

**Submission
to
Inquiry into the Same-Sex Relationships (Equal Treatment in Commonwealth
Laws—General Law Reform) Bill 2008
from
National Welfare Rights Network
September 2008**

1. The National Welfare Rights Network

The National Welfare Rights Network (NWRN) is a network of 14 community legal centres throughout Australia which specialise in Social Security law and its administration by Centrelink. Based on the experience of clients of NWRN members, the Network also undertakes research and analysis, develops policies and position papers, and advocates for reforms to law, policy and administrative practice.

NWRN member organisations provide casework assistance to their clients in the form of information, advice, referral and representation. NWRN member organisations also conduct training and education for community workers and they produce publications to help Social Security recipients and community organisations understand the system and maximise their clients' entitlements.

2. Removal of Discrimination against Same-Sex Couples and their Children

The National Welfare Rights Network welcomes the Government's proposal to eliminate discrimination against same-sex couples and the children of same-sex relationships across a wide range of Commonwealth laws. The *Same-Sex Relationships (Equal Treatment in Commonwealth Laws - General Law Reform) Bill 2008* (The Equal Treatment Bill) has the potential to deliver financial, psychological and social benefits to many, while also clearly conveying the centrality of notions of inclusion and human rights to Australian society.

The lack of recognition afforded same-sex registered relationships and same-sex de facto relationships denies many gay men and lesbians access to benefits available to individuals in opposite-sex couple relationships. In some instances, children of same-sex couples are also disadvantaged solely as a result of the failure of the Commonwealth to legislate appropriately in the light of their family structures. These beneficial legislative measures have been a long time coming, occurring some considerable time after it became generally unlawful for an organisation or member of the Australian population to discriminate against a person on the basis of their actual or presumed sexuality.

The Bill also seeks to impose on same-sex couples some of the responsibilities currently assumed by opposite sex couples. While the idea of shared rights and responsibilities is central to notions of equality, this submission will argue that insisting on a model of shared rights and responsibilities does not create equality per se, and may exacerbate existing

discrimination and impact negatively on the quality of life of many individuals when imposed on people who continue to live a life governed by specific expectations and long-held societal or self-imposed strictures.

3. The Complexity of Social Security and Family Assistance Provisions

The administration of Family Assistance and Social Security legislation is extraordinarily complex. Each claim for a payment and the rate of ongoing payment, is dependent on many aspects of an individual's circumstances. These include their age, income, assets, accommodation, migration-status, capacity to work, degree of illness or disability, whether or not they receive or have received compensation, number of dependent children in their care, and many more factors besides. These factors intersect across a multitude of payments to generate a system that is vast and inordinately complicated. There is enormous administration expenditure to assess an individual's eligibility and entitlement to different payments, across agencies including Centrelink, the Social Security Appeals Tribunal, the Administrative Appeals Tribunal, 14 specialist community legal services, and other courts and agencies as well. This complexity does not appear to have been fully appreciated in the drafting of The Equal Treatment Bill. Unfortunately, given the limited time frame allocated for submissions, the National Welfare Rights Network can only make a preliminary analysis on this point.

4. Proposed Changes to Social Security and Family Assistance Provisions

The Equal Treatment Bill proposes that a member of an opposite-sex couple claiming Social Security or Family Assistance will have their and their partner's income and assets assessed when deciding eligibility for payment, if they are married or deemed to be in a 'marriage-like relationship'. Section 4(3) provides a list of 14 different matters under five headings which the Secretary is to consider in forming an opinion as to the nature of the relationship. These include the financial aspects of the relationship, the nature of the household, the social aspects of the relationship, any sexual relationship between the people and the nature of the people's commitment to each other. The enumerated criteria are not exclusive, with the Secretary to consider all of the aspects of the relationship, when deciding whether or not a relationship is "marriage-like".

Members of a same-sex couple are currently treated as single under the Social Security Act's income and assets tests, so the income and assets of their same-sex partner is irrelevant to their claim: whatever the level of their partner's income and assets. Australia does not permit marriage between people of the same sex, and same-sex couples cannot be assessed as to whether their relationship is 'marriage-like'. This has meant some elements of disadvantage but this is one area where gay men and lesbians may have experienced an economic benefit by way of receiving a social security entitlement they would not have received had their relationship been recognised.

The Equal Treatment Bill proposes inserting a definition of 'de facto partner' into the *Acts Interpretation Act 1901*. 'De facto partner' will encompass both same-sex and opposite-sex couples. The Bill also proposes amending the *Social Security Act 1991*, by inserting a new paragraph 4(2)(aa), to provide a new definition of 'member of a couple' which includes both same-sex and

opposite-sex couples. A person will be a 'member of a couple' under the Social Security Act if:

- they are in a relationship that is 'registered' as de facto under State or Territory legislation

The Explanatory Memorandum states that registration will be regarded as conclusive evidence that a person is a member of a couple under the *Social Security Act* (and it will also apply in respect of the Family Assistance Act). If the relationship has been registered and the person is not claiming to be separated ("living separately and apart"), there will be no scrutiny by Centrelink of the nature of a claimant's relationship. The person will be treated the same as a person who is married or a member of a de facto heterosexual couple.

- they are deemed by the Secretary (a decision usually delegated to Centrelink staff) to be in a de-facto relationship

As with the current definition of 'marriage-like relationship', the Secretary will be able to examine aspects of a relationship to form an opinion as to whether or not the relationship is a 'de facto relationship'. Consequently, a same-sex couple without relationship registration, will be treated as a de-facto couple if the Secretary deems their relationship to be so.

The Equal Treatment Bill also proposes expanding definitions of 'child' and 'parent' to include the children of same-sex couples where appropriate. This will bring some children under the financial umbrella of both parents, which will affect their parents' (or parent's) access to financial support resulting from their care, and will affect the young person's entitlement to payments such as Youth Allowance.

5. Beneficial Consequences to Social Security payment resulting from the Proposed Changes to 'De Facto Relationship'

The benefits delivered to same-sex couples by the amendments proposed in Schedule 6 are limited, and are not as obvious as the benefits proposed in other schedules. For example, the amendments to the *Judicial and Statutory Officers (Remunerations and Allowances) Act 1984* quite clearly introduces travelling allowances to be payable to a Judicial Officer's same-sex partner. In the short time frame available, the National Welfare Rights Network has identified these two benefits:

- In some instances, same-sex couples will benefit when one partner has been admitted into a nursing home or other care.

Currently, the value of a gay or lesbian person's home may reduce or result in cancellation of their payment when they enter a nursing home or other care, even if their partner continues to live there. Section 11A of the *Social Security Act 1991* states that a person's principal home is exempt as an assessable 'asset' under the assets test as long as the person's partner is living in that home. That means, the value of that asset will not affect the pension or allowance of the person entering the nursing home.

- In some instances, same-sex couples will benefit when one partner moves to an 'area of lower employment prospects'.

A person receiving Newstart Allowance or Youth Allowance will lose their payments for six-months if they move to an area deemed to be an 'area of lower employment prospects'. An exemption to this penalty applies to a person who has moved in order to live closer to a partner or a parent. This exemption will now be extended to people who move to live near a same sex-partner or a 'relationship parent'.

6. **Negative Consequences to Social Security payments resulting from the Proposed Changes to 'De Facto Relationship'**

Introduction of the proposed legislation will remove access to Social Security and Family Assistance entitlements for many people in same sex relationships who are currently entitled to Social Security income support, and who would be entitled to Social Security income support if not for the amendments. Social Security policy mandates that members of a couple financially support each other. A person's payment is affected by their being a member of a couple per se (single versus married rate), and their partner's income (including compensation income) and assets.

Case Study - Fiona

Fiona has two children aged 10 and 12. She receives Newstart Allowance as a single person and lives in rented accommodation. Fiona cannot receive Parenting Payment (single) as her youngest child is over the age of eight.

Fiona enters into a relationship with Maxine, who owns her own home. Maxine moves into Fiona's rented accommodation, as it is closer to the children's school and other parent. Fiona declares this relationship to Centrelink as a de facto relationship, so Centrelink asks her for full details of her partner's income and assets. The value of Maxine's home is over the assets cut-out point for Newstart Allowance (\$368 000), which results in Fiona's Newstart Allowance being cancelled. Fiona (and to some extent her children) must rely entirely on Maxine for financial support, even though they have just commenced their de facto relationship.

Moreover, due to the amendments to the 'A New Tax System (Family Assistance) Act 1999', Maxine is also Fiona's partner for the purposes of her Family Tax Benefit entitlements. Maxine's income will now be taken into account to calculate the rate of Family Tax Benefit payable to Fiona for her two children. (Maxine's income would also be taken into account if the children attended child care and Fiona received Child Care Benefit.)

The effect of declaring their new relationship in Maxine and Fiona's case is immediate. Unlike other jurisdictions, there is no minimum period in Social Security and Family Assistance law before two people living in a de facto

relationship are treated as members of a couple. For example, in the Migration Act a person will only be treated as the de facto spouse of another person if they have lived together for at least 12 months, unless compelling circumstances apply. Under the *Property (Relationships) Act 1984 (NSW)* a partner will only have the right to make a claim in a property settlement if the relationship has lasted at least two years, unless special circumstances such as the existence of a child of the relationship exists.

In Social Security law, however, the payment rates, income and assets test applicable to members of a couple will take effect as soon as Centrelink determines that the two people are living as members of a couple.

7. Beneficial Consequences to Social Security payment resulting from the Proposed Changes to definition of 'parent' and 'relationship child' for allowances

- In some instances, same-sex couples will benefit in relation to the application of the liquid assets waiting period for allowances.

Under the proposed amendments a person will have the benefit of the more generous 'maximum reserve' of \$5,000 for people with a dependent child, if they have a relationship child in their care. The maximum reserve for a single person without a dependent child is \$2,500.

- In some instances, same-sex couples will benefit in relation to the definition of 'Independence' relating to Youth Allowance.

The income and assets of the parents of a full-time student up to the age of 25 impact on their eligibility to be paid Youth Allowance or by affecting their rate of payment. Section 1067A of the *Social Security Act 1991* sets out the limited ways a young person can be treated as 'independent', whereby the young person's parental income is not taken into account. A young person is independent if the person has a natural or adoptive child who is wholly or substantially dependent on the person or his or her partner; or the person previously had a natural or adoptive child who was wholly or substantially dependent on the person or on a person who, at the time, was the person's partner. The Bill expands the application of this exemption to a person who has or had a "relationship child" in their care, which includes a child from a gay or lesbian relationship in certain circumstances.

A person will also be 'independent' if they satisfy the definition of a 'Youth Allowance couple' in section 1067C of the *Social Security Act*. This section will be amended to include same sex de facto relationships, whether registered or not. The requirement that the young person be in a relationship for a minimum of 12 months, or a lesser period of 6 months in special circumstances, will also apply to same sex de facto couples.

8. Negative Consequences to Social Security payment resulting from the Proposed Changes to definition of 'parent' for Youth Allowance

- In some instances, same-sex couples will be disadvantaged in relation to a child's eligibility for Youth Allowance.

Section 5(1)(b) defines the term 'parent' for the purposes of the Youth Allowance parental means test. At present, full-time students in receipt of Youth Allowance are subject to parental means testing until they reach 25 years, unless they meet one of the limited criteria that make them 'independent'. The new definition of parent will mean that the income and assets of a young person's 'relationship parent' will also impact on their eligibility for Youth Allowance under the parental means test. The amendment to the definitions relating to the Family Actual Means Test in section 10B also relates to this policy decision to have the income and assets of a relationship parent affect the Youth Allowance entitlements of an adult full-time student.

9. The Goal of Removing Discrimination

Introduction of the proposed legislation will remove access to Social Security entitlements for many people in same sex relationships who would be entitled to Social Security income support if not for the amendments. While demanding the same treatment of opposite-sex and same-sex couples may seem fair at face value, it will not create equity. It is disingenuous to claim that the Bill removes discrimination against same-sex couples, when the proposed amendments relating to Social Security and Family Assistance will entrench poverty for individuals whose access to employment benefits, superannuation and insurance entitlements have already been significantly affected by the discriminatory laws that the rest of the Bill seeks to reform.

10. Impact of the proposed amendments on older people

There are compelling reasons to continue to treat people in same-sex relationships as single under Social Security and Family Assistance law, or to give them the option whether to disclose a relationship to Centrelink, particularly in relation to older people in same-sex relationships.

Older gay men and lesbians have suffered long-standing inequality, particularly in relation to family law, health insurance, property rights, access to employer benefits, access to insurance and superannuation, death and disability entitlements, compensation, laws of succession, and employer benefits for spouses. Social Security policy has evolved in response to social change, allowing for savings provisions for those who have been historically disadvantaged. In many ways, the situation of gay and lesbian couples now affected by The Equal Treatment Bill is analogous to that faced by women during the phasing out of Social Security payments targeting women, due to the changing role of women in Australian society.

Many older people in same-sex relationships will be precluded from Social Security entitlements under pension and allowance income and assets tests due to their partner's income and assets, despite the fact that historically they have had no or limited rights to other entitlements (including employer, disability, superannuation and insurance entitlements) because their status as a partner was not recognised. Given that the raft of reforms the Government is now introducing have come too late to affect their accrual of such entitlements, it is unjust that they now bear the effects of the disadvantageous aspects of the reforms.

Even as new claims for Widow Pension and Partner Allowance were made unavailable, those payments were retained for older widows, divorcees and separated women whose adult life was one of financial dependency on their partner, with no or limited accrual of superannuation entitlements during periods of employment. Similarly, the Age Pension eligibility age for women was raised from 60 years to 65 years in 1995 in response to changing societal values about women's increased labour market participation and reduced dependence on their partners. That modest increase in age eligibility is being phased in over some 20 years.

There is a particular need for savings provisions for older people who would be adversely affected by the Social Security amendments. Members of same sex couples have lived until now with certain societal limitations and their own particular expectations. That is vastly different from a person in their twenties who may now enter into a gay or lesbian relationship expecting equality before the law, and acknowledging their relationship's 'de facto' status and presenting the relationship as such to family, friends, colleagues, employers, the Australian Tax Office, their superannuation fund, Medicare, etc.

Older gay and lesbian couples have lived and worked anticipating their relationships will not be recognised under Social Security law, and without any expectation of equality before the law generally. They may have sought to have their relationship recognised in respect of property law or laws of succession at some stage, but they have had no expectation of forced financial inter-dependency via recognition of their couple status under Social Security law. Applying Social Security means tests to people who have long been disadvantaged before the law is effectively a doubling of their experience of discrimination.

11. Outing gay and lesbian couples

The National Welfare Rights Network is concerned that unless Social Security and Family Assistance claimants in same-sex relationships have the right to opt to be treated as single under Social Security law, and not to declare their relationship to Centrelink, some people will fear claiming entitlements due to their fear of being 'outed' or being treated badly. For many people, declaring their same-sex de facto relationship to an employer, an insurer or a superannuation fund in order to acquire the benefits long extended to opposite sex couples is a matter of principle and financial need. However, declaring their gay or lesbian relationship to Centrelink is another matter – especially for those whose previous experiences of dealing with government agencies may have been difficult due to either actual or perceived discriminatory policies and practices.

Assessments of marriage-like relationships are already fraught with difficulty for opposite-sex couples. Consideration of the nature of the relationship under the statutory criteria (section 4 of the *Social Security Act*), requires intrusive questioning of the claimant regarding the person's sexual relationship with the other person, their household arrangements, the extent of their financial interdependency, whether they socialise together and whether they present as a couple to relatives and friends.

Given that many gay and lesbian people have been forced to live a significant portion of their lives concealing their sexuality, forcing individuals to declare

their homosexuality to Centrelink raises a range of issues. Concern about disclosing sexuality can be overwhelming, and disclosing to Centrelink would be highly challenging, to say the least. The nature of the investigation that would ensue or the process of appealing a decision to regard someone as a member of a de facto couple will in some instances be intimidating and alienating. What will this process mean: to the many people who only recognise themselves as gay or lesbian and come out later in life; to older people who have not been publicly gay and are intensely uncomfortable with any kind of public scrutiny; and to many young gay men - already acknowledged a vulnerable social group (especially in rural and regional Australia), with a high incidence of suicide?

Case study – Maria

Maria and Sheila have lived together for twenty years. Maria is divorced and has a son. Sheila still works full-time. Maria has only ever worked casually, as a cleaner, and has accrued minimal superannuation. Maria and Sheila live together in the house Sheila bought together 15 years ago. Sheila has recently sought legal assistance to prepare a will to ensure that Maria is the sole beneficiary of her estate, and to ask whether her superannuation entitlements may be assigned to Maria upon her death given that they have been in a de facto relationship for twenty years. Maria is reluctant to take part in these discussions, and she has told Sheila she would prefer that the house go to Sheila's son than face the embarrassment of discussing their personal affairs with lawyers; she has not disclosed her sexual relationship with Maria to her son or ex-husband, and would not identify herself as lesbian. She prefers that people regard her relationship with Sheila as one of close friendship.

Maria has turned 63 and claims Age Pension.

Under the current legislation, the nature of Maria's relationship with Sheila would be irrelevant to assessing her qualification for pension and her rate. She would be entitled to the maximum rate of pension.

Under the proposed legislation, Maria's claim for a Social Security payment would open a can of worms. It could be argued that requiring Sheila to support Maria is reasonable given legislative amendments to ensure that same-sex and opposite-sex partners are treated equitably in respect of superannuation entitlements, etc., but Maria is too old to benefit from those changes. She also has minimal superannuation herself due to past discriminatory policies affecting female casual employees. Most importantly it is understandable that Maria is reluctant to disclose her sexuality to family; she would find it impossible to reveal such personal information to Centrelink. In the circumstances, it is unreasonable that she should be forced to.

For Youth Allowance claimants seeking independent status (and exemption for the Parental Income Test) on the grounds of difficult or abusive home situations, mandating declaration of their sexuality and relationship status, with forced financial dependency on a partner, is particularly problematic. In our experience, some young people fail to pursue Youth Allowance claims due to a perceived risk of information being given to parents. Fear that

Centrelink may disclose their sexuality to parents and other third parties would not be unfounded given Centrelink's process for investigating whether a person is a member of a couple by contacting third parties. Forcing vulnerable young people to disclose same sex relationships to Centrelink needs to be carefully considered.

Case study – Rob

Rob is 19. He left home at 16, after falling out with his step-father, and lived in a youth refuge for a few months. He has been supporting himself with casual work but has broken his arm and approaches Centrelink to claim Newstart Allowance. He lives in regional NSW.

Rob lives with his partner, Marco. They have been living together for almost two years. Rob has patched up his relationship with his mother, who is unaware he is gay. He and his step-father do not speak. Rob undergoes regular counselling regarding his family break-up and is contemplating disclosing his sexuality to his mother and siblings.

Under the current legislation, Rob can choose whether to declare his relationship with Marco on Centrelink claim and review forms. Indicating that he is single is acceptable because Marco's assets and income are irrelevant to assessment of Rob's entitlements. Indicating that he has a partner will prompt no enquiries and will have no ramifications.

Under the proposed legislation, Rob will be required to advise that he has a partner. Given that the new claim forms will note that a de facto partner may be of the same sex, neglecting to declare Marco as his partner when Rob regards him as such would potentially be a false statement. If Rob fails to declare that Marco is his partner, claim form questions designed to trigger assessment of de facto relationships will ask for the names of other members of the household, and the nature of the person's relationship to those people. Again, if Rob describes Marco as a "friend", this could be construed as misleading. Whatever the description, Centrelink may opt to send Rob a Review of Living Arrangements questionnaire – which asks highly personal questions regarding any sexual relationship with household members, financial interdependency, emotional commitment, etc. If Rob refuses to answer these questions, or if he disputes that he should be treated as a member of a couple, a Centrelink investigation would ensue, which would include contact with third parties regarding their knowledge of Rob's relationship with Marco.

12. Exacerbating issues of dependence (including those with and affected by HIV/AIDS)

There are particular issues related to past discrimination against same-sex couples where one party has a severe disability or chronic illness. Gay and lesbian members of a couple may experience any of the wide range of illnesses and disabilities that affect the broader Australian population, however, one disease which disproportionately affects gay men is HIV. This group may therefore be considered as a case in point.

People with HIV/AIDS are significantly affected by discrimination against same-sex couples. Men with a history of homosexual contact constitute the majority (approximately 85%) of those diagnosed with HIV infection in Australia. Many of those HIV positive men (as well as the remaining 15% of HIV positive Australians) live in couple relationships. Some of those people are also parents. The HIV Futures 5 Survey (the authoritative Australian longitudinal study of HIV) found 82% of HIV positive people identified as gay or bisexual men. Almost half of those people were in a relationship, with their partner their primary source of social support: although that does not mean their partner provided financial support.

As the result of greatly improved treatments, more and more people are living with HIV, and they are living longer. Improved treatments have not cancelled out the effects of HIV, as HIV diagnosis continues to have a profound effect on many. Instead, people's needs have become longer term and increasingly complex and sometimes result in the cumulative affect of living for years with fluctuating health and economic disadvantage. While treatments have significantly impacted disease progression, for many these same treatments have resulted in episodic illnesses and co-morbidities that make simplistic assumptions about working or not working highly problematic. For many, patterns of work and illness have become episodic. Some people with HIV will need to alternate between paid employment and Social Security entitlements. The proposed Social Security amendments will mean that their partner's income will now affect their own Social Security entitlements and their own intermittent earnings will in turn affect their partner's entitlements. An additional concern for those with episodic and chronic illness is that this group could be denied access to Pensioner Concession Cards or Health Care Cards due to a partner's income. Provision of concession cards ameliorates the sometimes prohibitive costs of ongoing treatment (including pharmaceuticals).

What will the Social Security changes mean for people managing HIV: a long term, chronic illness that is defined by its associated stigma? Some HIV positive people, as well as other chronically ill people, experience great turmoil about entering committed relationships due to their concern about 'burdening' a partner with their care. Suddenly, a same sex partner's role is about to expand to include the assumption of financial responsibility: whether or not that was ever anticipated as a product of the relationship, and whether that is acceptable to both parties in the relationship. Given the history of discrimination against people with HIV, this is unjust.

We propose that the introduction of the Social Security amendments for people in such relationships poses a range of serious issues that appear not to have been considered.

12. Questions relating to projected Savings

The Financial Impact Assessment of this Bill appears at Page 5 of the Explanatory Memorandum. The summary of financial outcomes for the two Departments that administer Social Security and Family Assistance payments reveals the measures in this Bill will have the following financial impact over four years:

The Department for FaHCSIA has projected savings in millions of dollars;

2008–09	\$9.7	(expenditure)
2009–10	\$18.5	(saving)
2010–11	\$25.2	(saving)
2011–12	\$30.5	(saving)

The Department for EEWR, for the same period has projected savings as follows:

2008-09	\$11.8	(expenditure)
2009-10	\$7.4	(saving)
2010-11	\$32.1	(saving)
2011-12	\$39.1	(saving)

On these figures, the total projected outcome of the introduction of The Equal Treatment Bill over the next four years is a net saving to the Government of \$131 million.

The National Welfare Rights Network queries how comprehensively the underpinnings of these savings have been researched, particularly in relation to the costs of administering decisions on marriage-like relationships/de-facto relationships. Under the current legislation, decisions about whether or not a person is living in a marriage-like relationship are complicated, highly discretionary and fraught with difficulty. They are also highly litigated through the Social Security appeals mechanisms, with a large proportion of Centrelink decisions that a person is in a marriage-like relationship later overturned, either through internal review at Centrelink or when pursued through the Tribunal system. (See notes from the Senate Estimates Committee [HS 32 and HS 57 of March and April respectively] which show abnormally high set aside rates for this type of decision). Concomitant to this is the cost to Government of the additional appeals that will ensue once the definition of being a member of a couple is expanded to include same-sex relationships. Have all these factors been fully costed? Tribunals are not cost free, nor are the services of Centrelink's Legal Services and Procurement Branch or the Australian Government Solicitor (AGS). There is also the litigation cost incurred by payment recipients and their funded advocates including Legal Aid and Welfare Rights Services across Australia.

13. Synchronising the Social Security Act with the Family Law Act

One of the criteria in section 4 of the *Social Security Act*, which determines the existence of a marriage-like/de facto relationship, is a consideration of the two people's shared care of children. The Ombudsman's *Own Motion Report* (October 2007) states at Recommendation 8, that 'Centrelink's E-References (internal policy guidelines) be amended so that it is made clear in all appropriate sections that shared parenting of children by ex-partners is NOT an indicator of a marriage-like relationship'. This recommendation accords with the Government's oft-stated policy to encourage, rather than inhibit, shared care in the parenting of children by separated parents.

The National Welfare Rights Network notes that the existing reference to sharing of parenting is re-stated in the new criteria proposed by the Bill, and included in a heightened form in the new legislation. This will result in Centrelink staff and tribunals giving this criteria additional weight, which is at odds with the Ombudsman's recommendation, and contrary to the views of

the National Welfare Rights Network. Removing this criterion from the legislated factors in section 4 would increase the *Social Security Act's* compatibility with the *Family Law Act*.

Recommendations

That:

- *the clauses amending the Social Security Act and Family Assistance Act such that the definition of "de facto partner" includes a person in a same sex relationship be withdrawn;*
- *the Government engage in extensive community consultations to identify issues raised by the Social Security and Family Assistance amendments in question, having regard to the need for savings provisions and staged introduction of the changes; and that*
- *the proposed Social Security and Family Assistance amendments, however implemented, and whatever savings provisions apply, should not apply to a person unless they choose to seek to be treated as a member of a couple, with provision for unconditional withdrawal of that request at any time.*