

Secretary
Senate Legal and Constitutional Affairs Committee

Re: Inquiry into the Same Sex Relationships (Equal Treatment in
Commonwealth Laws – General Law Reform) Bill 2008

Dear Sir/Madam,

I write to provide some short comments to the Senate Inquiry into the
Same Sex Relationships Bill.

I write as the President of the representative body for over 30 000
undergraduate students at the University of Sydney. The SRC has long
taken a position of supporting queer students in their campaigns to end
discrimination in law for same sex couples. We also have a particular
interest in protecting the rights of students seeking Social Security
income support to study.

We support the introduction of this Bill without any further significant
delay. The Students' Representative Council supports equal treatment
of same sex couples and opposite sex couples.

At minimum the Commonwealth has a responsibility to minimise
disadvantage and discrimination faced by same sex couples. The use
of State based Registers in the Bill provides a practical mechanism to
do this and we therefore support the Bill.

A National system of recognising same sex relationships and treating
them equal to opposite sex relationships would have been a preferred
option both symbolically and practically. The SRC is concerned that
different state based systems may mean that rights and treatment for
same sex couples can vary state to state. We ask that the
implementation of this Bill, when it becomes law, be reviewed to identify
any such different treatment. Unequal treatment and disadvantage
would constitute discrimination in current discrimination law and would
require later amendment to the Acts affected by this Bill.

We urge the Commonwealth to take the next step and use its
constitutional power to recognise civil unions or marriage of same sex
couples, and believe this should have been the position taken in this
Bill.

The use of State based registers can however provide an immediate
benefit and equality to same sex students who commit to a partner in
the same degree as married opposite sex couples, by providing
recognition of that commitment for the purposes of establishing
'independence from parents' status for Youth Allowance purposes. This
will bring benefits and responsibilities.

The SRC takes this opportunity to note that not all relationships – same or opposite sex - have reached this point of ‘marriage-like’ commitment and we are concerned about the operation of the current law in relation to ‘marriage like relationships’ and the partner income test.

We ask that the Commonwealth recognise that all people, but particularly young people, may take some time to establish a ‘marriage-like relationship’ or ‘de facto’ living together on a genuine domestic basis, whether opposite sex or same sex. This is in part recognised by the concept of a ‘Youth Allowance couple’ which is also used for establishing ‘independence’. This has two elements.

- i) the couple are not married [or registered] but satisfy various criteria of interdependence under Section 4(3) of the Social Security Act;
- ii) this relationship must have existed for a period of, normally, 12 months under Section 1067C.(2) of the Social Security Act..

There currently exists an unfair and complicated anomaly where a student can be independent on some other basis, perhaps because they are 25 or older or have established independence through 18 months employment, but still be subject to a partner income test if they are in a ‘marriage like relationship **for less than 12 months**. That is, they would not be able to establish independence on the grounds of their relationship because it has been less than 12 months but would still be subject to a partner income test. We believe this is unjust.

We ask that Section 4 of the Social Security Act be amended so that this anomaly be rectified. We ask that the Act be amended so that a person can only be assessed to be in a ‘marriage like relationship’, and consequently be subject to a the partner income test, when they have been in that relationship for 12 months.

Thanks you for this opportunity to make a short submission to the Inquiry.

Yours Sincerely

Kate Laing