

STREET RIGHTS

NEWSLETTER OF THE PILCH HOMELESS PERSONS' LEGAL CLINIC

Edition 6 – March 2004

SENATE INQUIRY INTO DISCRIMINATION ON THE GROUND OF DRUG USE

As reported in Edition 4 of *Street Rights*, the Howard Government is proposing to amend the *Disability Discrimination Act* to permit discrimination on the ground of 'drug addiction'. People with drug addictions are currently protected from discrimination in areas such as employment, accommodation and the provision of goods and services. The proposed amendments will remove these protections for people who are not undergoing 'treatment' for their addiction. This may lead to drug users being dismissed from their jobs and losing their homes, regardless of whether they are good employees and tenants.

It is the Clinic's view that the *Disability Discrimination Amendment Bill* will further entrench the stereotypes, prejudices, assumptions and stigmas that are associated with drug addiction. The proposed amendments will perpetuate the connections between drug addiction and poverty, social exclusion, disadvantage and mental illness rather than addressing the causes of drug addiction and providing appropriate support to people with drug addictions.

The *Disability Discrimination Amendment Bill* has been referred to the Senate Legal and Constitutional Committee, which is currently undertaking an inquiry into the Bill. The Clinic has made a detailed written submission to the inquiry and has been asked to participate in a public hearing on 24 March 2004. The Senate Legal and Constitutional Committee is expected to report on the matter on 7 April 2004.

The Democrats and Greens have voiced their opposition to the Bill. However, the Labor Party has not yet indicated whether it will support or oppose the Bill. The Labor Party's opposition to the Bill is needed to defeat it and protect fundamental human rights. The Clinic encourages you to share your views or experiences about discrimination on the ground of drug addiction and voice your opposition to the Government's proposal by contacting the Shadow Attorney General, Nicola Roxon MP:

The Hon Nicola Roxon MP
Shadow Attorney General
Parliament House
Canberra ACT 2600

Phone: (02) 6277 2039
Email: Nicola.Roxon.MP@aph.gov.au

LAW REFORM UPDATE: DISCRIMINATION ON THE GROUND OF SOCIAL STATUS

In October 2002, the Clinic submitted a report to the Victorian Government recommending that discrimination on the ground of social status (such as homelessness, unemployment or being a recipient of Centrelink payments) should be prohibited under the Victorian *Equal Opportunity Act*. Discrimination on the ground of social status is currently lawful and widespread across Victoria, particularly in the area of accommodation and the provision of goods and services.

The report and its recommendations are under active consideration by the Victorian Government as part of a plan to address issues of poverty and inequality before the law. The report can be viewed at www.pilch.org.au. Strong lobbying is needed to ensure that social status discrimination is prohibited as part of this plan.

If you have experienced social status discrimination or are aware of instances where social status discrimination has occurred, voice your opinion and support the Clinic's submission by contacting Victorian Attorney General, Rob Hulls MP:

The Hon Rob Hulls MP
Attorney General
Level 1, 55 Andrews Place
Melbourne VIC 3000

Phone: (03) 9651 0554
Email: clare.stone@justice.vic.gov.au

THE CLINIC PROVIDES FREE LEGAL ADVICE AT THESE LOCATIONS AND TIMES:

The Big Issue
148 Lonsdale St
Melbourne VIC 3000
Mon: 10:00am - 11:00am

Melbourne Citymission
214 Nicholson St
Footscray VIC 3011
Mon: 10:30am - 1:00pm

Ozanam House
179 Flemington Rd
North Melbourne VIC 3051
Tues: 9:00am - 12:00pm

Urban Seed (Credo Café)
174 Collins St
Melbourne VIC 3000
Tues: 12:00pm - 1:00pm

Flagstaff Crisis Accommodation
9 Roden St
West Melbourne VIC 3003
Tues: 1:00pm - 2:30pm

St Peter's Eastern Hill
15 Gisborne St
Melbourne VIC 3002
Wed: 7:30am - 9:00am

The Lazarus Centre
205 Flinders Lane
Melbourne VIC 3000
By appointment - call 9639 8510

Hanover Southbank
52 Haig St
South Melbourne VIC 3205
Wed: 5:30pm - 7:30pm

HomeGround Argyle Housing
2/107 Cambridge St
Collingwood VIC 3066
Thurs: 12:00pm - 2:00pm

LEGAL ISSUE – DISCRIMINATION AND THE LAW

What is Discrimination?

Discrimination is less favourable treatment on the basis of a person's attribute or characteristic, such as their gender, race, sexual orientation, disability or impairment, marital status, age or physical characteristics.

Discrimination may also occur if a person, such as an employer or landlord, imposes unreasonable requirements or practices with which people can not comply because of an attribute such as gender or disability.

Is Discrimination Unlawful?

In Australia, a number of state and federal laws prohibit discrimination. However, not all types of discrimination are unlawful. For example, discrimination on the ground of social status (such as homelessness, unemployment or being a social security recipient) is not prohibited.

Victorian Anti-Discrimination Laws

In Victoria, the *Equal Opportunity Act 1995* prohibits discrimination on the basis of: age; breastfeeding; gender identity; impairment (which includes physical or mental illness, disease or disorder and may include drug dependency); industrial activity; lawful sexual activity; marital status; physical features; political belief or activity; pregnancy; race; religious belief or activity; sex; sexual orientation; status as a parent or carer; or personal association with someone who possesses any of these attributes.

Under the *Equal Opportunity Act*, discrimination is prohibited in the areas of employment, education, goods and services, accommodation, clubs and club membership, disposal of land and sport.

In addition, the *Racial and Religious Tolerance Act 2001* makes it unlawful to vilify (incite hatred against, contempt for, or revulsion or ridicule of) a group or individual on the basis of their race or religion.



Federal Anti-Discrimination Laws

The following federal laws prohibit discrimination.

1. The *Sex Discrimination Act 1984* prohibits discrimination on the basis of sex, marital status, pregnancy and family responsibilities in areas including employment, education, accommodation, clubs and the administration of Commonwealth laws and programs. The *Sex Discrimination Act* also deals with sexual harassment.
2. The *Disability Discrimination Act 1992* prohibits discrimination on the ground of disability in a number of areas, including employment, access to premises, education, the provisions of goods, services and facilities. Disability is defined as mental and physical impairment, disease or illness, and includes drug dependency.
3. The *Racial Discrimination Act 1975* prohibits discrimination on the grounds of race, colour, descent and national or ethnic origin. Racial discrimination is prohibited in any instance which interferes with a person's human rights, such as access to accommodation or housing, the provision of goods and services and employment.

Examples of Unlawful Discrimination

The following examples of discriminatory behaviour are prohibited by state and federal anti-discrimination laws.

- A café owner refusing to serve a homeless person on the basis of their physical appearance.
- A real estate agent failing to promptly process and fairly assess the rental application of a single mother due to prejudice based on her status as a single parent.
- An employer dismissing a hard-working employee after learning that they are formerly drug addicted and now on a methadone program.

Making a Complaint

If you feel that you have been discriminated against, it is important that you take appropriate steps to seek a remedy and to ensure that other people are not subjected to the same discriminatory treatment.

You can make a complaint about discrimination covered by either state or federal laws to the Equal Opportunity Commission of Victoria. Remedies may be in the form of an apology, compensation, job reinstatement, the provision of what was previously refused, or requiring an organisation that has discriminated to institute policy changes.

It is important that you make your complaint as soon as possible as complaints lodged more than 12 months after the act of discrimination may not be able to be considered by the Commission.

The Equal Opportunity Commission can be contacted at (03) 9281 7100 or via their website www.eoc.vic.gov.au. If you feel that you have been the subject of discrimination and would like to discuss your legal options, please attend one of the Homeless Persons' Legal Clinics to speak with a Clinic lawyer.