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150 YEARS

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Committee Secretary
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Dear Committee Secretary

**Senate Legal and Constitutional Affairs Committee - Exposure Draft of
Human Rights and Anti-Discrimination Bill 2012**

The Victorian Trades Hall Council (VTHC) is pleased to offer support to the Australian Domestic and Family Violence Clearinghouse (ADFVC) Submission to the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012.

Please find attached the VTHC response to the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012.

The VTHC congratulates the Commonwealth Government for the significant advances made to consolidate federal anti-discrimination laws in the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012.

Yours sincerely

Brian Boyd
Secretary
Victorian Trades Hall Council



Committee Secretary

Senate Legal and Constitutional Affairs Committee - Exposure Draft of Human Rights and Anti-Discrimination Bill 2012.

The Victorian Trades Hall Council is pleased to offer support to the Australian Domestic and Family Violence Clearinghouse (ADFVC) Submission to the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012.

The Victorian Trades Hall Council (VTHC) has a long and proud history of representing workers through their affiliations which comprise:

- 49 affiliated unions at the present time, representing an estimated 328,533 members. Because of amalgamations (unions combining) and new affiliations, this figure varies.
- 8 Regional Trades and Labour Councils.
- Affiliation to the Council is open to any industrial organisation of employees with at least 20 financial members.

The Victorian Trades Hall Council (VTHC) congratulates the Commonwealth Government for the significant advances made to consolidate federal anti-discrimination laws in the Exposure Draft of the Human Rights and Anti-Discrimination Bill 2012. We believe that the addition of protections for sexual orientation, gender identity and same sex relationship status is essential if human rights legislation is to properly reflect contemporary human rights needs and protections.

The VTHC is, however, disappointed that the Exposure Draft does not include domestic violence as a new protected attribute in section 17 of the Bill. This inclusion has been expressly ruled out by the Attorney-General and this position is made clear in the Bill's Explanatory Notes (1.4e, 1.5a, 4.1, 5a, 5.6 with Recommendation 21 of the Commission being rejected). This omission is particularly concerning given that paragraph 85 of the Commonwealth's Consolidation of Anti-Discrimination Laws Discussion Paper 2011 acknowledges that there is currently 'no specific protection for victims of domestic violence in either Commonwealth or state or territory anti-discrimination law' (p. 24).

The inclusion of 'status as a victim of domestic violence' in the list of attributes protected from discrimination is necessary to give effect to our international obligations to uphold

human rights including the Convention of the Elimination of All Forms of Discrimination Against Women (CEADAW) and the International Labour Organisation Convention 111, Discrimination (Employment and Occupation) Convention, 1958 (ILO C111) as gender based violence¹ is recognised as discrimination².

The VTHC is cognisant of the extent of family violence in our communities and is active in the eradication of family violence from our communities and by implication, our workplaces. The VTHC has passed a resolution at Executive Council and affiliates have agreed to support the introduction of family violence entitlements through the bargaining process. To date, we have some stunning examples of entitlements in Victoria and in fact, were the first state in Australia to introduce 20 days paid leave for family violence which was introduced through the Enterprise Agreement between the Australian Services Union (ASU) and Surf Coast Shire.

The VTHC concurs that in the Australian context it is appropriate and timely for the proposed Human Rights and Anti-Discrimination Bill 2012 to include the personal characteristic 'status as a victim of domestic violence' in the list of attributes protected from discrimination.

The VTHC concurs that the inclusion the personal characteristic 'status as a victim of domestic violence' is absolutely necessary as employment legislation, at a federal as well as state and territory level, does not and cannot adequately protect employees from discrimination on the ground of domestic violence.

The Australian Domestic and Family Violence Clearinghouse (ADFVC) submission strongly urges the government to include the personal characteristic 'status as a victim of domestic violence' in the list of attributes protected from discrimination in the proposed Bill.

Whilst this submission focuses on discrimination in the workplace; due to the nature of the Safe at Home, Safe at Work Project which advocates for industrial rights and entitlements for victims of domestic violence; the VTHC strongly supports anti-discrimination legislation for victims of domestic violence in all areas of life.

The consolidation of the Commonwealth anti-discrimination legislation presents a timely and unique opportunity to address the rights of Australians who experience domestic violence.

Victoria now has other local governments, utilities and private organisations and NGOs introducing these provisions for their workers. We believe, family violence is a workplace issue and the most recent survey of 3,600 union members completed by the Australian Domestic and Family Violence Clearinghouse provided significant evidence to that effect. In fact, that study showed that:

- Full time employment and nearly two thirds (64%) of the respondents were. The majority of the respondents were women (81%), two-thirds were in aged 45 and older.
- Nearly a third of respondents (30%) had personally experienced domestic violence.
- Nearly half those who had experienced domestic violence reported that the violence affected their capacity to get to work; the major reason was physical injury or restraint (67%), followed by hiding keys and failure to care for children.
- Nearly one in five (19%) who experienced domestic violence in the previous 12 months reported that the violence continued at the workplace.
- The major form the domestic violence took in the workplace was abusive phone calls and emails (12%) and the partner physically coming to work (11%).
- The main reported impact was on work performance, with 16% reporting being distracted, tired or unwell, 10% needing to take time off, and 7% being late for work.
- 45% of respondents with recent experience of domestic violence discussed the violence with someone at work, primarily co workers or friends rather than supervisors, HR staff or union representative.

While VTHC is active in encouraging affiliates to negotiate through the Enterprise Bargaining process there is little doubt that change to the National Employment Standards (NES) would mean much greater protection for all Australian workers.

On 17 February 2011 the Australian Domestic and Family Violence Clearinghouse posted its submission to The Fair Work Review recommending that the operation of the Fair Work legislation could be improved by the addition of a National Employment Standard (NES) entitlement to a minimum of ten days additional paid leave for victims of domestic violence to attend to matters that are not covered by existing leave provisions.

The Domestic and Family Violence Clearinghouse submission was consistent with the findings of the Australian Law Reform Commission Report Family Violence and Commonwealth Laws— Improving Legal Frameworks: Final Report February 2011.

Recommendation 17—2 As part of Phase Five of the whole-of-government strategy for phased implementation of reforms contained in Part E of this Report, the Australian Government should consider amending the National Employment Standards with a view to including provision for additional paid family violence leave.

The submission was also consistent with the commitment of the Australian Labor Party to ensuring that the Fair Work and anti-discrimination legislation frameworks provide appropriate protection to victims of domestic violence in the workplace (Amendment 448A National Conference December 2011).

We reiterate our position:

- Victorian Trades Hall Council is passionate about the need to reduce the impact of domestic violence in the workplace.
- Victorian Trades Hall Council strongly supports anti-discrimination legislation for victims of domestic violence in all areas of life.
- Victorian Trades Hall Council strongly urges the government to include the personal characteristic 'status as a victim of domestic violence' in the list of attributes protected from discrimination in the proposed Bill.
- Victorian Trades Hall Council endorses the introduction of family violence entitlements through the bargaining process and has encouraged and supported our affiliates to do so.
- Victorian Trades Hall Council strongly supports the provision of paid domestic violence leave in the NES and the Fair Work Act.

Yours sincerely

Brian Boyd
Secretary
Victorian Trades Hall Council