

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

2 April 2012

Dear Secretary,

Submission to the Inquiry into the Marriage Equality Amendment Bill 2010

Please find attached a response from the Immigration Advice & Rights Centre ("IARC") to the Inquiry into the *Marriage Equality Amendment Bill 2010*.

We thank you for the opportunity to provide a submission in regards to this review and welcome any further opportunity to provide consultation regarding the Commission's findings.

Kind regards,

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Introduction

1. The Immigration Advice & Rights Centre was established in 1986 as a specialist immigration law community legal centre. Due to its extensive knowledge of Australia's immigration law and policy, IARC has made contributions to law reform discussions enhancing the operation of migration and refugee law.
2. As an organisation that advocates on behalf of foreign nationals seeking to remain in Australia, on both family and humanitarian grounds, we are interested in reform that will provide greater accessibility for our clients to Australia's migration program.

Same-sex marriage reform

3. IARC supports the same-sex marriage reform embodied in the *Marriage Equality Amendment Bill* 2010, on the basis that the current prohibition on same-sex marriage is discriminatory, and limits the access of same-sex couples to important legal rights and protections under the *Migration Act* 1958 and *Migration Regulations* 1994.
4. Australian society attaches a great deal of importance to marriage and its consequences. While not every couple will choose to marry, IARC believes that same-sex couples should be afforded that choice. To deny same-sex couples the right to marry segregates them from society and devalues the significance of their relationships.

The implications of reform

5. IARC believes that same-sex marriage reform will simplify access to Australian immigration law for same-sex couples. This point is illustrated by reference to a comparative case study of a Partner visa applicant in Australia: a situation within the specialist knowledge of our Centre.

Case Study:

- John, a 42-year-old British national, wishes to migrate to Australia to live with his partner, Peter, who is an Australian Citizen. The couple were married in Canada six months ago, but the marriage is not recognised here. John will be ineligible to apply for a Partner visa unless he has been in a de facto relationship with Peter for twelve months, or the relationship has been registered with the Office of Births, Deaths and Marriages.
- John's twin sister Cecilia, a 42 year-old British national, wishes to migrate to Australia to live with her partner, Paul, who is an Australian Citizen. The couple were married three months ago. Cecilia is immediately eligible to apply for a Partner visa because she is validly married under Australian law.

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6. This case study illustrates that a same-sex couple can be in a similar relationship to that of a heterosexual couple, yet without a recognised union the same-sex couple is subject to greater evidentiary burdens and delays under Australian immigration law.
7. Reform that provides for same-sex marriage in Australia, and recognition of those performed validly in a foreign country, will correct this inequality in access to the law. Along with Cecilia, John would also be immediately eligible to apply for a Partner Visa because his marriage would be recognised, under Australian law, as having been validly performed in a foreign country.

Conclusion

8. IARC supports the *Marriage Equality Amendment Bill 2010* because it adequately provides for same-sex marriage in Australia and those validly performed in a foreign country.
9. Currently under Australian immigration law same-sex couples do not enjoy recognition of their relationships on par with heterosexual couples. These reforms will allow same-sex couples to come one step closer to equality under immigration law.