



# NEWSLETTER

## Victorian Gay and Lesbian Immigration Task Force

### November 2009

## What's new at GLITF? Convenor's report

Welcome to our Newsletter!

At the end of my first year or so as convenor of our Sunday afternoon general advice sessions, I am pleased to say that 2009 has so far been a successful and rewarding year. Despite a temporary change of venue, our Sunday sessions were well attended and we have all been pleased to hear of steady feedback of successful applications.

At our May meeting, we again had a visit from two officers from the Department of Immigration and Citizenship – Scott Reid and Mary Scully. Scott and Mary covered a range of issues relevant to partner migration and answered questions from the floor. These sessions always draw a good crowd and are extremely worthwhile and informative, and our May visit was no exception. We will certainly be having another visit this year, so keep your eye out for news on the website.

July saw us move from Betty Day Centre in St Kilda to the Middle Park Community Centre whilst BDC undergoes extensive renovations. We are now back at the new improved BDC.

Early in the year we had a very successful day in our stand at Midsumma. The weather was more kind to us this year, and we had a steady stream of visitors and enquirers.

As is usual in voluntary organisations, people on our

committee come and go. Over the past year, we have had a new Convenor, Treasurer and Publicity Officer, but despite the changes we march steadily and confidently forward.

“Voluntary” is the word. Our organisation relies so very much on volunteers. Indeed, many of our current committee are ordinary folks just like you have benefitted from the invaluable advice and support that GLITF offers. For my part, I fronted up to say “thank you” at Midsumma last year and a month later (somewhat to my surprise) found myself as Sunday convenor, a position that I enjoy very much. If you and/or your partner can spare a few hours each month, we would love to have you on board.

My sincere thanks go to our erstwhile volunteer advisors, who have been supporting GLITF for much longer than I

have. Keith, John, Con, Betty and Geoff are registered migration agents who are accredited to give specific advice on your situation, and they do it for free.

We are all looking forward to continuing “business as usual” as we head into 2010. Our Sunday general advice sessions are held on the first Sunday of each month at the Betty Day Centre, 67 Argyle St, St Kilda, and the advisor meetings on the third Monday of each month at the same venue.

Geoff Fitzpatrick  
Convenor



Geoff at Midsumma

## Contact GLITF

**If you or your partner are planning to apply for Australian residency and would like to get in touch with GLITF Victoria, you can reach us via the following details:**

### Postal Address:

P.O. Box 2387  
Richmond South  
Victoria 3121  
Australia

### Telephone:

+61 3 5294 0293

### Email

[info@glitfvic.org.au](mailto:info@glitfvic.org.au)

### Website

<http://www.glitfvic.org.au/>

### Website to watch out for...

Your first cyberspace port of call for information on immigration to Australia is the Department of Immigration and Citizenship. Follow the links to the section on Partner Visa Options.

<http://www.immi.gov.au>

## Upcoming meetings

Meetings are held on the first Sunday of every month at 5pm. All are welcome to attend.

Member advice nights are held on the second Monday of every month at 7.30pm.

Address: The Betty Day Community Centre  
67 Argyle St, St Kilda  
Melway Map 2P Reference F6  
St. Kilda Road Tram 3, 67 Stop 33 or  
Chapel Street Tram 78, 79 Stop 39

### Websites to watch out for...

*Immigration Equality is the only national organisation devoted to fighting for equal treatment under U.S. immigration law for lesbian, gay, bisexual, transgender and HIV-positive immigrants and their families and to winning asylum for LGBT and HIV-positive people fleeing persecution.*

[www.immigrationequality.org](http://www.immigrationequality.org)

*The Human Rights Campaign is America's largest civil rights organization working to achieve lesbian, gay, bisexual and transgender equality. By inspiring and engaging all Americans, HRC strives to end discrimination against LGBT citizens and realize a nation that achieves fundamental fairness and equality for all.*

[www.hrc.org](http://www.hrc.org)

*Independent gay blogger Citizen Chris recounts his encounter with President Obama: "Throughout the primary season I was angry that no gay reporter or gay person asked either Hillary Clinton or Barack Obama a question about same sex immigration, the issue I care about most. As a result, I decided to take things into my own hands. I would find a way to personally lobby the Democratic nominee how important this issue is for me and tens of thousands of others in the gay community. That opportunity arose tonight in Atlanta at an Obama fundraiser...."*

To read more visit:  
<http://citizenchris.typepad.com/citizenchris/2008/07/obama-on-same-s.html>

## News from the overseas...

### USA, Same-sex partner immigration bill to be introduced

Immigration Equality, the national group aimed at ending anti-LGBT discrimination in immigration law, and the Human Rights Campaign, the nation's largest lesbian, gay, bisexual and transgender civil rights organisation, lauded the introduction of the Uniting American Families Act, which was announced on February 12, 2009.

The bill, sponsored by Representative Jerrold Nadler and Senator Patrick Leahy, will provide lesbian and gay Americans the same opportunity as different-sex couples to sponsor their partner for immigration purposes.

Under U.S. immigration law, U.S. citizens and legal permanent residents may sponsor their spouses for immigration purposes. But gay and lesbian Americans are not afforded this basic right. Consequently, many binational gay and lesbian couples are kept or torn apart.

The Uniting American Families Act would allow U.S. citizens and permanent residents to sponsor their same-sex partners for family-based immigration by meeting the same standard as different-sex couples. The bill would impose harsh penalties for fraud, including up to five years in prison

and as much as \$250,000 in fines.

During a media conference call, Rep. Nadler joined Immigration Equality Executive Director Rachel B. Tiven, HRC President Joe Solmonese, and Mexican American Legal Defence and Educational Fund Legislative Staff Attorney John Amaya to discuss the importance of this legislation, along with two binational couples who face the prospect of being forcibly separated under existing immigration laws. Rep. Nadler said, "It should be an outrage to all Americans that our government continues to deny one set of citizens the fundamental rights enjoyed by the rest of its citizens.

Nadler acknowledged the importance of recognising and supporting families in all their forms, stating, "We should be encouraging and rewarding stable families rather than sweeping them into the margins. We must now pass UAFAs, the Uniting American Families Act, and grant gay and lesbian bi-national families the same legal protections—and the same human dignity—as other Americans." Senator Leahy supported these arguments, saying, "The promotion of family unity has long been part of federal immigra-

tion policy, and we should honour that principle by providing all Americans the opportunity to be with their loved ones. I hope all Senators will join me in supporting equality for all Americans and their loved ones."

Human Rights Campaign President Joe Solmonese added, "For far too long, our elected officials have ignored the devastating real-life consequences that current immigration policies have had on thousands of gay and lesbian couples in loving, committed relationships. We thank Representative Nadler and Senator Leahy for their leadership to ensure that these couples are treated equally under the law."

This inequality affects more than 36,000 gay and lesbian Americans, according to the 2000 Census and research commissioned by Immigration Equality and conducted by Gary Gates of the Williams Institute at the University of California, Los Angeles.

The Uniting American Families Act was introduced previously in 2007, but has been reintroduced to the new congress. It is not clear at this stage whether the bill is likely to be successful, but it will be an interesting test of the Obama administration's commitment to lesbian and gay equality.

## Interested in volunteering?

**GLITF is a great organisation to be a part of. GLITF volunteers make a difference in people's lives. GLITF genuinely helps people in our community by saving our members lots of money in Migration Agent fees and by taking the stress out of interdependency applications so that your same sex partner from overseas can live in Australia with you.**

**If you have a few hours a week to spare, or even a few hours a month, and would be interested in volunteering some time to GLITF, please get in touch.**

**EMAIL: [info@glitfvic.org.au](mailto:info@glitfvic.org.au)**

**CALL: 03 5294 0293**



## Same sex partner immigration in Australia...

### Where did Australia's interdependency visa come from?

Australia's Immigration Laws have progressively become more accepting of persons in same sex relationships, though as yet, full equality with persons in heterosexual relationships has not yet been achieved.

In the early 1980's, lobbying commenced of politicians to give recognition to same sex workers and interested individuals banded together and in 1984 the organisation which is now known as the Gay and Lesbian Immigration Task Force was established.

As one of the founding members of this organisation and one of its early Trustees, I had the privilege to participate with a delegation which in September 1985 descended on Canberra, our national Capital, to lobby Members of Parliament to effect a change in the law.

In those days, Australia's immigration law contained general discretions under which the Minister could approve entry into Australia of migrants. A substantial rewriting of the law took place in December 1989 to introduce the current regulatory regime which effectively removed the previous restrictions.

In any event, the lobbyists had done their homework well. To our pleasure and the badly concealed confusion of the departmental bureaucrats, the then Minister for Immigration, Chris Hurford, a right wing member of the then Labor party Government (and reportedly a devout Catholic) announced that he recognised the justice of our demands and agreed that he would give limited recognition to persons seeking to sponsor for permanent entry into Australia their same sex partners where the relationship had been in existence for 4 years. We were directed to the work out the "nitty gritty" of the new arrangement with the confused departmental officers.

Having regard to the sensitivity of the change and the potential political embarrassment that could arise, the Minister directed that all applications were to be brought to his personal attention for consideration and decision.

In the years that followed, a *modus operandi* was developed and GLIFF became well established as a lobby group in the immigration arena in Australia. Successive Ministers adapted with the cohabitation requirements over the years. Ultimately, a form of equality was achieved between persons applying for migration and/or residence in Australia on the sponsorship of a same sex partner with persons applying in the basis of their sponsorship by a *de facto* (heterosexual partner).

Australia's immigration law now recognises that Australian citizens, permanent residents or eligible New Zealand citizens in genuine and continuing same sex relationships involving a mutual commitment to a shared life together can sponsor their partners for migration and/or permanent residence. The applicant and sponsor must not be related and must both be aged over 18. The Migration Act 1956 and Regulations enacted there under which regulate the entry into Australia of non-residents contain distinct visa subclasses permitting the entry into Australia of people in interdependent (the technical term for same sex partners) relationships.

Regulation 1.09A defines when people are in an interdependent relationship. Visa classes 310 and 310 permit the migration to Australia of a person sponsored by his or her partner. Visa classes 826 and 814 permit comparably change of status within Australia. The two categories mirror those applying to persons seeking entry on the basis of *de facto* relationships.

The Annual Migration Pro-

gram contains a discrete number of places available for persons in the interdependent categories. The numbers are very small having regard to the total size of Australia's Migration (Non-Humanitarian) Program. For the 2002-2003 financial year, 700 places out of a total of some 37 thousand places allocated to the three relationships categories were reserved for interdependency visas.

There are several major problems which persons in same sex relationships experience which can however severely disadvantage them as against persons in heterosexual spousal relationships. Most significantly, there is the 12 month rule which can only be waived if compelling circumstance are in existence. However the rule can be particularly harsh if applicants come from countries which criminalise or persecute persons who engage in homosexual conduct. Policy however does accept as a compelling circumstance a situation where cohabitation is contrary to the law of the applicant's country.

A second major omission from the current immigration law is the failure to permit persons from overseas seeking to either migrate or enter Australia temporarily from including in their application as member of their family unit and thus

bringing with them persons with whom they currently reside in same sex relationships. This extends to the visa categories of parent, aged dependent relative, carer and remaining relative.

The exclusion of same sex relationships from these categories operates by virtue of the definition of "member" of a "family unit" for immigration law purposes, which extends to a spouse, dependent child, parent or relative only. This means that even though two persons are recognised as falling within the interdependent relationship category, they are not deemed to be members of each other's family unit. GLITF has been lobbying Governments for some years to achieve legislative reform in this area to overcome the substantial hardship that the current discriminatory law occasions.

Notwithstanding the above reservations, Australia was one of the first countries in the world to provide legal recognition for same sex relationships in the immigration area, and remains in this elite group. Further, the basic rules do not substantially discriminate against persons seeking to bring to this country their life partners and for this Australians can in large part be proud.

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**This is an edited extract of a paper presented by David Bitel to the Conference of the International Bar Association, San Francisco, 2003. The original paper is titled, "Recognition of Relationships in Australian Immigration Law". It was authored by Veronika Hurbis and David Bitel. The full paper can be accessed online at:**

**<http://www.parishpatience.com.au/immigration/IBA2003VHDLB.pdf>**

**David Bitel is a Registered Migration Agent and accredited specialist in immigration law at Parish Patience Immigration Lawyers: [www.parishpatience.com.au](http://www.parishpatience.com.au)**

## Australian Government same-sex partner reforms: what does it mean for immigration?

In 2008, the Rudd government introduced a series of reforms relating to the recognition of same-sex partnerships. The reforms amend 84 Commonwealth laws that were identified as discriminating against same sex couples and their children. The reforms affect a wide range of areas including social security, taxation, Medicare, veterans' affairs, workers' compensation, educational assistance, superannuation, family law, child support and immigration.

At present, Australian residents are able to apply for permanent residency for their non-Australia same-sex partner un-

der the Interdependency visa category. If a non-Australian resident is applying for residency or temporary residency (through visas such as a skilled migrant visa or student visa), same-sex partners have not been able to be included on their application.

From 1 July 2009, however, same-sex partners of Australian citizens, Australian permanent residents and eligible New Zealand citizens became eligible to apply for the same partner visa as opposite-sex de facto partners. Changes were also made to the Migration Regulations made under the Migration Act

1958. This means that same-sex couples and their children are considered 'members of the family unit' for visa purposes, in the same way that spouses and opposite sex de facto partners and their children have always been included as members of the family unit.

At present there is limited information available on what this means for same-sex couples who plan to submit visa applications after 1st July. But if you have any concerns about your application contact GLITF or the Department of Immigration and Citizenship.

Further information can be found on the following websites:

An overview of the same-sex partner reforms is available in the **Attorney General's** website:

[www.ag.gov.au/  
samesexreform#immigration](http://www.ag.gov.au/samesexreform#immigration)

The **NSW Gay and Lesbian Right Lobby** have a fact sheet on the changes to immigration and citizenship on their website. Go to [www.glr.org.au](http://www.glr.org.au) and follow the links.

## What GLITF Vic can do for you

The Gay and Lesbian Immigration Task Force (Vic) Inc. (GLITF) provides support and assistance and, through its pro bono Registered Migration Agents (Advisers), migration advice to gay and lesbian couples who are members of GLITF Victoria and who are seeking Permanent Residence status for the non-resident partner of an individual who is an Australian Citizen, an Australian Permanent Resident, or an Eligible New Zealand citizen.

GLITF Victoria is a voluntary organisation. We receive no funds from Government and for our finances we depend entirely on subscriptions and sales of our Guide book ("The GLITF Guide to Applying for Interdependency Migration"). Our office bearers and our Migration Advisers give their services to members absolutely free.

We cannot, therefore, offer

an around-the-clock service such as you might obtain from a lawyer or Migration Agent acting for a fee. But we will help you to help yourself.

Come to the Sunday meetings for general information, and to the Monday advice nights if you have need of advice in relation to your own situation. But before asking for advice, please do your homework - read the GLITF guide book and the DIMA Partner booklet which is available online. You drive your application - we guide you along the way!

If you are a MEMBER of GLITF Victoria living in Melbourne and have a really urgent problem you can email GLITF explaining the situation. Your email will be forwarded to one of our Migration Advisers for consideration and reply. We cannot guarantee, however, that you will receive advice outside of meeting times. Advice will not

be given over the GLITF phone.

If you are a MEMBER of GLITF Victoria living overseas or living so far from Melbourne that it is impossible for you to attend our Sunday meetings and/or Monday advice nights, you may email GLITF if you are seeking particular advice about your own situation. Your email will be forwarded to one of our Migration Advisers for consideration and reply.

Please note that questions of a general nature for which the answers may be found in "The GLITF Guide to Applying for Interdependency Migration" cannot be answered outside of meeting times.

### Bits and pieces

#### GLITF in the news

Victoria's queer radio station, Joy FM, aired a feature on GLITF in their 'Orange Ribbon' multicultural show on Wednesday 18th February.

The podcast of this show can be downloaded from the JOY FM website:

[www.joy.org.au](http://www.joy.org.au) and follow the links to the Orange Ribbon program

#### Newsletter contributions welcome

If you have something to say or a story to tell in the GLITF newsletter please email [info@glitfvic.org.au](mailto:info@glitfvic.org.au)

Gay and Lesbian Immigration Task Force, Victoria

<http://www.glitfvic.org.au>