

MEDIA RELEASE

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ATTENTION: Chiefs of Staff, News Directors



New research paper on same-sex marriage laws

The Tasmania Law Reform Institute, based at UTAS Faculty of Law, has released a research paper on the legal issues relating to same-sex marriage.

Under the supervision of the TLRI, law graduate Amelia Higgs prepared the paper in response to problems identified in parliamentary debate on the Tasmanian Same-Sex Marriage Bill 2012.

Questions about the legal capacity of states to legislate for same-sex marriage and the consequences that might follow if such legislation was enacted emerged as major concerns.

“Rather than making recommendations or drawing conclusions, the paper sets out the competing legal arguments for and against the constitutionality of the Tasmanian Bill and state-based legislation generally,” TLRI Director Prof Kate Warner said.

“It discusses the question of who would have standing to bring an action to challenge a Tasmanian same-sex law; the likely costs to the State of such a challenge; and considers if the prospect of a challenge should discourage the State from legislating in this area if it is motivated to do so.”

The paper also examines how specific legal issues might be resolved if a Tasmanian same-sex marriage law was enacted.

“It considers, for example, which jurisdiction would deal with the dissolution of a same-sex marriage, whether such marriages could be recognised or dissolved in other jurisdictions and what the consequences might be if a Tasmanian same-sex marriage law was enacted, but subsequently invalidated,” Prof Warner said.

The paper has been drafted to be comprehensive and accessible.

“It is hoped that it will serve as a useful guide for members of Parliament who are considering the issue, and for members of the public interested in understanding the legal complexities surrounding same sex marriage legislation in Australia,” she said.

<http://www.utas.edu.au/law-reform/>

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