

# Law reform and marriage equality

Year 11

NSW

Module [1/1]

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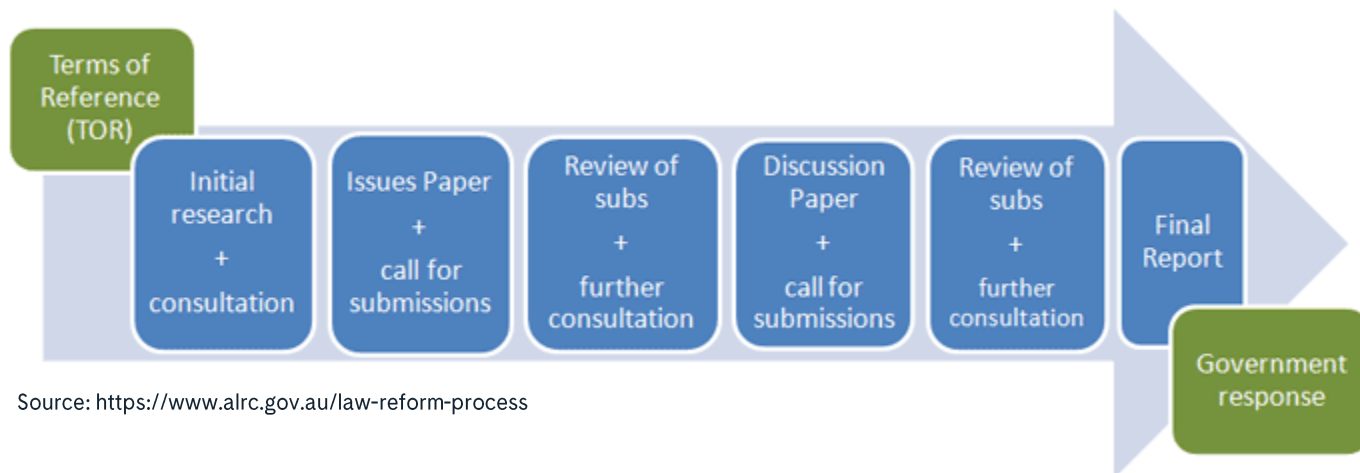
What is law reform and its purpose



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# Law reform

- Law reform is an important mechanism for achieving justice – it involves evaluating current laws and advocating for change.



Source: <https://www.alrc.gov.au/law-reform-process>

# What changes can be made?

Term	Definition
Amend	In this case, changes are made to pre-existing laws e.g. to change their wording, delete certain parts or include new phrases.
Introduce/ enact	In this case, a new law may be developed, or a new piece of legislation created.
Abolish	In this case, a law or a piece of legislation ceases to exist – it is removed or deleted.

# Marriage equality in Australia

- This is an example of the changes to societal values which led to an eventual change in laws.
- Prior to December 2017, the law defined marriage as “the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.” (s 5, Marriage Act 1961 (NSW) prior to December 2017).
- After December 2017 this law was amended to state “the union of 2 people to the exclusion of all others, voluntarily entered into for life.” (s 5, Marriage Act 1961 (NSW) after December 2017).



# Discussion

How did the  
laws get  
changed



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# Marriage equality in Australia

- 1 June 2015 – *Marriage Amendment (Marriage Equality) Bill 2015* was introduced to Parliament and eventually 66 Coalition MPs voted against allowing a free vote.
- 14 September 2015 – the long debate about a public vote vs a free vote in Parliament began.
- 14 September 2016 – the *Plebiscite (Same-sex Marriage) Bill 2016* was introduced to Parliament but did not receive assent.
- Considerable debate was held throughout 2017 including the legitimacy of holding a postal survey as opposed to a plebiscite to understand public opinion on the issue.

There are lots of different terms that were thrown around during the debate including:

Term	Definition
Referendum	A referendum is a national vote to make an amendment or change to the constitution. It is compulsory to vote in a referendum and it must be supported by a double majority to be passed – that is, a national majority of voters AND a majority of voters in a majority of the states i.e. in four or more states there must have been a majority vote. In this case, the constitution <i>must</i> be changed in response to the referendum.
Plebiscite	A plebiscite is a vote put to the public, sometimes known as a “national vote”. In a plebiscite, voters are asked to vote on a single issue. It is similar to a referendum, however plebiscites ask voters to vote on issues that do not effect the constitution. Furthermore, there is no one definition of a plebiscite, nor is the Government bound to follow the vote of a plebiscite (e.g. even if a plebiscite receives overwhelming support, the Government does not have to change the laws in response to this).
Free vote	A free vote in Parliament, as the name suggests allows individual parliamentarians to vote according to their personal preferences, rather than according to how their party votes.
Postal vote	The postal vote (which was the method eventually used) is a voluntary polling of the Australian public to determine their opinion on the issue.

# So what happened?

- During 12 September and 7 November a postal vote was held to ask the question “should the law be changed to allow same-sex couples to marry?”. The “yes” vote was favoured with 61.6% of the vote.
- In December 2017, in response to the public’s indication for its support for marriage equality, growing support by individual parliamentarians and various organisations and the media’s spotlight on the issue, the Government changed the laws to allow same-sex couples to marry through a free vote in Parliament.



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# Summary

- Law reform is an important mechanism of achieving justice by changing, abolishing or amending laws so that they better reflect society's values
- Marriage equality is an example of law reform where public opinion played a huge role in influencing the Government to change marriage laws to better reflect contemporary Australian society

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