

Select Committee on Same Sex Marriage
Parliament House
Canberra
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Submission: to the Senate Select Committee on the exposure draft of the Marriage Amendment (Same Sex Marriage) bill

The Rationalist Society of Australia (RSA) appreciates the invitation to make a submission on this bill. Overall we endorse the contents of the bill, with some exceptions. We have, however, opposed the method of its passage to becoming law of the land. With the idea of a potentially damaging plebiscite being properly rejected, **the bill should now be directly debated in the federal parliament.**

In our [10 Point Plan for a Secular Australia](#), we assert there should be no discrimination on the basis of a person's sex, sexuality or gender identity and in particular, that Australian governments should not impose a religious bias on the definition of marriage. We take this view on the basis that we support a secular, pluralistic and democratic Australia, in which government policies should be based on evidence, reason and compassion, protecting the human rights of all Australians. We also believe everyone should be free to choose and hold their own religious or non-religious worldviews, *provided they do not impose such views on others*, and provided practices associated with such worldviews do no harm.

The Marriage Amendment (Same Sex Marriage) bill would remove a longstanding discrimination against some Australians on the basis of their sexuality; it would support the human right of those Australians to share in one of the most fundamental of all social institutions - marriage; and it would do this without compelling those with religious objections to officiate at such marriages. We fail to see, contrary to some religious ideologues, that allowing same sex couples to get married would harm either the institution of marriage or individuals who do not agree with same sex marriage. They would suffer no compulsion; their freedom to support and engage in heterosexual marriage would be undiminished.

We turn now to the committee's specific areas of focus.

Areas of focus

1. Exemptions

The RSA recognises the requirement, in a pluralistic democracy, for governments to protect maximum individual freedom consistent with respecting the freedom of others. This includes protecting the freedom for the religious to hold their worldviews, but it does *not* include protecting the freedom of the religious to *impose* the practices their worldviews might assert on the rest of us who do not share their beliefs.

We accept that a government should not use the power of legislative compulsion to force an individual who holds a certain worldview, however misguided, to engage in practices that are an anathema to their deeply held beliefs. But reciprocally, they must not be allowed to use the coercive power of the state to disallow the legitimate desire of citizens to participate in fundamental social institutions like marriage.

Thus we agree with the principle that ministers of religion should be allowed to refuse to officiate at a same sex marriage. However, we do not agree that all religious organisations that offer their premises should be afforded an exemption. Exemptions are not unreasonable for premises whose *main purpose is religious* - eg, churches, mosques, temples - but exemptions should not be extended to *any* place owned or operated by a religious organisation. No discrimination should be allowed for properties that are otherwise offered to the general public - eg, holiday sites, halls, gardens; these should not be exempt.

While in principle we do not object to exemptions for the ideologically religious, in practice we don't think these exemptions will prove much of an impediment. Many churches and many church officials will be only too pleased to welcome same sex couples to the fold of the committed and to benefit from the additional business they bring.

Religious celebrants

Currently there are three categories of religious celebrant under the Marriage Act: civil celebrants (either non-religious or religious), registry office public servants in the states and territories, and ministers of recognised religions. There are about 8,000 non-religious civil celebrants, about 500 religious civil celebrants and around 30,000 ministers of religion who can perform marriages. Seventy five percent of marriages are performed by civil celebrants.

The bill proposes that the Marriage Act would be amended to allow civil celebrants to refuse, on the basis of conscientious or religious beliefs, to solemnise a marriage on the grounds that the marriage is not the union of a man or a woman.

Consistent with our view above that ministers of religion should be afforded an exemption, we also believe the 500 or so civil celebrants who are clearly identified as religious should be afforded an exemption. However, we fail to see why the 8,000 or so civil celebrants *who have not identified as religious*, should be afforded an exemption.

Australia was the first nation to set up a system of marriage celebrants to provide a non-religious alternative to religious weddings. According to the acknowledged leader of the celebrant program in Australia, Dally Messenger, trained celebrants should operate on the “professional principle that their own beliefs and values are irrelevant”¹. If a religious person chooses to become a civil celebrant, they should abide by the professional standards expected, “ignoring their own beliefs and values”. No one compels them to become a civil celebrant, but if they do, they should be expected to meet professional standards, including non-discrimination. If they are ideologically religious, they should be listed as a religious civil celebrant so that anyone seeking to access their services can be clear about their views and values.

2. Sex Discrimination Act

With the exceptions noted above, we agree with the proposed amendment to the Sex Discrimination Act which, in essence, will neutralise any potential use of the SDA to challenge an exemption afforded the ideologically religious in the bill. That is, we would *not* agree that non-religious civil celebrants should be exempt from the SDA if they fail to abide by the professional standards expected of the celebrant system and instead seek to discriminate against same sex couples who want to use their services. Nor would we agree that religious organisations should be able to discriminate against same sex couples who seek to use premises they own or operate, unless the main purpose of those premises is religious.

3. Consequential amendments

We note with approval that there is no mention in the bill of exemptions for registry office public servants who may be ideologically religious. This has been a controversial issue in the US and the UK and we strongly support the principle that in Australia, public servants must carry out the duly legislated law of the land and not be afforded exemptions on the grounds of their privately held religious beliefs.

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President
January 2017

¹ Dally Messenger, *What is a celebrant anyway?*
<http://www.collegeofcelebrancy.com.au/Pages3/CelebrantAnyway.html>