

7 January 2017

Committee Secretary,
Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill
Department of the Senate
PO Box 6100
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Submission to Select Committee on the Exposure Draft of the Marriage Amendment (Same-Sex Marriage) Bill

I am a leading laywoman in the Anglican Church of Australia, a member of the church's national General Synod (the supreme decision-making body) and of the Synod's Standing Committee. I have served continuously in both these roles for the past 30 years. I am also a church historian by academic qualification (PhD, University of Melbourne), specialising in the history of marriage in the Christian Church. A journalist and author, I have published numerous articles and books in this area, including essays for the Anglican Church's Doctrine Commission.

I primarily address the first of the Committee's terms of reference, (a), "the nature and effect of proposed exemptions for ministers of religion, marriage celebrants and religious bodies and organisations, the extent to which those exemptions prevent encroachment upon religious freedoms, and the Commonwealth Government's justification for the proposed exemptions". In particular, I refer to the Bill's proposed detailed exemptions for ministers of religion and religious bodies and organisations. In summary, I believe they go beyond what is necessary to ensure protection of religious freedom, and could cause unnecessary offence.

The current Marriage Act 1961, as amended, is explicit in not imposing an obligation on ministers of religion to solemnize any marriage (Division 2, section 47). This provision is used widely by Christian denominations in Australia. Clergy in the Catholic Church, for instance, in accordance with their church's rules, refuse to marry divorced persons unless either one party to the previous marriage is deceased, or the church has itself granted an annulment. The Anglican Church of Australia has provided for the remarriage of divorced persons by Anglican clergy through a Canon (Act) of the General Synod,¹ but only when permission is obtained first from the Bishop of the relevant diocese. However, some dioceses of the church, such as the Diocese of Sydney, impose further restrictions on the marriage of divorced persons, and in other dioceses where remarriage of divorced persons is generally permitted, discretion is nevertheless accorded to individual clergy to decide whether they will personally solemnize a particular marriage. They have that freedom even where divorce is not involved. It is my submission that current practice demonstrates incontrovertibly that religious freedom is protected fully in the Marriage Act 1961 as it stands.

Section 47 (1) of the Exposure Draft states: "A minister of religion may refuse to solemnise a marriage despite anything in this Part". This statement gives ministers of religion, and religious bodies, complete freedom, without any need for further elaboration on the possible reasons they might have for refusal as is the case with the present Act. The detailed subsections following in clause (3) of the Exposure Draft are quite unnecessary and could be construed as offensive, suggesting that a same-sex marriage is not equal to a marriage between a man and a woman.

Further, the discriminatory permission the Exposure Draft gives in 47B for religious bodies and organisations to refuse to provide facilities and products for marriages they already have permission to refuse to solemnize is highly offensive and quite unnecessary.

I believe that the majority of worshipping Anglicans would welcome amendments to the Marriage Act permitting same-sex marriage and retaining the same level of religious freedom enshrined in the current Act. They would I believe find the additional clauses proposed in the Exposure Draft both unnecessary and hurtful.

Yours sincerely

¹ Marriage of Divorced Persons Canon 1981, passed by General Synod as Canon 7, 1985