

EXPLANATORY STATEMENT

Issued by the Registrar of Marriage Celebrants

Marriage Act 1961

Marriage (Celebrancy qualifications or skills) Amendment Determination 2012 (No.1)

Legislation

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

Paragraph 39C(1)(b) of the Act provides that a person is only entitled to be a Commonwealth-registered marriage celebrant if the Registrar of Marriage Celebrants is satisfied that the person has all the qualifications, and/or skills, determined in writing to be necessary by the Registrar in accordance with regulations made for the purpose of this paragraph.

Regulation 37G of the *Marriage Regulations 1963* (the Regulations) provides, for the purposes of section 39C of the Act, the qualifications and skills required for registration as a marriage celebrant. Subregulation 37G(1) of the Regulations provides that the Determination must require the person to have either: 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 are provided in accordance with the requirements in subregulation 37G(2); or 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 and are provided in accordance with the requirements mentioned in subregulation 37G(2).

Subregulation 37G(2) of the Regulations provides the following requirements for subregulation 37G(1): each unit must be delivered by a marriage celebrant having the qualifications, skills, training and experience as a marriage celebrant that the Registrar determines; each unit must not be delivered by a marriage celebrant against whom the Registrar is taking or has taken any disciplinary measures mentioned in section 39I(2) of the Act during the period that the Registrar determines; and each unit must include all the materials that the Registrar determines must be used in the unit.

The *Marriage (Celebrancy qualifications or skills) Determination 2009* (the Determination) commenced on 24 December 2009 and specifies the skills or qualifications an applicant seeking to become a Commonwealth-registered marriage celebrant, under section 39C of the Act, must hold.

The *Marriage (Celebrancy qualifications or skills) Amendment Determination 2012 (No.1)* (the Amendment Determination) is made by the Registrar of Marriage Celebrants under regulation 37G of the *Marriage Regulations 1963*. The Amendment Determination amends the Determination.

Purpose

The purpose of the Amendment Determination is to:

- (i) reflect the change in name for one of the required training materials for aspiring Commonwealth-registered marriage celebrants as listed in subsection 5(3) of the Determination from '*Explanatory Material on the Marriage Act 1961 for Marriage Celebrants*' to 'guidelines on the *Marriage Act 1961* for marriage celebrants';
- (ii) remove reference to the DVD 'When Words are not Enough: Some Legal Obligations of a Marriage Celebrant' in subsection 5(3) of the Determination as it is no longer a required training material for aspiring Commonwealth-registered marriage celebrants; and
- (iii) correct a typographical error in subsection 5(2) of the Determination (changing the last word of subsection 5(2) from 'beings' to 'begins').

Consultation

The Office of Best Practice Regulation was consulted in relation to the Amendment Determination and advised that the preparation of a Regulation Impact Statement was not required as there was a low or no compliance cost on business in relation to this Instrument.

No consultation was undertaken in the making of the Amendment Determination as the instrument is machinery in nature and does not substantially alter existing arrangements.

Statement of Compatibility with Human Rights

The following paragraphs are a statement of compatibility with human rights prepared in accordance with Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Amendment Determination is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

The Amendment Determination does not engage any of the applicable rights or freedoms.

Commencement

The instrument commences the day after registration.

Details of the Amendment Determination

Section 1

Section 1 provides that the name of the Amendment Determination is the *Marriage (Celebrancy qualifications or skills) Amendment Determination 2012 (No.1)*.

Section 2

Section 2 provides that the Amendment Determination commences on the day after it is registered.

Section 3

Section 3 states that the purpose of Schedule 1 of the Amendment Determination is to amend the *Marriage (Celebrancy qualifications or skills) Determination 2009*.

Schedule 1

Schedule 1 amends subsection 5(2) and paragraphs 5(3)(c) to (f) of the Determination as follows:

Item [1] – Schedule 1, subsection 5(2)

This item substitutes the word ‘beings’ with the word ‘begins’ to correct a typographical error in subsection 5(2) of the Determination.

Item [2] – Schedule 1, paragraphs 5(3)(c) to (f)

This item substitutes the words ‘*Explanatory Material on the Marriage Act 1961 for Marriage Celebrants*’ with ‘guidelines on the *Marriage Act 1961* for marriage celebrants’ to reflect the change in name of the required training material.

This item also omits old paragraph 5(3)(d) from the Determination to reflect that the DVD ‘*When Words are not Enough: Some Legal Obligations of a Marriage Celebrant*’ is no longer required training material for Commonwealth-registered marriage celebrants.

Paragraphs 5(3)(d), (e) and (f) have been renumbered to reflect the omission of old paragraph 5(3)(d).

The amendments made by this item ensure that the most up-to-date materials are used in the delivery of training.