

12 September 2008

Committee Secretary  
Senate Standing Committee on Legal and Constitutional Affairs  
Department of the Senate  
PO Box 6100  
Parliament House  
Canberra ACT 2600

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

Dear Sir/Madam,

**RE: Submission to the Inquiry into the Same-Sex Relationships  
(Equal Treatment in Commonwealth Laws – General Law Reform)  
Bill 2008**

Thank you for the opportunity to make a submission to the Inquiry into the *Same Sex Relationships (Equal Treatment in Commonwealth Laws – General Law Reform) Bill 2008* (the Bill).

Inner City Legal Centre (ICLC) is a community legal centre based in Kings Cross in inner Sydney. We receive funding under the Community Legal Centres funding program to provide free legal services and advocate for law and policy reform. Our legal services include information and referral, advice, representation and community legal education.

In addition to providing general community legal services to people in the inner city area, we also specialise in providing legal information, advice and representation to members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) communities across NSW. For many years, we have run a Gay and Lesbian Legal Advice Service on Wednesday evenings using volunteer solicitors recruited for this role. We also work closely with a range of LGBTI organisations.

A substantial proportion of our gay and lesbian clients seek advice about legal issues relating to discrimination. Other common issues are financial discrimination, relationships, children and parenting.

In 2005 we launched the second, updated edition of our on line publication, "Talking Turkey: A Legal Guide for Lesbian Mothers and Sperm Donors in NSW". In July 2006 we launched "Love, Loss and the Law – What happens when your same sex partner dies".

ICLC welcomes and supports this Bill as a move to eliminate financial discrimination against people in same sex relationships and their children. This is a long overdue step towards ensuring that all people are equal before the law, regardless of their sexuality. We look forward to seeing these reforms passed, in their entirety, through Parliament as soon as

possible.

### Interdependency

ICLC supports measures to provide legal equality between same and opposite-sex de facto couples. It is necessary to provide uniformity in the definition of a same-sex relationship. ICLC supports the new model definition of a 'de facto partner'.

The concept of an 'interdependent relationship' has previously been used under Commonwealth laws. 'Interdependency' includes relationships between same sex couples, as well as other caring relationships between people who aren't a couple. We believe that 'interdependency' does not effectively describe the nature of a same sex relationship, and treats the relationship as inferior to an opposite sex relationship. This definition is also inconsistent with the definitions used at a state/territory level.

### Social Security

Changes to social security laws will have a significant effect on same sex couples. Many couples have organised and planned their finances based on a presumption that their relationship would never be recognised by the law. Now that same sex partners will be recognised as a 'couple' under the law, some households will face reductions to their entitlements and income.

The following are examples of people whose financial situations will be made vulnerable by the social security reforms:

- 1 A lesbian couple are raising a child together. One mother is working full time and the other mother is working part time and receiving Family Tax Benefit B, as Centrelink considers her to be a single parent. After the changes are implemented, Centrelink could reduce her payment if she earns more than \$17,000 per year. This means the household income will drop significantly.
- 2 A gay man is working full time, and his partner receives the Disability Support Pension due to an HIV related illness. He needs a concession card in order to obtain his medication. Once the changes come into force, he may lose:
  - 1) Any entitlement to his payment;
  - 2) Access to his Health Care Concession card; and
  - 3) Access to the Pharmaceutical Allowance.
- 3 An older couple are both receiving the maximum rate of the Age Pension from Centrelink, because they are considered to be 'single'. After the changes, they will be considered a couple, and the combined income will fall.

While we recognise that these reforms will have many benefits for same sex couples, they will also impose new responsibilities, and could result in considerable financial disadvantage for people on lower incomes. Previous

amendments to Social Security law, such as raising the age of entitlement to the Age Pension for women, have in the past been 'grandfathered' as a measure to allow community members to reorganise their finances accordingly.

People in same sex relationships have experienced discrimination over many years. Now that the law is changing to recognise same sex couples, the Government should ensure that these changes are introduced in a way that is fair to people in same sex relationships, and allow them a period of approximately five years to reorganise their finances.

### Community Education

An extensive public education campaign is needed to ensure the community is aware of, and prepared for the changes. This includes providing education to the LGBTI community, so that they are aware of the way their rights may be changing and the impacts they may have on them. Such a campaign must also ensure that Commonwealth service providers, professionals and employees are fully aware of the reforms and will not discriminate in any way against same sex couples and their children.

Additionally, providing basic rights to gay and lesbian people may prompt homophobia in the wider community. Any public education campaign should be designed to address this concern and must make it clear that homophobia or discrimination against gay and lesbian people and their children is unacceptable.

Yours faithfully,

Yasmin Hunter  
Solicitor  
**Inner City Legal Centre**