment; and for the practices and procedures to be followed on</p>			
--	--	--	--	--

	<p>applications to magistrates under this Act.</p> <p>Regulations were made in 2000. Regulation 6 sets out the details for making an application to a magistrate for the issue of a recognition certificate. It provides that such an application must be made in the required form and be accompanied by an affidavit, sworn by a medical practitioner, relating to the reassignment procedure that has been carried out and any associated treatment that has been provided to the person; and if the application relates to an adult — an affidavit, sworn by a psychiatrist or psychologist, relating to the counselling that the person has received in relation to his or her sexual identity.</p> <p>Regulation 8 relates to registers and indexes. Among other requirements it provides that the Registrar of Births Deaths and Marriages keep an index to the register that enables the Registrar to trace the connection between the entries that are made in the register and the entries that are made or altered in any other register or index under section 9(1)(b) of the Act.</p> <p>Regulation 9 relates to access to reassignment records kept by a hospital or by a person who carries out, or proposes to carry out, a reassignment procedure or</p>			
--	---	--	--	--

	<p>who provides, or proposes to provide, associated treatment.</p> <p>Regulation 9 relates to period returns and requires the hospital to provide the Minister with certain information about a person who undergoes a reassignment procedure, or part of a reassignment procedure, or receives any associated treatment at a hospital.</p>			
South Australian Country Arts Trust Act 1992	<p>Section 5 of the Act deals with the composition of the South Australian Country Arts Trust. It provides that at least 2 members must be women and at least 2 must be men.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
South Australian Film Corporation Act 1972	<p>Section 6 of the Act deals with the composition of the South Australian Film Corporation. It provides that at least 2 members must be women and at least 2 must be men.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

		discrimination.		
South Australian Forestry Corporation Act 2000	Section 10 of the Act deals with the composition of the Board. It provides that at least 1 member must be a woman and 1 a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
South Australian Housing Trust Act 1995	Section 9 of the Act deals with the composition of the South Australian Housing Trust Board of Management. Subsection 9(3) provides that at least one member of the board must be a woman and at least one member must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
South Australian Motor Sport Act 1984	Section 5 of the Act deals with the membership of the South Australian Motor Sport Board. Subsection 5(1a) provides that at least one member of the Board must be a woman and at least one must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

		discrimination.		
South Australian Multicultural and Ethnic Affairs Commission Act 1980	Section 6 of the Act deals with the constitution of the Commission. It provides that the Commission is to consist of not more than 15 members: at least 4 must be women and at least 4 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
South Australian Museum Act 1976	Section 4 of the Act deals with the composition of the South Australian Museum Board. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
South Australian Public Health Act 2011	Section 14 of the Act sets out the principles that apply to Part 10 and 11 of the Act (dealing with controlled notifiable conditions and the management of significant emergencies). Subsection (5) provides that 'subject to the overriding principle and any steps reasonably necessary to protect, or to minimise risks to, public health, and without limiting any	These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family</i>	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need

	<p>power under Part 10 or Part 11, a person who may be the subject of an order, direction or requirement under either Part is entitled to expect ... (d) to be allowed to decide freely for himself or herself on an informed basis whether or not to undergo medical treatment or, in a case involving a child under the age of 16 years, to have his or her parent or guardian allowed to decide freely on an informed basis whether or not the child should undergo medical treatment ...'.</p> <p>Sections 72-75 deal with children and the requirements that must be met before medical treatment or examination can be administered to a child. For the purposes of these section 'child' means a person under 16 years of age and 'parent' includes a person <i>in loco parentis</i>.</p> <p>Section 99 deals with the duty to keep personal information confidential. It authorises a person to disclose information at the request, or with the consent, of the person to whom the information relates or a guardian or medical agent of the person; or to a relative, carer or friend of the person to whom the information relates if certain criteria are met.</p>	<p><i>Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>It also contains definitions of 'relative' that relies on binary notions of sex and gender e.g. 'brother or sister'.</p> <p>The definition of 'parent' in this Act appears broad enough to encompass same sex parents.</p>		to demonstrate 3-4 years of cohabitation.
South Australian	Section 9 of the Act deals with the	This provision is designed to	1	Amend the <i>Acts</i>

Tourism Commission Act 1993	composition of the Board. It provides that at least 2 directors must be women and at least 2 must be men.	promote gender equity in board membership, however by adopting binary concepts of gender it excludes gender diverse or intersex individuals.		<i>Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
South Australian Water Corporation Act 1994	Section 12 of the Act deals with the establishment of the Board. It provides that at least 2 members of the board must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Southern State Superannuation Act 2009 Southern State Superannuation Regulations 2009	Section 3 defines key terms including 'spouse' which is defined to include a 'putative spouse'. 'Putative spouse' is defined in section 7 as a person who is (on a certain date) cohabiting with the other person as his or her wife or husband de facto and the person has been cohabiting with the other person continuously for the preceding period of 3 years (or 3 years of cohabiting within the past 4) or a child, of whom both persons are the parents, has been born (whether or not the child is still	This Act contains a number of provisions that attribute rights and liabilities a members' putative spouse. The meaning given to 'putative spouse' closely reflects the term 'domestic partner' in the <i>Family Relationships Act</i> , with the additional requirement of cohabitation as de facto 'husband and wife'. As a result, these provisions	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation; Remove references to 'husband' and 'wife' and

	<p>living). Subsection 7(1)(b) deals specifically with two persons of the same sex, providing that a person will be a "putative spouse" if "he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and other characteristics arising from either of those characteristics) and the person has been so cohabiting with the other person continuously for the preceding period of 3 years; or (or 3 years of cohabiting within the past 4). Subsection 7(3) sets out a process for having a person declared by the District Court as a 'putative spouse' for the purposes of the Act.</p> <p>'Spouse member' is defined to mean a person who is a spouse member of the Triple S scheme pursuant to regulations made under section 19(3)(c). This Regulation defines 'spouse member' in the following terms '[i]f a prescribed payment, or a monetary contribution under regulation 23(1), is made by a member for the benefit of a spouse in respect of whom neither a prescribed payment nor a contribution under regulation 23(1) has previously been made, the spouse becomes</p>	<p>have a discriminatory impact on people who cannot be or are not married as it requires them to adhere to more onerous criteria than married couples or even domestic partners. This has a particularly discriminatory impact on same sex couples who cannot get married.</p> <p>The use of terminology such as 'husband and wife' - even if defined to include same sex couples - entrenches the idea that the heterosexual, married couple is the most valued legal relationship.</p>		<p>'marriage like' relationship in the definition of 'putative spouse'; and/or</p> <p>Replace the references to 'putative' spouse with references to a Registered Relationship.</p>
--	--	---	--	---

	<p>a "spouse member" of the Triple S scheme by virtue of this subregulation.'</p> <p>These definitions have implications for other provisions in the Act.</p> <p>Section 10 establishes the South State Superannuation Fund and requires the Treasurer of the Fund to may payments of certain amounts, including periodic contributions reflecting the contributions paid to the Treasurer by members and spouse members with respect to the relevant period.</p> <p>Sections 12-16 relate to the obligations the Board has to spouse members.</p> <p>Section 18-23A relates to the membership, payments and contributions of members and spouse members to the Triple S scheme.</p> <p>Other provisions also refer to 'spouse members', including section 26 which provides the Board with powers to obtain information and section 28 which deals with confidentiality of personal information.</p>			
Spent Convictions Act 2009	Section 3 contains definitions for key terms including 'designated sex -related offence' defined to mean a sex offence that is constituted by consenting adults engaging in sexual intercourse, or another form of	This Act has specific provisions to deal with convictions for sexual offences that involve consenting persons of the	2	Reform options include: Amending the Act to ensure that all past convictions for sexual

	<p>sexual activity; or that is constituted by an adult procuring another adult to engage in consensual sexual intercourse, or another form of consensual sexual activity; or an offence where the offence is constituted by consenting persons of the same sex engaging in sexual intercourse, or another form of sexual activity; and at least 1 of them is 16 or 17 years of age (and none of them is younger); and their actions would not have constituted an offence if they were not of the same sex; and no person engaged in the activity was in a position of authority in relation to another person engaged in the activity.</p> <p>Section 5 sets out the scope of the Act and the types of convictions that are capable of becoming 'spent' under the Act. This includes a conviction for a 'designated sex-related offence'.</p> <p>Section 8A sets out the process for obtaining an order from a magistrate that an 'eligible sex offence' is spent. Subsection 8A(6) provides that in the case of a designated sex-related offence, the qualified magistrate may make an order under this section without reference to any matters set out in subsection (5) if the qualified magistrate is satisfied (a) that the offence is a designated sex-related offence; and (b) that</p>	<p>same sex. These provisions highlight the discriminatory nature of the substantive criminal offence provisions (most of which have now been repealed.)</p> <p>This Act sets out the circumstances in which convictions for these offences can be 'spent'. These circumstances do not include decisions involving the care of children, which could result in discriminatory impacts for people who have been convicted of now-repealed offences relating to consensual same sex sexual activity.</p>		<p>offences that involve consenting persons of the same sex are 'spent convictions' for all purposes, including working with children etc.</p>
--	--	--	--	--

	<p>the conduct constituting the offence has ceased, by operation of law, to be an offence.</p> <p>Schedule 1, section 16 deals with the care of children. It provides that the provisions in the Act that permit spent convictions to be disregarded do not apply to certain decisions (such as guardianship decisions) relating to the care of children.</p>			
Stamp Duties Act 1923	<p>Section 16 of the Act contains a list of instruments that are generally exempt from stamp duty. This list includes 'marriage settlements'.</p> <p>Part 3 of the Act contains special provisions with respect to certain stamp duties. Division 6 deals with conveyances and conveyances on sale.</p> <p>Section 71CA provides exemptions from duty in respect of Family Law instruments (which include a order relating to a marriage or de facto relationship that the Commissioner is satisfied has broken down irretrievably). This section picks up a number of definitions from the <i>Family Law Act</i> including 'de facto relationship'. It also defines 'marriage' as including a marriage that is void and thus liable to annulment, and 'married' has a corresponding meaning.</p>	<p>Section 16 discriminates on the grounds of marital status-referring only to 'marriage settlements' and not including, for example, registered domestic partnerships.</p> <p>The discriminatory impact of section 71CA depends upon the meaning given to the term 'de facto relationship' under the <i>Family Law Act</i>.</p>	3	<p>Reform options include:</p> <p>Replacing references to 'de facto' with references to 'domestic partnership' or 'registered relationship' if the above reforms are adopted.</p> <p>Reviewing the exemption in section 16 that relates to 'marriage settlements' with a view to incorporating settlements between domestic partners or registered relationships.</p>

State Opera South Australia Act 1976	Section 8 of the Act deals with the composition of the Board. It provides that at least 2 members must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
State Procurement Act 2004	Section 7 of the Act deals with the composition of the Board. It provides that at least 1 appointed member of the Board must be a woman and at least 1 must be a man.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it excludes gender diverse or intersex individuals.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
State Records Act 1997	Section 7 of the Act deals with the composition of the State Records Council. It provides that at least 2 members of the Council must be women and at least 2 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
State Theatre Company of	Section 7 of the Act deals with the composition of the Board. It provides that	This provision is designed to promote gender equity in	1	Amend the <i>Acts Interpretation Act 1915</i>

South Australia Act 1972	at least 2 members must be women and at least 2 must be men.	board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		(SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Summary Offences Act 1953	<p>Section 33 deals with offences relating to indecent or offensive material. These offences include delivering or exhibiting indecent or offensive material to a minor (other than a minor of whom the person is a parent or guardian); or causing or permitting the minor to deliver or exhibit indecent or offensive material to another person.</p> <p>Section 66 contains the interpretation section for Part 14A of the Act, which deals with consorting prohibition notices. In this Part, "close personal relationship" has the same meaning as in Part 3 of the <i>Family Relationships Act 1975</i> and 'spouse' means a person who is legally married.</p> <p>Subsection 66(2) provides that a person is a 'close family member' of another person if they are a spouse, former spouse or has been in a close personal relationship with the other person, or is a parent or grandparent of the other (whether by</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	blood or by marriage); or a brother or sister of the other (whether by blood or by marriage); or is a guardian or carer of the other.	It also contains terms based on binary notions of sex and gender e.g. 'brother' or 'sister'.		
Summary Procedure Act 1921	<p>Part 4 concerns summary jurisdiction. Division 5 deals with non-association and place restriction orders. Section 77 contains an interpretation provision for this Division. It defines 'close family', in relation to a defendant, as including a spouse, a former spouse, a person in a 'close personal relationship', parents and grandparents, brothers and sisters and guardians or carers. 'Close personal relationship' has the same meaning as in Part 3 of the <i>Family Relationships Act 1975</i>. 'Spouse' means a person who is legally married.</p> <p>Division 7 deals with restraining orders. Section 99J relates to complaints or applications by or behalf of a child. It provides that a complaint can be made by a child or on behalf of a child by a parent or guardian of the child; or by a person with whom the child normally or regularly resides. Section 99AAC deals with complaints made relating to restraining orders. It defines 'guardian', of a child</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>It also contains terms based on binary notions of sex and gender e.g. 'brother' or</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	as meaning a parent of the child, a person who is the legal guardian of the child or has the legal custody of the child or any other person who stands <i>in loco parentis</i> to the child and has done so for a significant length of time.	'sister'.		
Superannuation Act 1988	<p>Section 4 contains definitions for key terms including 'spouse' which is defined to include a 'putative spouse'.</p> <p>'Putative spouse' is defined in section 4A as a person who is (on a certain date) cohabiting with the other person as his or her wife or husband de facto and the person has been cohabiting with the other person continuously for the preceding period of 3 years (or 3 years of cohabiting within the past 4) or a child, of whom both persons are the parents, has been born (whether or not the child is still living).</p> <p>Subsection 4A(1)(b) deals specifically with two persons of the same sex, providing that a person will be a 'putative spouse' if 'he or she is, on that date, cohabiting with the other person in a relationship that has the distinguishing characteristics of a relationship between a married couple (except for the characteristics of different sex and legally recognised marriage and</p>	<p>This Act contains a number of provisions that attribute rights and liabilities a members' putative' spouse. The meaning given to 'putative spouse' closely reflects the term 'domestic partner' in the <i>Family Relationships Act</i>. with the additional requirement of cohabitation as de facto 'husband and wife'.</p> <p>As a result, these provisions have a discriminatory impact on people who cannot be or are not married as it requires them to adhere to more onerous criteria than married couples or even domestic partners. This has a particularly discriminatory impact on same sex couples who cannot get married.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation;</p> <p>Remove references to 'husband' and 'wife' and 'marriage like' relationship in the definition of 'putative spouse'; and/or</p> <p>Replace the references to 'putative' spouse with references to a Registered Relationship.</p>

	<p>other characteristics arising from either of those characteristics) and the person has been so cohabiting with the other person continuously for the preceding period of 3 years; or (or 3 years of cohabitating within the past 4)'.</p> <p>Subsection 4A(2) sets out a process for having a person declared by the District Court as a 'putative spouse' for the purposes of the Act.</p> <p>This definition has implications for other provisions of the Act.</p> <p>Section 46 provides for the division of benefits where deceased contributor is survived by lawful and putative spouses. It provides that a deceased contributor is survived by a lawful spouse and a putative spouse, any benefit to which a surviving spouse is entitled under this Act will be divided between them in a ratio determined by reference to the relative length of the periods for which each of them cohabited with the deceased as his or her spouse.</p> <p>Part 4 deals with the distribution of superannuation benefits for new scheme contributors. It contains provisions including the distribution of payments following the death of a contributor - which refer to the contributor's</p>	<p>The use of terminology such as 'husband and wife' - even if defined to include same sex couples - entrenches the idea that the heterosexual, married couple is the most valued legal relationship.</p>		
--	--	---	--	--

	<p>spouse and eligible child (s32).</p> <p>Part 5 deals with the distribution of superannuation benefits for old scheme contributors. It contains provisions including the distribution of payments following the death of a contributor - which refer to the contributor's spouse and eligible child (s38).</p>			
<p>Superannuation Funds Management Corporation of Australia Act</p>	<p>Section 3 defines key terms including: 'domestic partner', defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'relative' defined to mean a spouse, domestic partner, a parent or remoter linear ancestor; or a son, daughter or remoter issue; or a brother or sister. 'Spouse' is defined as a person who is legally married.</p> <p>Section 9 of the Act deals with the establishment of the Board of directors. Subsection 9(5) provides that the panel must have included at least one man and one woman.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'de facto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

		Section 9 is designed to promote gender equity in board membership, however by adopting binary concepts of gender it excludes gender diverse or intersex individuals.		
Supported Residential Facilities Act 1992	<p>Section 3 of the Act contains definitions of key terms including: ‘domestic partner’ defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; ‘immediate family’ defined to means any of the following: a spouse or domestic partner; a brother or sister; a parent; a grandparent; a child or grandchild; an uncle or aunt; a nephew or niece, whether the relationship is of whole blood or half-blood or by affinity. The term ‘spouse’ is defined as a person who is legally married.</p> <p>Section 7 sets out the principles to be observed in this Act. These principles include that residents are entitled to independence and freedom of choice, including ‘the right to choose and pursue friendships with members of either sex’.</p> <p>Section 11 sets out the framework for the establishment of the <i>Supported Residential Facilities Advisory Committee</i>. This</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The meaning attributed to</p>	3 1	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation;</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

	<p>provision sets out the characteristics of Committee members. These include that at least one member of the Advisory Committee must be a woman and at least one member must be a man.</p> <p>Section 41 deals with extension of care that must be offered if a resident of a supported residential facility is in need of care that is not provided at the facility. It sets out a process for notifying a member of 'the immediate family of the resident'. Similar provisions are contained in section 42 which relates specifically to a person who is residing at residential-only premises.</p>	<p>'immediate family' is broad enough to encompass relatives by 'affinity' and moves beyond binary notions of sex and gender.</p> <p>Section 11 is designed to promote gender equity in board membership, however by adopting binary concepts of gender it excludes gender diverse or intersex individuals.</p>		
Survey Act 1992	<p>Section 8 of the Act deals with the composition of the Committee. It provides that at least 1 member of the Committee be a woman and at least 1 member be a man.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
TAFE SA Act 2012	<p>Section 7 of the Act deals with the composition of the Board as the governing body of TAFE SA. The Board is to consist of between 6 and 11 members. At least 2</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition</p>

	members must be women and at least 2 must be men.	of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		provisions include people who identify as the specified gender (see AIA entry).
TAFE SA Regulations 2012	<p>Regulation 19 deals with maternity leave. It provides that subject to the regulations, the chief executive will grant a female prescribed employee who is pregnant leave for a period commencing at any time after the issue of a medical certificate confirming the employees pregnancy and ending no later than the close of the TAFE year in which the first anniversary of the birth falls.</p> <p>These Regulations also refer to 'domestic partners' as defined under the <i>Family Relationships Act</i>.</p>	<p>Regulation 19 discriminates against gender diverse individuals and intersex individuals by excluding non-females from maternity leave.</p> <p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic</p>	3	<p>Possible reform options include removing reference to 'female' in Regulation 9.</p> <p>The introduction a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>

		partners without children, and in particular for same sex couples who do not have the legal option of marriage.		
Terrorism (Preventative Detention) Act 2005	Section 35 of this Act deals with the rights of a person subject to a preventative detention order to contact a 'family member' or a person that he or she lives with that is not a family member, as well as his or her employer or employees. Subsection 35(3) provides that in this section "family member" of a person means: the person's spouse, de facto spouse or same sex partner; or a parent, step parent or grandparent of the person; or a child, step child or grandchild of the person; or a brother, sister, step brother or step sister of the person; or a guardian or carer of the person.	This provision includes 'de facto spouses' and 'same sex couples' within the definition of 'family member'. This approach may remove or limit discrimination against same sex couples and sex and gender diverse people. However the definition of 'family member' still includes binary notions of sex and gender.	3	Possible options for reform include: The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.
Teachers Registration and Standards Act 2004	Section 9 of the Act provides that the Minister must ensure, as far as practicable, that the Teachers Registration Board consists of equal numbers of women and men	Section 9 is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).

Training and Skills and Development Act 2008	<p>Section 4 contains definitions of key terms, including: "domestic partner", defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not. 'Spouse' is defined as a person who is legally married.</p> <p>Subsection 4 (4a) sets out who constitutes an "associate" for the purposes of this Act. This includes where one is the spouse, domestic partner, parent or child of the other.</p> <p>Section 9 establishes the Training And Skills Commission and sets out the membership of the Commission. Subsection 9(8) provides that at least 1 member of the Commission must be a woman and 1 a man.</p>	<p>This Act contains provisions that reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>Section 9 is designed to promote gender equity in board membership, however by adopting binary concepts of gender, it excludes gender diverse or intersex individuals.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
Transplantation and Anatomy Act 1983	<p>Section 5 contains definitions of key terms. A 'child' means a person who is under the age of 18 and who is not married; 'domestic partner' means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'spouse' means a person who is legally married; 'parent' of a child includes a guardian of the child.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years</p>

	<p>Section 5 also contains specific definitions for next of kin, which in relation to a child mean (in priority order): a parent, a brother or sister who has attained the age of 18 or a guardian. In relation to other people, next of kin means (in priority order): a spouse or domestic partner; a son or daughter who has attained the age of 18; a parent or a brother or sister who has attained the age of 18.</p> <p>These definitions have implications for other provisions in the Act, such as when authorities may remove tissue from a person after death (s21), and when post mortem examinations are to be conducted (s25).</p> <p>This Act also contains specific provisions relating to the processes for consenting to the removal of tissue from a child (ss12-14). These provisions give the parents of the child certain rights to consent to the removal of tissue and to revoke such consent.</p> <p>Section 13(4) also empowers the Minister to appoint a Committee for the purpose of determining the circumstances in which consent can be given in respect of removal for transplantation of regenerative tissue from a child. It provides that at least 1 member of such a Committee must be a</p>	<p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>Further, the approach taken to determining next of kin relies upon binary concepts of sex and gender and may discriminate against sex and gender diverse people and same sex parents.</p> <p>Section 13 is designed to promote gender equity in board membership, yet by adopting binary concepts of gender, it excludes gender diverse or intersex individuals.</p>		<p>of cohabitation</p>
--	--	---	--	------------------------

	woman and 1 a man.			
Victims of Crime Act 2001	<p>Section 4 contains definitions of key terms. This section makes it clear that a reference to 'child' is not limited to biological and adopted children — it extends to a person in relation to whom another (who is not a biological parent) stands in the position, and undertakes the responsibilities, of a parent. Correspondingly, 'parent' includes a person who stands in the position, and undertakes the responsibilities, of a parent. 'Spouse' means a person who is legally married. The term 'dependants', in relation to a victim, means any spouse, domestic partner, parents or children (including adult children) of the victim who are financially dependent on the victim. The term "domestic partner" means a person who is a domestic partner within the meaning of the Family Relationships Act 1975, whether declared as such under that Act or not.</p> <p>Section 4 also sets out who constitutes the 'immediate family' of a person. This means: a spouse or domestic partner; a parent; a grandparent; a child (including an adult child); a grandchild (including an adult grandchild); and a brother or sister.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The approach taken to determining next of kin also relies upon binary concepts of sex and gender and may discriminate against sex and gender diverse people and same sex parents.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p>

	<p>The term ‘immediate victim’ is also defined to include a parent or guardian of the child, if the offence was committed against a child, or a member of the immediate family of the deceased, if the person dies as a result of the offence.</p> <p>Subsection 17(1) sets out when a person is eligible to claim statutory compensation for an injury caused by an offence. This includes a person who is immediate victim of the offence, and who also satisfies at least one of a list of conditions that include references to the person’s ‘immediate family’. Subsection 17(2) sets out when a person is eligible to claim statutory compensation for grief suffered in consequence of the commission of a homicide. This includes a person who is the spouse or domestic partner of the deceased victim; or where the deceased victim was a child — a parent of the deceased victim.</p> <p>Section 20 deals with the circumstances in which a court can make an order for statutory compensation. It provides the court with the power, subject to certain conditions being met, to order compensation to a victim’s ‘dependents’. Section 23 relates to circumstances where joint offenders are</p>			
--	---	--	--	--

	involved.			
Wills Act 1936	<p>Section 5 deals with the will of a minor. It provides that, subject to the Act, a minor cannot make, alter or revoke a will, however a minor who is or has been married may make, alter or revoke a will as if he or she were an adult. Section 6 permits the court to make an order authorising the minor to make or alter a will if certain conditions are met.</p> <p>Part 2 of the Act deals with the making, alteration, and revocation of wills. Division 3 deals with the execution and attestation of wills. Section 7A contains definitions for key terms in Division 3, including: 'domestic partner' which means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; and spouse 'is a person is the spouse of another if they are legally married.'</p> <p>Section 17 deals with gifts to an attesting witness and provides that no will or testamentary provision in a will is void by reason only of the fact that the execution of the will is attested by a person, or the spouse or domestic partner of a person, who has or may acquire, in terms of the will or provision, any interest in property</p>	<p>This Act contains a number of provisions that invest rights in people who are or have been legally married (such as the circumstances in which a minor can make a will, and when a will can be revoked).</p> <p>These provisions discriminate against same sex couples and gender diverse people who cannot be lawfully married under the <i>Marriage Act 1961</i>.</p> <p>It is noted that some provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods</p>	3	<p>Reform options include:</p> <p>Repealing sections 5, 20 and 22; or</p> <p>Amending sections 5, 20 and 22 to remove references to 'man', 'woman' and 'marriage' - redrafting the provisions to provide that every will made by a person will be revoked upon entering into a 'marriage or domestic partnership' defined with reference to the <i>Family Relationships Act</i></p> <p>Or, alternatively, the introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>

	<p>subject to the will or provision.</p> <p>Section 20 contains the general rule that every will made by a man or woman is revoked by his or her marriage (except a will made in exercise of a power of appointment when the real or personal estate thereby appointed would not in default of such appointment pass to his or her heir executor or administrator, or the person entitled as his or her next of kin under the Statute of Distributions).</p> <p>Section 20A deals with the effect of the termination of a marriage on the will.</p> <p>Section 22 sets out the cases in which wills may be revoked. This includes by marriage or termination of marriage.</p> <p>Section 36 contains the rule that gifts to children or other issue who leave issue living at the testator's death do not lapse.</p>	<p>of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>		
Workers Rehabilitation and Compensation 1986	<p>Section 3 of the Act contains definitions for key terms, including 'child', which in relation to a deceased worker, includes a person in relation to whom the worker stood, at the date of death, <i>in loco parentis</i> ; and 'close personal relationship' which means the relationship between 2 adult persons (whether or not related by family and irrespective of their gender) who live together as a couple on a genuine domestic</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years</p>

	<p>basis, but does not include a marriage relationships or a domestic support or personal care relationship where one person receives a fee or reward. The provision notes that two persons may live together as a couple on a genuine domestic basis whether or not a sexual relationship exists, or has ever existed, between them.</p> <p>The term 'dependant', in relation to a deceased worker, is defined to mean a relative of the worker who, at the time of the worker's death was wholly or partially dependent for the ordinary necessities of life on earnings of the worker; or would, but for the worker's injury, have been so dependent, and includes a posthumous child of the worker; and 'dependent' has a corresponding meaning.</p> <p>'Domestic partner' is defined to mean a person who lives with the worker in a close personal relationship and has been so living with the worker continuously for the preceding period of 3 years (or 3 of the past 4 years); or a child, of whom the worker and the person are the parents, has been born (whether or not the child is still living).</p> <p>The term 'parent', in relation to a deceased worker, includes a person who stood <i>in</i></p>	<p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The relative-related definitions in this Act contain elements that rely on binary notions of sex and gender but are more inclusive than in other Acts.</p> <p>Section 3 of the Act refers to 2 people living in a 'close personal relationship', 'irrespective of gender'. This term may operate to address certain discrimination against sex and gender diverse people and same sex couples, depending on the meaning attributed to the term 'gender'.</p> <p>The Act also adopts a binary</p>		<p>of cohabitation.</p>
--	--	---	--	-------------------------

	<p><i>loco parentis</i> to the worker at the time of the worker's death.</p> <p>The term 'relative', in relation to a deceased worker, means a spouse, domestic partner, parent, grandparent, step-parent, child, grandchild, stepchild, brother, sister, stepbrother, stepsister, half-brother or half-sister of the worker; and 'spouse' means a person who is legally married.</p> <p>These definitions have implications for other provisions in the Act.</p> <p>Section 44 deals with the circumstances weekly payments of compensation can be made where a worker dies as a result of a compensable injury. It includes reference to the compensation entitlements of a dependent spouse or domestic partner, as well as a dependent child and a dependent relative.</p> <p>Section 45A deals with lump sum compensation payable on death of a worker. It contains definitions of key terms, including: 'dependent child' which means a child, including an orphaned child, totally, mainly or partially dependent on the worker's earnings; 'dependent partner' which means a spouse or domestic partner totally or mainly dependent on the worker's earnings; and</p>	<p>definition of gender (eg s50) which may be applied discriminatorily to intersex individuals or transgender individuals depending on how 'gender' is determined.</p>		
--	---	--	--	--

	<p>'partially dependent partner' which means a spouse or domestic partner who is to any extent dependent on the worker's earnings. The provision then sets out the compensation entitlements of these categories of people.</p> <p>Section 45C deals with compensation services. It provides that if a worker dies as a result of a compensable injury, a family member is entitled to be compensated for the cost of approved counselling services to assist the family member to deal with issues associated with the death. The term 'family member' means a spouse, domestic partner, parent, sibling or child of the worker or of the worker's spouse or domestic partner.</p> <p>Section 50 of the Act deals with noise induced hearing loss. It contains references to a 'man' or a 'woman'.</p>			
Trustee Act 1936	<p>Section 22 of this Act provides that: 'When any freehold hereditament is vested in a married woman as a bare trustee she may convey or surrender it as if she were a feme sole.'</p>	<p>This provision reflects an archaic concept which does not include unmarried or non-heterosexual couples. As result, it discriminates against people on the basis of their sexual orientation and marital status and gender identity.</p>	1	Repeal section 22.

<p>University of Adelaide Act 1971</p>	<p>Section 17 deals with duties of Council members appointed under the Act with respect of conflicts of interest. Subsection 17(8) provides that without limiting the effect of this section, a member of the Council will be taken to have an interest in a matter for the purposes of this section if a relative of the member has an interest in the matter. The section defines key terms including: 'domestic partner' which means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'relative' which means the spouse, domestic partner, parent or remoter linear ancestor, son, daughter or remoter issue or brother or sister of the member; and 'spouse' means a person who is legally married.</p> <p>Section 12 of the Act deals with the constitution of the University Council. It provides that, as far as practicable, the Council is to be constituted of equal numbers of men and women who also meet prescribed criteria.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>Section 12 is designed to promote gender equity in board membership, yet by adopting binary concepts of gender, it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of</p>	<p>3</p> <p>1</p>	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation; and</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
---	--	---	-------------------	--

		discrimination.		
Urban Renewal Act 1995	<p>Section 3 defines key terms. Under this section 'domestic partner' means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not;</p> <p>Further, 'relative' means 'the spouse domestic partner, parent or remoter lineal ancestor, son, daughter or remoter issue or brother or sister of the person' and 'spouse' refers to a person who is legally married.</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation.</p>
Veterinarian Practice Act 2003	<p>Section 46 contains definitions of key terms, including: 'domestic partner', defined to mean a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not. 'Spouse' is defined as a person who is</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new</p>	3	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples</p>

	<p>legally married.</p> <p>Section 6 deals with the composition of the Veterinarians Surgeons Board of South Australia. It provides that at least 1 member of the Board nominated by the Minister must be a woman and at least 1 a man.</p>	<p>definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>Section 6 is designed to promote gender equity in board membership, yet by adopting binary concepts of gender it excludes gender diverse or intersex individuals.</p>	1	<p>to register as domestic partners without the need to demonstrate 3-4 years of cohabitation; and</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>
West Beach Recreation Reserve Act 1987	<p>Section 7 of the Act deals with the membership of the West Beach Recreation Reserve Trust. It provides that of the members nominated by a council, one must be a woman and one must be man. It further provides that of the overall membership of the Trust, there must be at least 2 women and at least 2 men.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open</p>	1	<p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).</p>

		the possibility of discrimination.		
WorkCover Corporation Act 1994	Section 5 of the Act deals with the constitution of the board of management. It provides that at least 3 members of the board must be women and at least 3 must be men.	This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Young Offenders Act 1983	<p>Subsection 3(3) of the Act provides that where the circumstances of the individual case allow, certain statutory policies should be given effect, including the policies that: family relationships between a youth, the youth's parents and other members of the youth's family should be preserved and strengthened; and a youth should not be withdrawn unnecessarily from the youth's family environment.</p> <p>Section 4 contains definitions of key terms including: 'domestic partner' which means a person who is a domestic partner within the meaning of the <i>Family Relationships Act 1975</i>, whether declared as such under that Act or not; 'guardian' in relation to a youth, which means a parent of the youth or a person (other than the Minister) who</p>	<p>These provisions reflect efforts made via the <i>Statutes Amendment (Domestic Partners) Act 2006</i> to address discrimination against same sex couples and to replace the term 'defacto' with a new definition of 'domestic partner' in the <i>Family Relationships Act</i>.</p> <p>However, the current definition of 'domestic partner' includes criteria (including minimum periods of cohabitation) that do not apply to married couples, resulting in continued discrimination for domestic</p>	<p>3</p> <p>1</p>	<p>Possible options for reform include:</p> <p>The introduction of a Relationships Register, based on that in NSW, that would allow heterosexual and homosexual couples to register as domestic partners without the need to demonstrate 3-4 years of cohabitation</p> <p>Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see</p>

	<p>is the guardian of the youth or has the immediate custody and control of the youth; and 'spouse' which means a person who is legally married.</p> <p>Section 4 also sets out who constitutes the "immediate family" of a victim, which includes: a spouse or domestic partner, a parent, grandparent, a child, grandchild or brother or sister.</p> <p>Section 38 of the Act establishes the Training Centre Review Board and sets out the rules governing the membership of the Board. These rules include that the Board contain at least one woman and one man.</p>	<p>partners without children, and in particular for same sex couples who do not have the legal option of marriage.</p> <p>The Board composition provisions are designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>		AIA entry).
Zero Waste SA Act 2004	<p>Section 9(7) of the Act deals with the membership of the Zero Waste SA Board. It provides that at least one member of the Board must be a woman and one a man.</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.</p>	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include people who identify as the specified gender (see AIA entry).
Zero Waste SA Regulations 2006	<p>Regulation 4(b) provides that for the purposes of section 9(4) of the Act, the Minister is to consult the Local Government Association in relation to the selection of people appointed to the Board -</p>	<p>This provision is designed to promote gender equity in board membership, however by adopting binary concepts of gender it does not specify</p>	1	Amend the <i>Acts Interpretation Act 1915</i> (SA) (AIA) to ensure that board composition provisions include

Appendix 1

	recommended candidates should, as far as practicable, comprise of equal numbers of men and women.	how the law is to deal with a person who is intersex or gender diverse, leaving open the possibility of discrimination.		people who identify as the specified gender (see AIA entry).
--	---	---	--	--