

EXPLANATORY STATEMENT

Select Legislative Instrument 2009 No. 200

Subject- *Marriage Act 1961*

Marriage Amendment Regulations 2009 (No. 1)

Section 120 of the *Marriage Act 1961* (the Act) provides, in part, that the Governor-General may make regulations prescribing all matters required or permitted by the Act to be prescribed or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

To be entitled to be a Commonwealth registered marriage celebrant a person must have all the qualifications and/or skills determined in writing to be necessary by the Registrar of Marriage Celebrants (the Registrar) in accordance with regulations made for the purposes of the Act.

The purpose of the Regulations is to amend the *Marriage Regulations 1963* (the Principal Regulations) to prescribe a new qualification, the Certificate IV in Celebrancy, as the minimum training qualification required for registration as a Commonwealth registered marriage celebrant from 3 February 2010.

A recent review of marriage celebrant training identified that improvements could be made to the existing training required for marriage celebrancy and that more extensive training was required. The Certificate IV in Celebrancy was released on 3 February 2009 and covers the skills needed for marriage celebrancy work as well as other fields of celebrancy work (for example, funeral celebrancy). The current training course has been superseded by the Certificate IV in Celebrancy and will no longer be available to training providers after 3 February 2010.

The new Certificate IV in Celebrancy is the result of consultation between the Community Services and Health Industry Skills Council, representatives of the marriage celebrant industry and the Attorney-General's Department. The marriage celebrant industry endorsed more extensive training and a qualification that would equip people for other types of celebrancy work. The peak body for celebrant associations, the Coalition of Celebrant Associations, strongly supports the new qualification and believes that it will cover the skills needed for marriage as well as other fields of celebrancy work.

The Regulations include a transition period, from their commencement to 2 February 2010, recognising that people currently enrolled in training need time to complete their course and are entitled to have their training recognised.

Under the transitional arrangements, a person can be a Commonwealth registered marriage celebrant if he/she has at least one of following qualifications:

- a Certificate IV in Celebrancy awarded by a registered training organisation;
- one of the other qualifications listed in new subregulation 37G(2) (these include the qualifications currently listed in the Principal Regulations); or

- all of the skills currently listed in subregulation 37G(3), which are designed primarily for the benefit of members of indigenous communities where undertaking formal training may prove too onerous.

However from 3 February 2010, the Regulations require a person seeking to be a Commonwealth registered marriage celebrant to have at least one of the following qualifications:

- a Certificate IV in Celebrancy awarded by a registered training organisation;
- a celebrancy qualification from a university mentioned in a determination by the Registrar; or
- all of the skills currently listed in subregulation 37G(3).

The Registrar will issue a determination listing the units the Registrar determines to be necessary for registration as a marriage celebrant, as well as the universities offering a celebrancy qualification.

Details of the Regulations are as follows:

Regulation 1 – Name of Regulations

This regulation provides that the title of the regulations is the *Marriage Amendment Regulations 2009 (No. 1)*.

Regulation 2 – Commencement

This regulation provides for regulations 1 to 3 and Schedule 1 of the Regulations to commence on the day after they are registered and for Schedule 2 to commence on 3 February 2010.

Regulation 3 – Amendment of *Marriage Regulations 1963*

This regulation provides that the *Marriage Regulations 1963* (the Principal Regulations) are amended as set out in Schedules 1 and 2.

SCHEDULE 1 – Amendments commencing on the day after registration

Item [1] – Regulations 37F and 37G, substitute

Item 1 substitutes new regulations 37F and 37G for those currently in the Principal Regulations.

Regulation 37F:

- (i) retains the definitions of *Australian National Training Authority*, *marriage celebrancy unit* and *registered training organisation* in the Principal Regulations;
- (ii) defines the new *Certificate IV in Celebrancy*; and
- (iii) amends the definition of *formal course of training* in the Principal Regulations by adding (i) a Certificate IV in Marriage Celebrancy awarded by a registered training organisation and (ii) a Certificate IV in Celebrancy, awarded by a registered training organisation, that includes all the units the Registrar determines in writing to be necessary for registration as a marriage celebrant.

The Registrar will issue a determination listing these units. The purpose of adding these to the definition is to ensure the Registrar can require a Commonwealth registered marriage celebrant to undertake these qualifications as a disciplinary measure (Regulation 37O).

Subregulation 37G(1) requires a person seeking to be a Commonwealth registered marriage celebrant to have at least 1 of the qualifications mentioned in subregulation (2) or all of the skills mentioned in subregulation (3).

Subregulation 37G(2) lists, for the purpose of paragraph (1)(a), the following qualifications:

- (a) a certificate (however described) awarded by a university, showing successful completion of a course conducted by the university that includes the marriage celebrancy unit;
- (b) a celebrancy qualification (however described) awarded by a university, that includes all the units the Registrar determines in writing to be necessary for registration as a marriage celebrant (the Registrar will issue a determination listing these units as well as the universities awarding a celebrancy qualification);
- (c) a Certificate IV in Marriage Celebrancy awarded by a registered training organisation;
- (d) a Statement of Attainment in the marriage celebrancy unit awarded by a registered training organisation;
- (e) a Certificate IV in Celebrancy, awarded by a registered training organisation, that includes all the units the Registrar determines in writing to be necessary for registration as a marriage celebrant.

Subregulation 37G(3) lists, for the purpose of paragraph (1)(b), the skills required by a person seeking to be a Commonwealth registered marriage celebrant, as an alternative to the qualifications listed in subregulation (2) that enable indigenous communities to more readily be able to obtain suitable marriage celebrants. Subregulation 37G(3) is in the same terms as current subregulation 37G(3) of the Principal Regulations.

Subregulation 37G no longer includes a provision equivalent to subregulation 37G(4) of the Principal Regulations which defines *qualified assessor*. This definition is no longer necessary as it was a definition included at the time of the Principal Regulations to cover transitional arrangements for students who had completed training before it was a requirement for registration as a marriage celebrant by the Commonwealth.

Item [2] – Schedule 1, Form 12A, part B

Form 12A of Schedule 1 to the Principal Regulations is the application form completed by persons seeking to be a Commonwealth registered marriage celebrant. Part B of the Form 12A requires an applicant to tick a box to indicate the qualification on which their application is based.

Item 2 amends Form 12A so the qualifications a person can rely on are the same as the qualifications mentioned in subregulation 37G(2).

SCHEDULE 2 – Amendments commencing on 3 February 2010

Item [1] Regulations 37F and 37G, substitute

Regulation 37F defines the following terms: *Certificate IV in Celebrancy*, *formal course of training* and *registered training organisation*.

Regulation 37F in Schedule 2 differs from regulation 37F in Schedule 1 to the Regulations by amending the definitions of *formal course of training* and *registered training organisation* to reflect that the *marriage celebrancy unit* is no longer a qualification that can be used by a person seeking to be a Commonwealth registered marriage celebrant.

The definition of *formal course of training* includes (i) a celebrancy qualification (however described) from a university, mentioned in the determination, that includes all the units the Registrar determines to be necessary for registration as a marriage celebrant; and (ii) a Certificate IV in Celebrancy, awarded by a registered training organisation, that includes all the units the Registrar determines to be necessary for registration as a marriage celebrant.

Subregulation 37G requires a person seeking to be a Commonwealth registered marriage celebrant to have at least 1 of the qualifications mentioned in paragraph (a) or all of the skills mentioned in paragraph (b).

Paragraph (a) lists the following qualifications:

- (i) a celebrancy qualification (however described) from a university mentioned in the determination, that includes all the units the Registrar determines to be necessary for registration as a marriage celebrant (the Registrar will issue a determination listing these units and universities awarding a celebrancy qualification); or
- (ii) a Certificate IV in Celebrancy, awarded by a registered training organisation, that includes all the units the Registrar determines to be necessary for registration as a marriage celebrant (the Registrar will issue a determination listing these units).

Paragraph (b) lists the skills required by a person seeking to be a Commonwealth registered marriage celebrant, as an alternative to the qualifications listed in paragraph (a). Paragraph (b) is in the same terms as subregulation 37G(3) of the Principal Regulations.

Item [2] – Schedule 1, Form 12A, part B

Form 12A of Schedule 1 to the Principal Regulations is the application form completed by persons seeking to be a Commonwealth registered marriage celebrant. Part B of the Form 12A requires an applicant to tick a box to indicate the qualification on which their application is based.

Item 2 amends Form 12A so the qualifications a person can rely on are the same as the qualifications listed in subregulation 37G(2).