

Cathy Brown

By email: legcon.sen@aph.gov.au

Dear Legal and Constitutional Affairs Committee,

**Re: Submission to the Same-Sex Relationship Bill 2008**

Thank you for the opportunity to make a submission into the *Same-Sex Relationships (Equal Treatment in Commonwealth Laws - Superannuation) Bill 2008*.

I am very supportive of the objectives of the Bill: to remove discrimination against same-sex couples and their children in relation to Commonwealth superannuation and related benefits.

I am also extremely happy to see this legislation introduced<sup>1</sup>. Not only is it important for me financially, but it is also a welcome **first step** in the removal of federal legislation that discriminates against same-sex couples.

Indeed, I look forward to supporting future legislation to implement the remaining recommendations contained in the Human Rights and Equal Opportunity Commission's *Same Sex: Same Entitlements* report.

I was previously employed by the Federal Government (at the Australian Broadcasting Corporation) and was in a Federal superannuation fund (Public Sector Superannuation Scheme - PSS). I understand that the terms of the PSS will be amended by delegated legislation following the passage of this Bill into law.

When I compulsorily joined the PSS, I was unable to nominate my partner as my beneficiary. It is important to me that this Bill, once passed, will allow me to change this so that my partner can access my superannuation should I die before her.

Last year, my partner and I jointly purchased a home (incurring a shared mortgage liability). I believe it is essential that my partner should have equal rights to reversionary super benefits should I die in circumstances that would leave her with the burden of a mortgage. I also support the related amendments to taxation legislation that would ensure that my partner (and other partners and children in same sex relationships) would be taxed concessional on any death benefits.

While we don't have children at this stage, I believe it is essential that children of same-sex couples should also have the same access to superannuation death benefits as children of other de facto relationships. As the Attorney-General put it in the debate on 4 June 2008:

*The bill aims to allow same-sex partners and their children to receive superannuation benefits on the same basis as opposite-sex de facto partners and their children. **Recognition is necessary if we as a community are to remove discrimination against same-sex families and their children.** The*

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<sup>1</sup> I am however, a little disappointed that despite its stated commitment to removing financial discrimination against same-sex couples, that the Federal Liberal opposition referred this Bill to a committee rather than passing it before Parliament rose last session.

*definition of 'child' in the acts has been expanded to extend superannuation death benefits to include children of same-sex relationships.*

The reality is that families in Australia are diverse. Children should not be the ones to suffer because legislation has failed to keep up with this reality. The legal recognition of families, coupled with equal access to entitlements, is in the best interests of children.

I also support the Bill's inclusion of married, heterosexual and same-sex de facto couples under the straightforward and practical category of "couple relationship" and reject the suggestion that the definition should be extended to "interdependents". As HREOC has pointed out, not only has the interdependent category not brought full equality, but:

*"The 'interdependency relationship' label for a same-sex relationship mischaracterizes a genuine same-sex couple as different or inferior to a genuine opposite-sex couple."*

(HREOC, 2008, 'Same-Sex: Same Entitlements Report', p375).

There is no reason that same-sex de facto couples should be treated differently to heterosexual de facto couples. To quote the Attorney once more

*[this] bill ensures equality by replacing the term 'marital relationship' with the term 'couple relationship'. .... The bill also replaces the phrase 'husband or wife' with the term 'partner'. The definition of partner is non-discriminatory and applies to persons, whether the persons are in a same-sex or opposite-sex relationship. This will place all persons who have an opposite-sex or same-sex relationship with a scheme member on an equal footing.*

The associated amendments to tax legislation will similarly remove discrimination against couples like my partner and me. I believe that it is unfair and discriminatory that my partner would pay a marginal tax rate if she were to access my superannuation on my death, given that a partner in a heterosexual relationship would be entitled to concessional tax relief.

I urge the Committee to commend the Bill to parliament in order to ensure that the discrimination faced by same-sex couples can be removed as soon as possible. To be frank, it would be unconscionable for the Committee to recommend the retention of a status quo which semantically and financially isolates people on the basis of their sexuality. Let me conclude by reiterating an earlier point: this Bill is but a first step in what I hope is the inevitable downfall of a system of legally-entrenched discrimination against gay or lesbian couples. I commend the Government for this important legal initiative.

Thank you again for the opportunity to make a submission to this inquiry.

Yours sincerely

Cathy Brown