



TransGender Victoria Inc

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EQUAL OPPORTUNITY ACT EXCEPTIONS AND EXEMPTIONS

TransGender Victoria welcomes the opportunity to contribute to this discussion. We choose to focus on areas relating to transgender issues as per our area of expertise. We fully supports the submissions of the Rainbow Network and the Victorian Gay and Lesbian Rights Lobby Inc

We re-iterate comments made in our submission to the Equal Opportunity Review.

Religious exemptions

We believe there is no scope for religious exemptions in the 21st century. Just because a belief system is called “religion” does not make it superior to any other belief system, nor does it give it the right to treat people detrimentally. This is the total opposite of equality and democracy. Further, we find it unacceptable that religious bodies that receive government funding can be allowed to discriminate.

Competitive sport

We also believe that advances such as recognition of transsexuals by the Olympics have rendered s(66)1 obsolete.

“A person may exclude people of one sex or with a gender identity from participating in a competitive sporting activity in which the strength, stamina or physique of competitors is relevant.”

This is now excessive and we believe each situation needs to be treated on its merits rather than being subject to a more “blanket” exemption.

Reasonable notice s27B

(1) An employer may discriminate against another person on the basis of gender identity in any of the areas specified in section 13 or 14 if—

(a) the person does not give the employer adequate notice of the person's gender identity; or

(b) the person gives the employer adequate notice of the person's gender identity but it is unreasonable in the circumstances for the employer not to discriminate against the person.

(2) In determining whether or not it is unreasonable for the employer not to discriminate against the person, all relevant facts and circumstances must be considered, including—

- (a) the cost to the employer of not discriminating;
- (b) the feasibility of the employer not discriminating;
- (c) the financial impact on the employer of not discriminating;
- (d) the financial circumstances of the employer;
- (e) the impact of the proposed discrimination on the person;
- (f) any other relevant factors.

This needs to be removed on two grounds:

- a) It is common sense that would be implied in any common law situation; and
- b) It is excessive and could be construed as applying to all transgender (and intersex) people when it was only intended to apply to those employees affirming their gender identity with the same employer.

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