



New South Wales
Council for
Civil Liberties

New South Wales Council for Civil Liberties Inc

149 St Johns Road
Glebe NSW 2037
Australia
www.nswccl.org.au

Ph 61 2 9660 7582
Fax 61 2 9566 4162
Email office@nswccl.org.au
DX 1111 Sydney

Correspondence to:
PO Box 201
Glebe NSW 2037
Australia

**Submission to the Senate Standing Committee on Legal and Constitutional Affairs
The Same-Sex Relationships (Equal Treatment in Commonwealth Laws—
Superannuation) Bill 2008**

The New South Wales Council for Civil Liberties (CCL) is committed to protecting and promoting civil liberties and human rights in Australia.

CCL is a non-government organisation in special consultative status with the Economic and Social Council of the United Nations, by resolution 2006/221 (21 July 2006).

CCL was established in 1963, and is one of Australia's leading human rights and civil liberties organisations. Our aim is to ensure the equal rights of everyone in Australia and to oppose any abuse or excessive power by the State against its people.

CCL thanks the Legal and Constitutional Affairs Committee (the Committee) for the opportunity to comment on this Bill.

The CCL supports the Bill and urges the Committee to recommend that the Senate pass it without further delay.

1. The basic human right to equal respect and concern implies that people should be treated equally unless there are morally relevant differences between them. Laws which make distinctions between groups on the basis of characteristics which are not morally relevant to the purposes of those laws are necessarily unjust.
2. A useful comparison maybe made with skin colour. For almost all matters, discrimination on the basis of skin colour is unjust. Only where a given kind of skin is essential for a legitimate purpose could discrimination be justified.
3. The differences between same sex and heterosexual couples and the differences between the children of same sex and of heterosexual couples are not relevant to the purposes for which superannuation entitlements were created and are maintained. Discrimination between them is as unjust as discrimination on the basis of skin colour would be.
 - i. The CCL believes people have a right to form and maintain long-lasting, secure relationships. Such relationships are a source of human good, of happiness and of fulfilment. These relationships are also good for society.
 - ii. Financial security is important for maintaining relationships. A superannuation scheme is an important source of such security.

iii. A couple typically negotiate their domestic arrangements and their work careers, often deciding that one should spend more time pursuing career advancement while the other has greater responsibilities in and around the home. A marriage where one partner stays at home to look after the children and the domestic chores while the other goes out to work is a traditional example at one end of the range. Recognising this, parliaments have determined that superannuation schemes provide for a partner to receive benefits after the death a scheme member.

iv. Providing financial security for the children of a couple in the event of the latter's death is important for the couple, for the children and for society.

4. Distinctions between same-sex and heterosexual relationships are irrelevant to all of these purposes. They discriminate unjustly.

5. Same sex attracted persons have suffered substantially in Australia. They have been imprisoned, been subjected to barbarous psychological experiments, been the targets of blackmail and threats. They have been brutally attacked, sometimes by police. Some have been murdered, in at least one case, by police. The passage of this legislation will be an important recognition of the wrongness of these actions, and for these persons, of their equality as human beings.

6. The CCL urges the Committee to recommend that the Senate pass the Bill without delay. It is clear what needs to be done to remove the injustice to same-sex partners. To delay the Bill while other matters with their own complexities are sorted out is to delay justice pointlessly. It is to deny the significance of the substantial injustices which same sex attracted persons have suffered.