

Monday, 13 November 2017

New Bill an extraordinary winding back of anti-discrimination laws under cover of same-sex marriage

The draft [Marriage Amendment \(Definition and Protection of Freedoms\) Bill 2017](#) to legalise same-sex marriage, released by Senator James Paterson today, represents an 'extraordinary and perilous' winding back of Australia's anti-discrimination laws under the cover of marriage equality.

Law Council of Australia President, Fiona McLeod SC, said while the Paterson Bill acknowledges concerns of those holding traditional views of marriage, it goes well beyond the issue of marriage in a number of crucial respects.

"Australia's anti-discrimination laws were amended in 2013 to enact important protections for LGBTI people in recognition of the unacceptable levels of discrimination. This Bill will encroach on many of these protections in an extraordinary and perilous way."

"For example, the Bill would allow people to refuse to provide goods and services on the grounds of belief, thought and conscience taking us well beyond religious beliefs into uncharted waters.

"You could potentially see a situation where a hire car company could leave their customers stranded on the way to a marriage ceremony simply because the driver held a thought or belief against it. This is even if the belief had nothing to do with religion," Ms McLeod said.

Ms McLeod said freedom from discrimination is a fundamental human right. Discrimination on personal attributes, including sexual orientation, is contrary to the [Sex Discrimination Act 1984](#) and our international obligations.

"The right to freedom of religion also appears in international law. While the freedom to have religious beliefs is also protected unconditionally, the manifestation or expression of those beliefs or religion may be subject to limitation where it impacts upon other fundamental rights."

Ms McLeod said the Marriage Amendment (Definition and Religious Freedoms) Bill 2017, endorsed by five government members including Senator Dean Smith, already extended existing protections for freedom of religious expression in the context of marriage and was a reasonable compromise.

"The Smith Bill supports the protection of religious freedoms in two key ways. It permits ministers of religion and religious marriage celebrants to refuse to solemnise a marriage and it allows bodies established for religious purposes to refuse to provide goods or services for the purposes of the solemnisation of a marriage," Ms McLeod said.

"While the Law Council does not endorse every detail of the Smith Bill it represents a better balance from a human rights perspective and represents greater fairness, including those affected by winding back anti-discrimination laws."

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