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# Marriage Amendment Regulations 2003 (No. 1)<sup>1</sup>

Statutory Rules 2003 No. <sup>2</sup>

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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 - 7 APR 2003 2003

**PETER HOLLINGWORTH**  
Governor-General

By His Excellency's Command

**DARYL WILLIAMS**  
Attorney-General

**1 Name of Regulations**

These Regulations are the *Marriage Amendment Regulations 2003* (No. /).

**2 Commencement**

These Regulations commence on the commencement of item 15 of Schedule 2 to the *Marriage Amendment Act 2002*.

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

Schedule 1 amends the *Marriage Regulations 1963*.

**Schedule 1 Amendments**

(regulation 3)

**[1] Regulation 39**

*renumber as regulation 38A*

**[2] Before regulation 39A**

*insert*

**39 Notice of intended marriage received later than required time — circumstances in which marriage may be solemnized (Act s 42 (5))**

For subsection 42 (5) of the Act, the circumstances mentioned in Schedule 1B are prescribed.

**[3] Regulation 73**

*omit everything after*

that section:

*insert*

'The form or ceremony of marriage between the above-mentioned parties took place or was performed in pursuance of subsection 113 (2) of the *Marriage Act 1961*,

those parties having previously gone through a form or ceremony of marriage with each other on [*date of marriage*] at [*place of marriage*].

Dated 20 .

[*Signature of celebrant*].

**[4] Schedule 1, Form 14, heading**

*substitute*

**Form 14 Declaration**

(regulations 38A and 46)

**[5] After Schedule 1**

*insert*

**Schedule 1B Circumstances for authorising marriage despite late notice**

(regulation 39)

**1 Employment-related or other travel commitments**

- (1) A circumstance is that the marriage should be solemnized despite the required notice not having been received in time because a party to the intended marriage or someone involved with the proposed wedding:
- (a) has employment commitments that necessitate the person's absence from the location of the proposed wedding for a considerable period of time; or
  - (b) has other travel commitments.

*Examples*

1 A party to the intended marriage has accepted an offer of employment for imminent transfer or posting overseas or to a part of Australia distant from the location of the proposed wedding for at least 3 months, and wishes to be married with the party's family and friends present before the departure.

2 A party to the intended marriage realises that a close relative or friend of the party is in Australia but the relative or friend has a non-redeemable ticket for departure from Australia within less than a month, and the party wishes the relative or friend to be present at the wedding.

- (2) In determining whether the circumstance in subclause (1) is met, the prescribed authority may take into account the following:
- (a) documents relating to the employment commitments such as a letter of offer and a letter of acceptance;
  - (b) documents relating to the travel such as a dated receipt or a ticket;
  - (c) any explanation provided for not giving the notice sooner;
  - (d) any explanation provided for not postponing the proposed wedding;
  - (e) whether hardship would be caused to a party to the intended marriage if the marriage is not solemnized as proposed;
  - (f) any other matter that the prescribed authority considers relevant.

## **2 Wedding or celebration arrangements**

- (1) A circumstance is that the marriage should be solemnized despite the required notice not having been received in time because of the binding nature of the wedding arrangements or celebration arrangements made in connection with the intended marriage, or because of any religious consideration.

*Example*

Arrangements and non-refundable payments of a considerable sum have been made for the proposed wedding, or for any celebration associated with the intended marriage, and the date for the wedding or celebration cannot be changed.

- (2) In determining whether the circumstance in subclause (1) is met, the prescribed authority may take into account the following:
- (a) documents showing the extent of preparations for the proposed wedding, such as receipts showing dates and amounts of payments connected with the wedding;

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- (b) in the case of a religious consideration — the nature of the consideration;
  - (c) any explanation provided for not giving the notice sooner;
  - (d) any explanation provided for not postponing the proposed wedding;
  - (e) whether hardship would be caused to a party to the intended marriage if the marriage is not solemnized as proposed;
  - (f) any other matter that the prescribed authority considers relevant.

### **3 Medical reasons**

- (1) A circumstance is that the marriage should be solemnized despite the required notice not having been received in time because a party to the intended marriage, or someone involved with the proposed wedding, is suffering from a medical condition of a serious nature.

*Example*

A party to the intended marriage, or a parent or close relative of the party, has a serious illness that will prevent the person from attending the wedding unless it is held in less than a month.

- (2) In determining whether the circumstance in subclause (1) is met, the prescribed authority may take into account the following:
  - (a) a letter from a medical practitioner or other health professional confirming the relevant health circumstances;
  - (b) any explanation provided for not giving the notice sooner;
  - (c) any other matter that the prescribed authority considers relevant.

### **4 Legal proceedings**

- (1) A circumstance is that the marriage should be solemnized despite the required notice not having been received in time because a party to the intended marriage is involved in a legal proceeding.

*Example*

A party to the intended marriage is subject to a pending court proceeding, and is at risk of imprisonment.

- (2) In determining whether the circumstance in subclause (1) is met, the prescribed authority may take into account the following:
- (a) a sealed copy of any applicable court order;
  - (b) a letter from the party's solicitor stating the dates and nature of a pending court proceeding;
  - (c) any explanation provided for not giving the notice sooner;
  - (d) any explanation provided for not postponing the proposed wedding;
  - (e) whether hardship would be caused to a party to the intended marriage if the marriage is not solemnized as proposed;
  - (f) any other matter that the prescribed authority considers relevant.

**5 Error in giving notice**

- (1) A circumstance is that the marriage should be solemnized despite the required notice not having been received in time because:
- (a) it was due only to error on the part of an authorized celebrant (or a person whom the parties to the intended marriage believed to be an authorized celebrant) that the required notice was not given or that the notice given was invalid, stale or lost; and
  - (b) arrangements have been made for the proposed wedding to take place within the one month period.

*Examples*

1 The parties have given significant notice to the authorized celebrant orally, and arrangements for the proposed wedding have been made, but written notice was not given in the required time because the authorized celebrant failed to explain the notice requirements properly.

2 The parties have given written notice in the required time, and arrangements for the proposed wedding have been made, but the notice is invalid because the person to whom the notice was given was not yet registered as a marriage celebrant.

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3 The parties have given written notice in the required time, and arrangements for celebrations have been made to follow the marriage ceremony, but the notice was lost by the authorized celebrant.

- (2) In determining whether the circumstance in subclause (1) is met, the prescribed authority may take into account the following:
- (a) documents confirming why the notice was not given, such as a letter confirming an earlier interview with the parties to the intended marriage;
  - (b) a letter from the person to whom the notice was given explaining why the notice was invalid, stale or lost;
  - (c) documents showing the arrangements made in connection with the proposed wedding;
  - (d) any other matter that the prescribed authority considers relevant.

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### Notes

1. 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; 2002 No. 251.
2. Notified in the *Commonwealth of Australia Gazette* on / 2003.

8 April