



2002B00252



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## Marriage Amendment Regulations 2002 (No. 1)<sup>1</sup>

Statutory Rules 2002 No. 2<sup>2</sup>

251

I, PETER JOHN HOLLINGWORTH, Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following Regulations under the *Marriage Act 1961*.

Dated 30 OCT 2002 2002

**PETER HOLLINGWORTH**  
Governor-General

By His Excellency's Command

**DARYL WILLIAMS**  
Attorney-General

**1 Name of Regulations**

These Regulations are the *Marriage Amendment Regulations 2002 (No. 2)*. /

**2 Commencement**

These Regulations commence on 5 November 2002.

**3 Amendment of *Marriage Regulations 1963***

Schedule 1 amends the *Marriage Regulations 1963*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Subregulation 4 (1), before definition of *birth certificate***

*insert*

*Act* means the *Marriage Act 1961*.

**[2] Subregulation 4 (1), definition of *celebrant***

*omit*

, a marriage officer

**[3] Subregulation 4 (1), definitions of *notice of intended marriage, the official certificate* and the *retained official certificate***

*substitute*

*notice of intended marriage* means a notice required to be given under paragraph 42 (1) (a) of the Act.

*official certificate*, in relation to a marriage, means the certificate of the marriage complying with subsection 50 (3) or 80 (3) of the Act.

*retained official certificate*, in relation to a marriage, means the certificate that is required, under the Act, to be retained by the celebrant who solemnized the marriage.

**[4] Subregulation 4 (1), definition of *the Act***

*omit*

**[5] Regulation 5**

*omit*

in the First Schedule

*insert*

in Schedule 1

**[6] Subregulation 6 (1)**

*omit*

the First Schedule

*insert*

Schedule 1

**[7] Paragraph 18 (2) (b)**

*omit*

marriage officer or

**[8] Part III, Division 2, heading**

*substitute*

**Division 2 Marriages by authorized celebrants**

**[9] Regulations 38 and 39***substitute***38 Notice and other documents required for intended marriage (Act s 42)**

- (1) For subsection 42 (2) of the Act, a notice of intended marriage must be in accordance with Form 13.
- (2) An authorized celebrant to whom a notice of intended marriage is given must endorse on the notice the date when it was received.
- (3) An authorized celebrant who solemnizes a marriage must endorse on the notice of intended marriage the following information:
  - (a) the date when, and the place where, the marriage was solemnized;
  - (b) the kind of document, in respect of each party to the marriage, that was given to the authorized celebrant as required by paragraph 42 (1) (b) of the Act;
  - (c) if a party to the marriage was a minor — that a consent under paragraph 13 (1) (a) of the Act, or a dispensation of consent under paragraph 13 (1) (b) of the Act, was given to the authorized celebrant;
  - (d) if a party to the marriage was previously married — that evidence of the dissolution or annulment of the previous marriage, or of the death of the party's previous spouse, was given to the authorized celebrant;
  - (e) if the notice was received later than 1 month before the date of the marriage — that an authority to solemnize the marriage, given by a prescribed authority under subsection 42 (5) of the Act, was given to the authorized celebrant.

Penalty: 1 penalty unit.

**39 Requirements for declaration before authorized celebrant (Act s 42)**

For subparagraph 42 (1) (c) (iii) of the Act, a declaration must:

- (a) be in accordance with Form 14; and
- (b) state:
  - (i) that the party making the declaration has turned 18 years; or
  - (ii) if the party has not turned 18 years — the party's date of birth, and that an order has been made under section 12 of the Act in relation to the party.

**[10] Regulation 41**

*substitute*

**41 Appropriate registering authorities**

For paragraph 50 (4) (a) of the Act, the appropriate registering authority of a State or Territory is the registering authority mentioned in column 3 of the item in Schedule 2 relating to that State or Territory.

**[11] Subregulation 42 (1)**

*omit*

solemnized by him:

*insert*

solemnized by him or her:

**[12] Subregulations 42 (2) to (4)**

*substitute*

- (2) If an authorized celebrant under subsection 39 (1) of the Act solemnizes a marriage, he or she must:
  - (a) if a law of the State or Territory in which the marriage is solemnized requires the celebrant to do anything for the purpose of binding the retained official certificate of the marriage into a register or for the disposal of the retained

- official certificate in some other manner — deal with the retained official certificate as required by that law; or
- (b) in any other case — after 3 months after the date of solemnization of the marriage:
- (i) send the retained official certificate of the marriage to the appropriate registering authority of the State or Territory where the marriage was solemnized; or
  - (ii) dispose of that certificate in the manner authorized by the appropriate registering authority.
- (3) If an authorized celebrant under subsection 39 (2) of the Act solemnizes a marriage, he or she may destroy the retained official certificate of the marriage at any time after 6 years after the date of solemnization of the marriage.
- (4) For subregulation (2), the appropriate registering authority of a State or Territory is the registering authority mentioned in column 3 of the item in Schedule 2 relating to that State or Territory.

**[13] Regulation 42A**

*substitute*

**42A Disposal of the retained official certificate of marriage**

- (1) For subsection 50 (1A) of the Act, an authorized celebrant holding, or acting in, an office of a State or Territory mentioned in an item in Schedule 3 is required to prepare only 1 official certificate under paragraph 50 (1) (b) of the Act.
- (2) If the authorized celebrant:
- (a) is an authorized celebrant under subsection 39 (1) of the Act; and
  - (b) solemnizes a marriage; and
  - (c) is required by a law of the State or Territory where the marriage is solemnized to do anything for the purpose of binding the retained official certificate of the marriage into a register or for the disposal of the retained official certificate in some other manner;

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he or she must deal with the retained official certificate as required by that law.

(3) If the authorized celebrant:

(a) is an authorized celebrant under subsection 39 (2) of the Act; and

(b) solemnizes a marriage;

he or she must send to the appropriate registering authority of the State or Territory where the marriage is solemnized the official marriage certificate prepared by him or her, or deal with the certificate as directed by the registering authority.

(4) For subregulation (3), the appropriate registering authority of a State or Territory is the registering authority mentioned in column 3 of the item in Schedule 2 relating to that State or Territory.

**[14] Subregulation 43 (1)**

*omit*

require him to:

*insert*

require him or her to:

**[15] Paragraph 43 (1) (b)**

*omit*

by writing under his hand,

*insert*

in writing,

**[16] Paragraph 43 (2) (a)**

*omit*

if he has

*insert*

if he or she has

**[17] Paragraph 43 (2) (b)***substitute*

- (b) in any other case — notify the registering authority who gave the notice that the retained official certificate of the marriage is not in his or her custody or under his or her control, and if, after making reasonable inquiries, he or she is able to do so, give the registering authority the name and address of the person who has custody of the retained official certificate.

**[18] Part IV, heading***substitute***Part IV                      Solemnization of marriages of  
members of the Defence  
Force overseas****[19] Regulations 44 and 45***omit***[20] Regulation 46***substitute***46                      Requirements for declaration before chaplain  
(Act s 74)**

For paragraph 74 (1) (c) of the Act, a declaration must:

- (a) be in accordance with Form 14; and
- (b) state:
- (i) that the party making the declaration has turned 18 years; or
  - (ii) if the party has not turned 18 years — the party's date of birth, and that an order has been made under section 12 of the Act.



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**[21] Regulation 47, heading**

*substitute*

**47 Requirements for certificate of marriage (Act s 80)**

**[22] Subregulations 48 (2) and (3)**

*substitute*

- (2) For paragraph 80 (4) (c) of the Act, a chaplain who solemnizes a marriage to which this Part applies must send the other official certificate of the marriage:
- (a) if he or she is a member of the Navy — to the headquarters in Australia of the Navy; and
  - (b) if he or she is a member of the Army — to the headquarters in Australia of the Army; and
  - (c) if he or she is a member of the Air Force — to the headquarters in Australia of the Air Force.

**[23] Regulation 49**

*omit*

marriage officer or

**[24] Regulation 50, heading**

*substitute*

**50 Certificate of overseas marriage attended by chaplain**

**[25] Paragraph 51 (a)**

*omit*

the Fourth Schedule

*insert*

Schedule 4

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**[26] Regulation 54**

*substitute*

**54 Registering authorities**

In this Part, the registering authority in a State or Territory is the registering authority mentioned in column 3 of the item in Schedule 2 relating to the State or Territory.

**[27] Regulation 73**

*omit*

through a form of ceremony of marriage with each other on  
the      day of      , 19      , at  
Dated the      day of      , 19      .  
(*Signature of celebrant*)'.

*insert*

through a form of ceremony of marriage with each other on  
[*date of marriage*] at [*place of marriage*].  
Dated      20      .  
(*Signature of celebrant*)'.

**[28] Regulations 74 and 76**

*omit*

**[29] First Schedule, heading**

*substitute*

**Schedule 1 Forms**

*substitute*

(regulation 38)

<b><u>For celebrant's use</u></b>	Commonwealth of Australia <i>Marriage Act 1961</i>	For official use only
Marriage arranged for.....am/pm (time)	<b>NOTICE OF INTENDED MARRIAGE</b>  Please read the NOTES on the back of the form, and complete this form in TYPE or by using BLOCK LETTERS	
on..... (day of week)		Registered No.
..... (date)	To:..... ..... .....	
at..... .....	[insert name and address of proposed celebrant]	

- Section 42 of the *Marriage Act 1961* requires that a marriage shall not be solemnized unless a notice in writing of the intended marriage, in the prescribed form, is given to the authorized celebrant solemnizing the marriage. This Notice is the prescribed form for this purpose.
- The authorized celebrant to whom the Notice is given sends the Notice to the Registrar of Births, Deaths and Marriages of the State or Territory in which the marriage takes place, after the marriage ceremony. The Registrar uses the information to register the marriage.
- The Registrar of Births, Deaths and Marriages then sends the Notice to the Australian Bureau of Statistics, which requests information about these matters under the *Census and Statistics Act 1905*. The ABS records non-identifying information from the Notice, and uses the information to generate national statistics on marriage and the family in Australia. Personal identifying information is not retained.

The following parties give notice of their intended marriage:

	Bridegroom			Bride		
1. Surname						
2. Given names						
3. Usual occupation						
4. Usual place of residence (full address)						
5. Conjugal status (for example, never validly married, widower, widow, divorced)						
6. Birthplace — (if born in Australia — insert city or town, and State or Territory; if born outside Australia — insert city or town <i>and</i> country)						
7. Date of birth	Day	Month	Year	Day	Month	Year
8. If party born outside Australia, total period of residence in Australia	Years		Months	Years		Months
9. Father's name in full (If not known, write ' <i>unknown</i> '. If deceased, add ' <i>deceased</i> ') -----						
10. Mother's maiden name in full (If not known, write ' <i>unknown</i> '. If deceased, add ' <i>deceased</i> ') -----						
11. Father's country of birth (If not known, insert ' <i>unknown</i> ')						
12. Mother's country of birth (If not known, insert ' <i>unknown</i> ')						

<b>If a party has been previously married, that party must give the following particulars:</b>		
13. Number of previous marriages		
14. Year of each previous marriage ceremony (If known, give date)		
15. Number of children of the previous marriage or marriages born alive (whether now living or deceased)		
16. Year of birth of each of those children		
17. How LAST marriage terminated (Insert 'death', 'divorce' or 'nullity')		
18. Date on which last spouse died, or date on which dissolution of last marriage became final, or nullity order made		

Are the parties related to each other?		If yes, state relationship	
Yes <input type="checkbox"/>	No <input type="checkbox"/>	<input type="text"/>	
<i>Signature of bridegroom</i>		<i>Signature of bride</i>	
<input type="text"/>		<input type="text"/>	
<i>Signature of witness §</i>		<i>Signature of witness §</i>	
<input type="text"/>		<input type="text"/>	
<i>Qualification</i>	<input type="text"/>	<i>Qualification</i>	<input type="text"/>
<i>Date</i>	<input type="text"/>	<i>Date</i>	<input type="text"/>

§ This notice must be signed in the presence of any of the following:

- (a) if a party signs the notice in Australia — an authorized celebrant, a Commissioner for Declarations under the *Statutory Declaration Act 1959*, a justice of the peace, a barrister or solicitor, a legally qualified medical practitioner, or a member of the Australian Federal Police or the police force of a State or Territory;
- (b) if a party signs the notice outside Australia — an Australian Diplomatic Officer, an Australian Consular Officer, a notary public, an employee of the Commonwealth authorized under paragraph 3 (c) of the *Consular Fees Act 1955*, or an employee of the Australian Trade Commission authorized under paragraph 3 (d) of the *Consular Fees Act 1955*.

## NOTES

### **MARRIAGE OF ANY PERSON UNDER 18 YEARS WITHOUT AN ORDER OF A JUDGE OR MAGISTRATE IS INVALID**

### **UNDER NO CIRCUMSTANCES CAN 2 PERSONS UNDER 18 YEARS MARRY EACH OTHER**

1. If party to an intended marriage is unable, after reasonable inquiry, to state any information required in this Notice, he or she should write '*unknown*' in the relevant space on the form. To make the Notice effective, he or she must also give the authorized celebrant a statutory declaration stating that he or she is unable to state the information required in the Notice, and the reason for that inability. However, a statutory declaration is not necessary in relation to the information required under item 9, 10, 11 or 12, or the *date* of a previous marriage ceremony under item 14.
2. The marriage cannot be solemnized until after 1 calendar month from the date the authorized celebrant receives this Notice unless, under subsection 42 (5) of the *Marriage Act 1961*, a prescribed authority has authorized the marriage to be solemnized before that time has elapsed. Also, the marriage cannot be solemnized if the authorized celebrant received the Notice more than 18 months before the proposed marriage.
3. Section 104 of the *Marriage Act 1961* makes it an offence for a person to give this Notice to an authorized celebrant or to sign it if, to that person's knowledge, the Notice contains a false statement or an error or is defective.
4. If a party to an intended marriage cannot conveniently sign this Notice at the time it is intended to give notice of the intended marriage, the other party may sign the Notice and give it to the proposed authorized celebrant. However, in this case, the party who has not signed the notice must sign it in the presence of that celebrant or another authorized celebrant before the marriage is solemnized.

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5. Section 42 of the *Marriage Act 1961* requires certain documents to be produced to the authorized celebrant before the marriage is solemnized, in particular:

- (a) evidence of the date and place of birth of each party; and
- (b) if a party is a divorced person or a widow or widower — evidence of that party's divorce, or of the death of that party's spouse.

If a party has been divorced in Australia, the authorised celebrant should sight court evidence of the decree upon dissolution of marriage.

6. If a party to an intended marriage has not turned 18 (unless he or she has previously been married), he or she must obtain the necessary consents or dispensations required under the *Marriage Act 1961*, and the authorized celebrant must sight those consents or dispensations before proceeding with the marriage. Also, a person under 18 years is not of marriageable age, and cannot be a party to a marriage, unless he or she obtains an order from the court under section 12 of the Act.

**PARTICULARS TO BE COMPLETED BY AUTHORIZED CELEBRANT**

Date notice received by celebrant <input style="width: 100px;" type="text"/>		
Rites used <input style="width: 150px;" type="text"/>	Place marriage solemnized <input style="width: 150px;" type="text"/>	
Date marriage solemnized <input style="width: 100px;" type="text"/>		

  

	Bridegroom	Bride		Bridegroom	Bride
Birth certificate(s) produced	<input type="checkbox"/>	<input type="checkbox"/>	Document referred to in paragraph 42 (5A) of the Act given to parties	<input type="checkbox"/>	<input type="checkbox"/>
Registration Number	<input style="width: 60px;" type="text"/>	<input style="width: 60px;" type="text"/>	*death		
			†Evidence of *nullity	<input type="checkbox"/>	<input type="checkbox"/>
			*dissolution		
*Statutory declaration(s) regarding birth produced	<input type="checkbox"/>	<input type="checkbox"/>	If dissolution or nullity, Court location	<input style="width: 100px;" type="text"/>	
Overseas passport produced	<input type="checkbox"/>	<input type="checkbox"/>	†For marriage of a party under 18 years:		
			— consents received	<input type="checkbox"/>	<input type="checkbox"/>
Overseas passport number	<input style="width: 60px;" type="text"/>	<input style="width: 60px;" type="text"/>	— court approval	<input type="checkbox"/>	<input type="checkbox"/>
			Authority for marriage despite late notice	<input type="checkbox"/>	<input type="checkbox"/>
			— not applicable	<input type="checkbox"/>	

\*Strike out words not required

†Strike out if inapplicable

**Official use only**

Celebrant's number	Celebrant's signature



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**[31] First Schedule, Form 14**

*substitute*

**Form 14 Declaration**

(regulations 39 and 46)

Commonwealth of Australia

*Marriage Act 1961*

**DECLARATION BY PARTY TO PROPOSED MARRIAGE**

I, *[full name, address and occupation of person making the declaration]*,  
declare that:

1. I am a *[state details of conjugal status - for example, 'person who has never been validly married', 'widower', 'widow', or 'divorced person']*.
2. I believe that there is no legal impediment to my marriage with  
*[name, address and occupation of the other party to the proposed marriage]*, in particular:
  - (a) neither of us is married to another person; and
  - (b) neither of us is in a prohibited relationship; and
  - (c) both of us are of marriageable age; and
  - (d) there is no other circumstance that would be a legal impediment to the marriage.
3. I am of marriageable age because:
  - \*(a) I am 18 years or older; *or*
  - \*(b) I have not yet turned 18 years, being born on *[date of birth of person making the declaration]*. However, I applied for an order under section 12 of the Act, and the *[name of court]* at *[location of court]* made that order on *[date of order]*.

(\*Strike out if inapplicable)

I make this declaration under the *Marriage Act 1961*. I believe the statements in this declaration are true in every detail. I am aware that it is an offence under the *Marriage Act 1961* to give a notice to an authorized celebrant knowing that it contains a false statement or an error or is defective. I am also aware that the Act creates offences in relation to bigamy, and in relation to marriage of a person who is not of marriageable age.

.....  
[Signature of person making the declaration]

Declared at ..... [place where declaration made]  
on ..... [date of declaration].  
Before me

.....  
[Signature of authorized celebrant before whom declaration is made]

.....  
[Name of authorized celebrant]

.....  
[Title of authorized celebrant (for example, 'Registered Minister of Religion' or 'Registrar of Marriages', or other description of qualification to solemnize marriages)]

**[32] First Schedule, Forms 17 and 18**

*omit*

**[33] First Schedule, Forms 19**

*omit*

the 31st day of December, 19 ,

*insert*

31 December 20 ,



- (b) I am satisfied that the marriage took place in accordance with the law of .
- (c) has informed me, in writing, that he\*/she\* desires the marriage to be registered under section 84 of the *Marriage Act 1961*.
- [\* Strike out whichever is inapplicable]

**PARTICULARS OF THE PARTIES TO THE MARRIAGE**

	Bridegroom	Bride
1. Surname.....		
2. First name.....		
3. Usual occupation.....		
4. Usual place of residence.....		
5. Conjugal status.....		
6. Birthplace.....		
7. Date of birth.....		
8. Father's name in full.....		
9. Mother's maiden name in full.....		

Dated 20 .

Chaplain.

[37] **Second Schedule**  
*substitute*

## Schedule 2 **Appropriate registering authorities**

(regulation 41, subregulations 42 (4) and 42A (4) and regulation 54)

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Item	Situation of the place where the marriage was solemnized	Registering authority
1	New South Wales	Registrar of Births, Deaths and Marriages for New South Wales
2	Victoria	Registrar of Births, Deaths and Marriages for Victoria
3	Queensland	Registrar-General of Births, Deaths and Marriages for Queensland
4	Western Australia	Registrar of Births, Deaths and Marriages for Western Australia
5	South Australia	Registrar of Births, Deaths and Marriages for South Australia
6	Tasmania	Registrar-General for the purposes of the <i>Marriages Registration Act 1962</i> (Tas)
7	Australian Capital Territory	Registrar-General under the <i>Registrar-General Act 1993</i> (ACT)
8	Northern Territory	Registrar of Births, Deaths and Marriages for the Northern Territory
9	Norfolk Island	Registrar of Births, Deaths and Marriages for Norfolk Island

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**[38] Third Schedule***substitute*

**Schedule 3      Offices of which holders are  
required to prepare only  
1 official marriage certificate**

(subregulation 42A (1))

Item	State or Territory	Office of State or Territory
1	New South Wales	(a) Registrar of Births, Deaths and Marriages (b) Deputy Registrar of Births, Deaths and Marriages (c) Officer-in-charge, Registration Division, Registry of Births, Deaths and Marriages, Department of Services (d) Marriage Officer, Registry of Births, Deaths and Marriages, Department of Services
2	Queensland	(a) Registrar-General (b) Deputy Registrar-General (c) Registry Team Leader (d) Registry Officer
3	Western Australia	(a) Registrar of Births, Deaths and Marriages (b) Deputy Registrar of Births, Deaths and Marriages (c) Manager (Registrations and Policy) (d) Manager (Customer Services) (e) Team Supervisor (Customer Services) (f) Customer Service Representative (g) District Registrars and Deputy District Registrars for the following places in Western Australia:

Item	State or Territory	Office of State or Territory		
		Perth	Fremantle	Midland
		Albany	Geraldton	Moora
		Armadale	Halls Creek	Mount
		Broome	Kalgoorlie	Magnet
		Bunbury	Katanning	et
		Busselton	Kunnunurra	Narrogin
		Carnarvon	Leonora	Northam
		Derby	Manjimup	Pinjarra
		Esperance	Merredin	Roebourne
				South
				Hedland
		(h) District Registrars and Deputy District Registrars for the Christmas Island and Cocos (Keeling) Island territories		
		(i) Assistant District Registrars for the following places in Western Australia:		
		Beverley	Joondalup	Onslow
		Bridgetown	Karratha	Rockingham
		Bruce Rock	Mandurah	
		Collie	Marble Bar	Southern
		Coolgardie	Meekatharra	Cross
		Exmouth	Newman	Tom Price
		Harvey	Norseman	Wagin
				Wyndham
4	South Australia	(a) Registrar of Births, Deaths and Marriages		
		(b) Deputy Registrar of Births, Deaths and Marriages		
		(c) Assistant Registrar (Registrations)		
		(d) Assistant Registrar (Applications)		
		(e) Marriage Officer		
		(f) Personal Assistant		
		(g) Clerical Officers who are marriage celebrants		
5	Tasmania	(a) Registrar-General		
		(b) Deputy Registrar-General		

Item	State or Territory	Office of State or Territory
		(c) Registrar of Births and Deaths, Hobart
		(d) Deputy Registrar of Births and Deaths, Hobart
		(e) Registrar of Births and Deaths, Launceston
		(f) Deputy Registrar of Births and Deaths, Launceston
6	Northern Territory	(a) Registrar of Births, Deaths and Marriages
		(b) Deputy Registrar of Birth, Deaths and Marriages, Darwin
		(c) Deputy Registrar of Births, Deaths and Marriages, Alice Springs

**[39] Fourth Schedule, heading**

*substitute*

**Schedule 4 Prescribed overseas countries**

(regulation 51)

**[40] Fifth and Sixth Schedules**

*omit*

**Notes**

- These Regulations amend Statutory Rules 1963 No. 31, as amended by 1971 No. 6; 1973 No. 129; 1974 Nos. 28, 188 and 246; 1976 No. 8; 1977 No. 66; 1979 No. 156; 1984 No. 3; 1986 Nos. 227 and 229; 1988 Nos. 223 and 276; 1990 No. 246; 1991 No. 328; 1992 Nos. 32 and 294; 1995 No. 165; 2001 No. 265.
- Notified in the *Commonwealth of Australia Gazette* on 2 2002. 31 October