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Joint Standing Committee on Migration  
Department of House of Representatives  
PO Box 6021  
Parliament House  
CANBERRA ACT 2600

Submission No 008

Dear Committee Secretary

The Disability Services Commission supports the inquiry into the Migration Act (1957) and more importantly strongly supports fundamental change to the Act's response to people with disabilities.

Under the Migration Act, people with disabilities wanting to migrate to Australia have their disability taken into consideration in meeting the health criteria as a condition for entry. As a result, in most cases, people with disabilities are automatically excluded from consideration.

Disability is not linked with ill health. Under the Disability Discrimination Act (1992) this would be determined as discriminatory against people with disabilities. However, the Migration Act is exempt from the Disability Discrimination Act. When the Migration Act was drafted, it would appear two erroneous assumptions were made; firstly, that illness and disability are the same, and secondly, that people with a disability will burden the community with additional costs in health related needs. There was also a failure to consider that people with disabilities could make any worthwhile contribution to the Australian community.

In contemporary Australia, people with disabilities are recognised as valuable members of our community who make a substantial contribution to the fabric of the nation. The perception created and perpetuated by the Migration Act, is that people with disabilities are nothing more than a financial burden, is discriminatory. This perception devalues all people in Australia with disabilities and has no place in a modern and progressive community.

The Migration Act clearly does not represent contemporary Australian values which support access and inclusion of all people with disabilities in our communities.

The Migration Act is one of the few pieces of legislation that is allowed to continue to discriminate actively against people on the grounds of their disability. This subsequently reinforces archaic stereotypes of people with disabilities not being citizens who contribute to society, instead needing constant care and having a negative financial impact on the community. These negative messages misrepresent people with disabilities to the Australian public and contradict messages emerging from the Australian Government's Social Inclusion Agenda (2009) promoting inclusion, participation and engagement.

The current disability discrimination exemption within the Migration Act also runs contrary to other Commonwealth and State legislation that supports and promotes the inclusion of people with disabilities in our communities and protects against discrimination.

The Commission understands that part of the Australian Government's commitment to ratifying the United Nations Convention on the Rights of Persons with Disabilities has been the establishment of this public inquiry, to explore opportunities and to redress the current disability discrimination exemption within the Migration Act. The current legal disability exemptions within the Act are clearly at odds with many parts of the Convention, including Article 18: Liberty of movement and nationality.

Finally, as noted by Dr Rhonda Galbally in her speech at the National Press Club (7 October 2009), the result of the current treatment of Australians with disabilities results in the loss of potential, productivity and possibility for the nation's future. The current health restrictions that envisage disability as a fiscal impost upon Government services and supports, excludes potential candidates for migration. In fact, the reality of the current treatment of people with disabilities under the Migration Act means that Australia has been unable to attract, maintain and support people with disabilities with highly specialised skills, competencies and knowledge, who are leaders within their fields. Therefore, the current migration exemptions in turn ensure that Australia does not attract people who could make a substantial contribution to the country. In this day and age, there is no place for such blatant and costly discrimination and the Migration Act must be changed to reflect this.

Yours sincerely

Dr Ron Chalmers  
DIRECTOR GENERAL  
DISABILITY SERVICES COMMISSION

16 October 2009