

ADDITIONAL COMMENTS AND POINTS OF DISSENT BY THE AUSTRALIAN DEMOCRATS

1.1 The Democrat support and agree with the evidence presented in the Chair's report on the Federal Magistrates Amendment (Disability and Death Benefits) Bill 2006, subject to the additional recommendation below.

1.2 The Democrats note the evidence presented to the Committee that the jurisdiction and character of the Federal Magistrates Court is such that it deserves to have standing in the same way as other Chapter III courts.¹ We suggest this issue could be further examined.

1.3 The Democrats consider that the bill is constructive as it will provide previously unavailable benefits to Federal Magistrates. However, we support the Committee's recommendation that age limits be amended to achieve consistency and death benefits be reviewed.

1.4 Further to the brief discussion of same sex relationships in paragraph 2.23 of the Chair's report, the Democrats take this opportunity to highlight ongoing and serious concerns at the lack of recognition given to same sex couples in Australia. The Democrats share the concern raised in the Chair's draft on this point and suggest that this issue should be taken up as part of a broader debate in relation to the denial of rights for same sex couples.

1.5 The Democrats consider that this bill provides an excellent example of the continuing discrimination to which Australians in long-term same sex relationships are subject. The Democrats object to the absence in the bill of provision for same sex relationships in the payment of death benefits.

1.6 To distinguish the status of a long-term marital relationship on the basis that it must be between a husband and a wife, as Australian law currently dictates, is unfairly restrictive on same sex couples effectively living in a marital relationship. The Democrats consider this bill will add to the myriad legislation denying rights to the long-term same sex partner of a deceased person.

¹ *Submission 2*, p2, *Submission 1*, p3, *Submission 3*, p2.

Recommendation 1

1.7 The definitions in this bill and other legislation establishing Commonwealth superannuation and pension schemes should be expanded to expressly provide for the provision of benefits where a same sex relationship exists.

Senator Natasha Stott Despoja

Australian Democrats