

CHAPTER 1

INTRODUCTION

Purpose of the Bill

1.1 On 18 June 2008, the Senate referred the Same-Sex Relationships (Equal Treatment in Commonwealth Laws-Superannuation) Bill 2008 (Bill) to the Senate Standing Committee on Legal and Constitutional Affairs (committee) for inquiry and report by 30 September 2008, or after consideration of any related bill(s) that may be introduced to give effect to the recommendations of the Human Rights and Equal Opportunity Commission's report *Same Sex: Same Entitlements*, whichever is the sooner.

1.2 On 4 September 2008, a related bill, the Same-Sex Relationships (Equal Treatment in Commonwealth Laws-General Law Reform) Bill 2008 (the General Law Reform Bill), was referred to the committee for inquiry and report by 30 September 2008.

1.3 On 25 September 2008, the Senate extended the reporting date for both bills to 14 October 2008.

1.4 The terms of reference for the inquiry into the provisions of this Bill include:

- (i) the definition of 'couple relationship',
- (ii) empirical evidence from the states concerning the existence, recognition and relative numbers of interdependent relationships, other than de facto (whether heterosexual or same-sex) and marital relationships,
- (iii) whether the definition of 'couple relationship' should be amended to incorporate other interdependent relationships and, if so, whether the definitions should be broadened to include those relationships or whether a separate definition is required,
- (iv) the fiscal implications of the statutory recognition of other interdependent relationships for superannuation and taxation purposes,
- (v) the definitions of 'child' and 'child of a couple relationship',
- (vi) the legal and fiscal implications of the definitions referred to in (v), particularly as they relate to the rights, obligations and liabilities of co-parents (i.e., the parent in a couple relationship that does not have a biological connection to a child of that relationship), and

(vii) all other matters considered necessary by the committee.¹

1.5 The Bill amends 14 Acts in relation to Commonwealth civilian and military (defined benefit) superannuation schemes; parliamentary, judicial and statutory legal officer pension schemes; and the Governor-General's pension scheme to ensure that same-sex partners and the children of same-sex couples are able to access reversionary superannuation benefits upon the death of the scheme member. The Bill will also amend related taxation and superannuation regulatory Acts.

Conduct of the inquiry

1.6 The committee advertised the inquiry in *The Australian* newspaper on 2, 16 and 30 July 2008. Details of the inquiry, the Bill and associated documents were placed on the committee's website. The committee also wrote to 120 organisations and individuals inviting submissions by 25 July 2008.

1.7 The committee received 306 submissions. The committee also received variations on seven different standard letters, totalling 318 individuals, and 63 joint submissions relating to the inquiry and other inquiries concurrently being conducted by the committee in relation to the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 and the Evidence Amendment Bill 2008. The submissions for this inquiry are all listed at Appendix 1.

1.8 A list of submissions was placed on the committee's website. However, not all submissions were published on the committee's website. This was due to the large number of submissions received for the three inquiries, and the resources required to publish those submissions. The majority of submissions received merely expressed a short statement in favour of, or opposing, the Bill. While some submitters requested confidentiality, all public submissions are available to the general public and can be provided upon request made to the committee secretariat.

1.9 The committee held public hearings in Sydney on 5 August 2008, Melbourne on 6 August 2008, and Canberra on 7 August 2008. Hearings were also conducted on those dates for the inquiries in relation to the Family Law Amendment (De Facto Financial Matters and Other Measures) Bill 2008 and the Evidence Amendment Bill 2008. Due to overlap between certain issues, this report may refer to evidence relating to those inquiries, as well as to the Bill which is the subject of this inquiry.

1.10 A list of witnesses who appeared at the hearings for this Bill is at Appendix 2, and copies of the Hansard transcript are available through the internet at <http://www.aph.gov.au/hansard>.

1 Parliament of the Commonwealth of Australia, Journals of the Senate, No. 16, 18 June 2008, pp 509-510.

Acknowledgement

1.11 The committee thanks those organisations and individuals who made submissions and gave evidence at the public hearings.

Scope of the report

1.12 Chapter 2 provides the background and an overview of the Bill. Chapter 3 discusses the issue of same-sex discrimination in relation to key provisions of the Bill. Chapter 4 explores the issues concerning 'interdependency relationships'. Chapter 5 discusses the issues specifically related to children and legislative consistency.

Note on references

1.13 References in this report are to individual submissions as received by the committee, not to a bound volume. References to Committee Hansard are to the proof Hansard: page numbers may vary between the proof and the official Hansard.