



AUSTRALIAN  
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FOR  
HUMAN RIGHTS

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3 November 2010

Committee Secretary  
Senate Legal and Constitutional Affairs Committee  
Parliament House  
Canberra ACT 2600  
By e-mail: [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Committee Secretary,

### **Inquiry into the Sex and Age Discrimination Legislation Amendment Bill 2010**

1. Australian Lawyers for Human Rights (ALHR) thanks the Senate Legal and Constitutional Affairs Committee for the opportunity to comment on the Sex and Age Discrimination Legislation Amendment Bill 2010.
2. ALHR was established in 1993, and incorporated as an association in NSW in 1998 (ABN 76 329 114 323). ALHR is a network of Australian lawyers active in practising and promoting awareness of international human rights standards in Australia. ALHR has a national membership of over 1700 lawyers, with active National, State and Territory committees. Through training, information, submissions and networking, ALHR promotes the practice of human rights law in Australia. ALHR has extensive experience and expertise in the principles and practice of international law, and human rights law in Australia.
3. ALHR welcomes the proposed amendments to Australia's anti-discrimination regime, including:
  - the extension of protections from discrimination on the grounds of family responsibilities to both women and men in all areas of employment;
  - improved protection from sexual harassment for students and workers;
  - affirmation that protections from sex discrimination apply equally to women and men;
  - the inclusion of breastfeeding as a separate ground of discrimination; and
  - the establishment of an Age Discrimination Commissioner in the Human Rights Commission.
4. However, ALHR recommends that the definition of 'family responsibilities' in section 4A of the *Sex Discrimination Act 1984* (Cth) should be extended to include other close,

personal relationships for whom people may have caring responsibilities as well as broader concepts of family to reflect different cultural concepts of families. Further, the protections against discrimination on the basis of family and caring responsibilities should also be extended beyond employment to other areas of public life.

5. ALHR notes that the Bill does not address many of the recommendations in the Senate Standing Committee on Legal and Constitutional Affairs' 2008 report, *Effectiveness of the Sex Discrimination Act 1984 in eliminating discrimination and promoting gender equality*, and that the government, in its response to that report and the Explanatory Memorandum to the Bill, has referred these recommendations to its project to 'streamline federal anti-discrimination legislation into a single, comprehensive Act' (the consolidation project). ALHR is concerned that the consolidation project may be limited in scope, focusing merely on bringing the four pieces of anti-discrimination legislation into the one piece of legislation. ALHR recommends that the consolidation project be used as an opportunity to develop a robust and comprehensive legal framework, which promotes equality and addresses all grounds of discrimination, and that the project is carried out on the basis of broad consultation and international best practice.
6. ALHR also notes that absence of federal legislation protecting against discrimination on the basis of sexual orientation and gender identity. It welcomes the pre-election commitments from the Liberal and Labor parties to introduce such legislation and calls on Parliament to do so as a matter of priority, in advance of the consolidation project.<sup>1</sup>
7. In summary, ALHR recommends that the Committee recommend that:
  - a. Parliament pass the proposed amendments, subject to the following amendment, as a matter of priority;
  - b. the Bill be amended to provide greater protection against discrimination on the grounds of family responsibilities;
  - c. the government's consolidation project be undertaken in a manner that strengthens anti-discrimination laws and promotes equality, including by implementing the remaining recommendations of the 2008 Inquiry, and be based on international best practice and broad consultation; and
  - d. Parliament pass legislation to protect against discrimination on the basis of sexual orientation and gender identity, in advance of the consolidation project.
8. ALHR is grateful for the opportunity to contribute to the Committee's inquiry and is available for further comment and consultation if required.

Yours faithfully

## **AUSTRALIAN LAWYERS FOR HUMAN RIGHTS**

**Per Stephen Keim (President)**

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<sup>1</sup> George Brandis in Attorney-General's Portfolio Debate, Sydney, 13 August 2010, accessed on 26 October 2010 at <<http://www.alp.org.au/federal-government/news/transcript--robert-mcClelland,-debate,-sydney/>>; Julia Gillard, Letter to the Australian Coalition for Equality, extracted in Potts, A, 'Dual Anti-Discrimination Promise Ahead of Poll', *Sydney Star Observer*, 10 August 2010, accessed on 26 October 2010 at <<http://www.starobserver.com.au/news/2010/08/10/dual-anti-discrimination-promises-ahead-of-poll/29255>>.