



## **VICTORIAN GAY & LESBIAN RIGHTS LOBBY**

---

**PO Box 2156, Fitzroy BC VIC 3065**

Ph: 0417 484 438

**web:** <http://www.vglrl.org.au>

**email:** [info@vglrl.org.au](mailto:info@vglrl.org.au)

Assn Reg No: A0035931K;

ABN: 85-223-439-635

8 August 2008

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Department of the Senate

By email to [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Madam

### **INQUIRY INTO THE SAME-SEX RELATIONSHIPS (EQUAL TREATMENT IN COMMONWEALTH LAWS-SUPERANNUATION) BILL 2008**

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

The Victorian Gay & Lesbian Rights Lobby ("VGLRL") aims to achieve human rights, equality and social justice for lesbians, gay men, transgender, intersex and queer people. We do this by working with the media, undertaking and supporting research, conducting community education and directly lobbying politicians across all levels of government. We have a network of over 1300 people, and are an incorporated association in Victoria. The VGLRL Committee is designed to ensure representation of both gay men and lesbians, while still allowing space for members who do not identify as either gay or lesbian. The VGLRL focuses on key issues of relevance to the lesbian and gay communities by continually canvassing community needs and assessing the political landscape.

Superannuation is now a significant component of the financial security of retired Australians and their families. As the current laws in relation to superannuation deny same-sex couples some of the same benefits that different-sex couples enjoy, we welcome the proposed changes set out in the Bill, which intend to remove that discrimination.

We are also heartened to see that the removal of this discrimination enjoys support from both sides of the political divide.

The superannuation laws that discriminate against same-sex couples impose a financial burden upon a section of the Australian community. Further, when laws discriminate against any section of the Australian community it also perpetuates social inequalities.

The Victorian Gay & Lesbian Rights Lobby supports the present drafting of the Bill in that it extends the definition of de-facto relationships to include same-sex couples and otherwise be on equal standing as married couples.

It is also welcome that the registration of a relationship under a state based registration scheme will be included as evidence of that relationship so that it falls within the definition of “couple relationship”. This provision ensure that couples that have been proactive to register their relationships under a state-based scheme where possible, will also be facilitated at a Federal level.

We urge the opposition to reject the suggestion that same-sex couples be otherwise included in a definition of “inter-dependent” relationships. This suggestion is contrary to the considered recommendation of the Human Rights and Equal Opportunity Commission’s *Same-Sex: Same Entitlements Report 2007* (see, for example, section 18.3.2). There are significant concerns within the lesbian, gay, bisexual and transgender community that the ‘interdependency relationship’ label for a same-sex relationship mischaracterises a genuine same-sex couple as different or inferior to a genuine opposite sex couple.

The test of whether a same-sex couple is in an “interdependency relationship” is much more onerous than how the Bill proposes to afford same-sex couples equality under superannuation laws.

It is important to note that the concept of “interdependency” presently exists in superannuation law but has failed to remove all potential inequality in respect of the payment of death benefits to a member’s same sex partner. This is due to the fact that it is easier to qualify as a fund member’s “spouse” than it is to prove that you were in an equivalent interdependent relationship with the person, if you are of the same-sex as the person.

Therefore to support an inter-dependency model to apply to same-sex couples would in fact perpetuate the current inadequate situation and counter any supposed support for the removal of discrimination against same-sex couples.

Whether to include inter-dependent relationships to assist say, two elderly siblings living together, would require separate and distinct considerations from the considerations of same-sex couples.

It is noted, much to our dismay, that the Government has clearly stated that it will not amend the *Marriage Act* to remove the explicit denial of same-sex couples being able to marry and that further that this Bill in no way can have this affect. Whilst the *Marriage Act* excludes same-sex couples, and whilst there is resistance to acknowledging that this is discriminatory and must be changed, Australia cannot claim that it treats all its citizens equally.

Further, it is of concern that some members of Parliament have stated that giving same-sex couples the same rights as married couples (except the right to marry) and treating same-sex couples the same as married couples diminishes marriage. To say this is the same as saying that giving indigenous Australians the right to vote diminishes every other Australian’s right to vote. Making such comments reveals a belief that gays and lesbians are lesser human beings than heterosexuals and consequently so are our relationships. We are hopeful that those who make these comments can overcome this prejudice and move towards an acknowledgment that our relationships and we are equal in every respect to them.

We also support the proposed changes as they define children of same-sex couples so that any children of same-sex couples are provided financial security through superannuation benefits in the same way that children of different-sex couples are.

The VGLRL also believes that it is in the best interests of children for their parents to be subject to all of the usual parental obligations and responsibilities and that the law should assist parents to ensure the protection of their children, including financial security. The law should aim to eliminate discrimination against children and parents based on their family type and relationship status. The proposed Bill, by providing legal recognition of diverse family types, is also an important way of countering discrimination.

We urge the Senate to promptly pass the Bill in its present form to eliminate discrimination against same-sex couples in respect of superannuation entitlements.

Yours sincerely

Demetra Giannakopoulos and Stephen Jones  
Co-convenors