



Marriage Amendment (Celebrant Fees and Charges) Regulation 2014

Select Legislative Instrument No. 71, 2014

I, General the Honourable Sir Peter Cosgrove AK MC (Ret'd), Governor-General of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, make the following regulation.

Dated 12 June 2014

Peter Cosgrove
Governor-General

By His Excellency's Command

George Brandis QC
Attorney-General

OPC60404 - A

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1 Name of regulation

This regulation is the *Marriage Amendment (Celebrant Fees and Charges) Regulation 2014*.

2 Commencement

This regulation commences on the commencement of Schedule 1 to the *Marriage Amendment (Celebrant Administration and Fees) Act 2014*.

3 Authority

This regulation is made under the *Marriage Act 1961*.

4 Schedule(s)

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

Schedule 1—Amendments

Marriage Regulations 1963

1 Subregulation 4(1) (definition of *registration year*)

Repeal the definition.

2 Regulation 6

Repeal the regulation.

3 Paragraph 10(a)

Repeal the paragraph.

4 Subregulation 11(1)

Omit “he shall furnish to the minor a dispensation in accordance with Form 2”, substitute “the prescribed authority must give to the minor a dispensation in writing”.

5 Subregulation 11(2)

Omit “he shall give notice of the refusal to the minor in accordance with Form 3”, substitute “the prescribed authority must give notice of the refusal to the minor, in writing”.

6 Paragraphs 12(2)(a) and (aa)

Repeal paragraphs, substitute:
(a) must be in writing; and

7 Subregulations 12(7) and (8)

Repeal the subregulations, substitute:

- (7) The consent of a Judge or magistrate to an application under subsection 16(1) or (5) of the Act must be in writing.

8 Paragraph 13(3)(a)

Repeal the paragraph, substitute:
(a) must be in writing; and

9 Subregulation 13(4)

Repeal the subregulation, substitute:

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- (4) A request under section 17 of the Act must have attached to it a copy of the notice of application under subsection 16(1) of the Act to which it relates including any documents required to accompany the application under regulation 12.

10 Paragraph 16(a)

Repeal the paragraph, substitute:

- (a) must be in writing; and

11 At the end of regulation 16

Add:

- ; and (d) must, if a previous application under section 12 of the Act has been refused—be accompanied by a notice stating:
- (i) that a previous application under section 12 of the Act was refused by a Judge or magistrate; and
 - (ii) the name of the Judge or magistrate; and
 - (iii) the date of the decision.

12 Subregulation 20(4)

Repeal the subregulation, substitute:

- (4) An applicant must personally serve on each other person who is required by section 18 of the Act to be given an opportunity to be heard at the inquiry, the following:
- (a) notice of the time, date and place fixed for the holding of the inquiry;
 - (b) a copy of the notice of application.

13 Subregulation 20(5)

Omit “Where”, substitute “However, if”.

14 Subregulations 23(1) and (2)

Omit “, in accordance with Form 9,”.

15 Regulations 31 and 32

Repeal the regulations.

16 Subregulation 33(1)

Repeal the subregulation.

17 Regulation 37F

Insert:

ASGS Volume 5 means the document titled *Australian Statistical Geography Standard (ASGS): Volume 5—Remoteness Structure* (ABS catalogue number 1270.0), published by the Australian Statistician in July 2011.

18 Regulation 37F (definition of *Certificate IV in Celebrancy*)

Repeal the definition, substitute:

Certificate IV in Celebrancy means a qualification with that name, awarded by a registered training organisation, that:

- (a) includes all the units mentioned in the table in paragraph 4(b) of the *Marriage (Celebrancy qualifications or skills) Determination 2009*; and
- (b) is included in the CHC08: *Community Services Training Package* (Release 4.2), published by the Community Services and Health Industry Skills Council, as in force on 1 July 2014.

Note: In July 2014, information about the Certificate IV in Celebrancy qualification and the CHC08: *Community Services Training Package* was available to download from <http://www.training.gov.au>.

19 Regulation 37F

Insert:

charge exemption application fee: see regulation 37JD.

20 Regulation 37F (paragraph (b) of the definition of *formal course of training*)

Repeal the paragraph, substitute:

- (b) a Certificate IV in Celebrancy.

21 Regulation 37F

Insert:

professional development exemption application fee: see regulation 37MC.

22 Regulation 37F

Insert:

registration application fee: see subregulation 37HB(1).

registration exemption application fee: see subregulation 37HB(2).

remote area means remote Australia or very remote Australia, as described in the Remoteness Structure in the ASGS Volume 5.

23 Subparagraph 37G(1)(a)(ii)

Repeal the subparagraph, substitute:

- (ii) a Certificate IV in Celebrancy; or

24 Subparagraph 37G(1)(b)(i)

Omit “indigenous”, substitute “Indigenous”.

25 Regulations 37H and 37HA

Repeal the regulations, substitute:

37H Application for exemption from registration application fee

- (1) A person may apply, in writing, to the Registrar of Marriage Celebrants for an exemption from liability to pay a registration application fee.
- (2) The application must:
 - (a) be made before the person applies to be registered as a marriage celebrant; and
 - (b) be accompanied by:
 - (i) any information or documents that may assist the Registrar to decide whether to grant the exemption; and
 - (ii) the registration exemption application fee.
- (3) The Registrar may, by written notice, ask the applicant to give the Registrar additional information, within a period specified in the notice, to assist the Registrar to decide whether to grant the exemption.
- (4) If the Registrar asks the applicant to give additional information, the Registrar is not required to consider the application while waiting for the information to be given.

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- (5) If the applicant does not provide the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Note 1: **Registration application fee** is defined in subregulation 37HB(1).

Note 2: **Registration exemption application fee** is defined in subregulation 37HB(2).

37HA Circumstances in which Registrar may grant exemption from registration application fee

- (1) The Registrar of Marriage Celebrants may grant an applicant an exemption from liability to pay a registration application fee if the Registrar is satisfied that:
- (a) the applicant's principal residential address is in a remote area; and
 - (b) there is not more than one marriage celebrant whose principal residential address:
 - (i) is in the remote area; and
 - (ii) has the same postcode as the applicant's principal residential address.
- (2) The Registrar must, by written notice, inform the applicant of the Registrar's decision to grant or refuse the exemption within 21 days after receiving:
- (a) the application; or
 - (b) if the Registrar has asked for additional information—the additional information.

Note 1: **Registration application fee** is defined in subregulation 37HB(1).

Note 2: For provisions related to applying for internal review of the Registrar's decision to refuse an exemption from liability to pay a registration application fee, see regulation 37JE.

37HB Minister may determine fees—registration and exemption applications

Registration application fee

- (1) For subsection 39D(1B) of the Act, the Minister may, by legislative instrument, determine the fee (the **registration application fee**) to be paid in respect of an application for registration as a marriage celebrant.

Registration exemption application fee

- (2) For paragraph 39D(1C)(b) of the Act, the Minister may, by legislative instrument, determine the fee (the **registration exemption application fee**) to be paid in respect of an application for an exemption from liability to pay a registration application fee.

26 Paragraph 37I(1)(b)

Repeal the paragraph, substitute:

- (b) the person's:
- (i) suburb, town or locality; and
 - (ii) postcode; and
 - (iii) State or Territory; and
 - (iv) contact details;

27 Regulation 37J

Repeal the regulation, substitute:

37J Notice in relation to celebrant registration charge—other requirements

- (1) For paragraph 39FA(2)(b) of the Act, the requirements mentioned in subregulations (2) and (3) are prescribed.
- (2) A notice to a marriage celebrant under subsection 39FA(2) of the Act must state the following:
- (a) that the marriage celebrant is liable to pay celebrant registration charge in respect of a financial year unless, before the end of the charge payment day, the marriage celebrant is granted an exemption from the liability to pay the charge in respect of the financial year;
 - (b) that the amount of celebrant registration charge that the marriage celebrant is liable to pay:
 - (i) is a debt due by the person to the Commonwealth; and
 - (ii) may be recovered by action in a court of competent jurisdiction;
 - (c) that the marriage celebrant may seek an exemption from the liability to pay celebrant registration charge in respect of a financial year by:
 - (i) applying for an exemption under subregulation 37JB; and

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- (ii) paying the charge exemption application fee;
 - (d) that the marriage celebrant must apply for the exemption no later than 14 days after the day on which the notice is sent;
 - (e) that a marriage celebrant who is liable to pay a celebrant registration charge and does not do so before the end of the charge payment day will be deregistered as a marriage celebrant under section 39FB of the Act.
- (3) A notice to a marriage celebrant under subsection 39FA(2) of the Act must be sent to:
- (a) the principal residential address provided by the marriage celebrant to the Registrar of Marriage Celebrants; or
 - (b) if the postal address provided by the marriage celebrant to the Registrar of Marriage Celebrants is different from the principal residential address—the postal address; or
 - (c) if the marriage celebrant, in accordance with paragraph 9(1)(d) of the *Electronic Transactions Act 1999*, has consented to the notice being given by way of electronic communication—the email address provided by the marriage celebrant for that purpose.

Note 1: ***Celebrant registration charge*** and ***charge payment day*** are defined in subsection 5(1) of the Act.

Note 2: See paragraph 39FA(2)(a) of the Act for other requirements about the content of the notice.

37JA Notice in relation to deregistration—other requirements

- (1) For paragraph 39FB(2)(b) of the Act, the requirements mentioned in subregulations (2) and (3) are prescribed.
- (2) A notice to a person under subsection 39FB(1) of the Act must state that:
 - (a) the amount of celebrant registration charge that is payable:
 - (i) is a debt due by the person to the Commonwealth; and
 - (ii) may be recovered by action in a court of competent jurisdiction; and
 - (b) a person who is deregistered as a marriage celebrant may apply to the Administrative Appeals Tribunal for review of the Registrar of Marriage Celebrant's decision to deregister the person.

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- (3) A notice to a person under subsection 39FB(1) of the Act must be sent to:
- (a) the principal residential address provided by the person to the Registrar of Marriage Celebrants; or
 - (b) if the postal address provided by the person to the Registrar of Marriage Celebrants is different from the principal residential address—the postal address; or
 - (c) if the person, in accordance with paragraph 9(1)(d) of the *Electronic Transactions Act 1999*, has consented to the notice being given by way of electronic communication—the email address provided by the person for that purpose.

Note 1: ***Celebrant registration charge*** is defined in subsection 5(1) of the Act.

Note 2: See subsections 39FB(1) and (2) of the Act for other requirements about how the notice is to be sent and the content of the notice.

37JB Application for exemption from celebrant registration charge

- (1) A marriage celebrant may apply, in writing, to the Registrar of Marriage Celebrants for an exemption from liability to pay celebrant registration charge in respect of a financial year.
- (2) The application must:
 - (a) be made no later than 14 days after the day on which a notice under subsection 39FA(2) of the Act is sent to the marriage celebrant; and
 - (b) be accompanied by any information or documents that may assist the Registrar to decide whether to grant the exemption; and
 - (c) be accompanied by the charge exemption application fee.
- (3) The Registrar may, by written notice, ask the marriage celebrant to give the Registrar additional information, within a period specified in the notice, to assist the Registrar to decide whether to grant the exemption.
- (4) If the Registrar asks the marriage celebrant to give additional information, the Registrar is not required to consider the application while waiting for the information to be given.
- (5) If the marriage celebrant does not provide the additional information within the period specified in the notice, the application is taken to have been withdrawn.

Note 1: ***Celebrant registration charge*** is defined in subsection 5(1) of the Act.

Note 2: ***Charge exemption application fee*** is defined in subregulation 37JD.

37JC Circumstances in which Registrar may grant exemption from celebrant registration charge

- (1) The Registrar may grant the marriage celebrant an exemption from liability to pay celebrant registration charge if a circumstance mentioned in subregulation (2) or (3) exists.
- (2) The Registrar may grant the exemption if the Registrar is satisfied that:
 - (a) the marriage celebrant's principal residential address is in a remote area; and
 - (b) there are not more than 2 marriage celebrants (including the marriage celebrant applying for the exemption) whose principal residential address:
 - (i) is in the remote area; and
 - (ii) has the same postcode as the principal residential address of the marriage celebrant applying for the exemption.
- (3) The Registrar may grant the exemption if the Registrar is satisfied that:
 - (a) the marriage celebrant will not be a resident of Australia at any time during the financial year to which the application relates; or
 - (b) the marriage celebrant will be unable to perform as a marriage celebrant for at least 6 months of the financial year to which the application relates because of:
 - (i) serious illness; or
 - (ii) caring responsibilities.
- (4) The Registrar must, by written notice, inform the applicant of the Registrar's decision to grant or refuse the exemption within 21 days after receiving:
 - (a) the application; or
 - (b) if the Registrar has asked for additional information—the additional information.

Note: ***Celebrant registration charge*** is defined in subsection 5(1) of the Act.

37JD Charge exemption application fee

For paragraph 39FA(3)(b) of the Act, the Minister may, by legislative instrument, determine the fee (the ***charge exemption application fee***) to be paid in respect of an application for an exemption from liability to pay celebrant registration charge in respect of a financial year.

37JE Internal review—refusal to grant certain exemptions

- (1) This regulation is made for the purposes of paragraphs 39D(1C)(c) and 39FA(3)(c) of the Act.
- (2) If the Registrar of Marriage Celebrants decides to refuse to grant a person:
 - (a) an exemption from liability to pay a registration application fee under subregulation 37HA(1); or
 - (b) an exemption from liability to pay celebrant registration charge in respect of a financial year under subregulation 37JC(1);the person may apply, in writing, to the Registrar for internal review of the decision (the ***original decision***).
- (3) The application must:
 - (a) be made within 14 days beginning on the day on which the person receives notice of the original decision; and
 - (b) set out the reasons for making the application.
- (4) After receiving the application, the Registrar must cause the original decision to be reviewed by an APS employee (the ***internal reviewer***) with a classification level that is equivalent to or higher than the original decision-maker.
- (5) The internal reviewer may, by written notice, ask the person to give the internal reviewer additional information, within a period specified in the notice, to assist the internal reviewer to review the original decision.
- (6) If the internal reviewer asks the person to give additional information, the internal reviewer is not required to consider the application while waiting for the information to be given.

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- (7) If the person does not provide the additional information within the period specified in the notice, the application is taken to have been withdrawn.
- (8) The internal reviewer must either:
- (a) confirm the original decision; or
 - (b) substitute a different decision for the original decision, with effect from the time the original decision was made.

Note 1: *Registration application fee* is defined in subregulation 37HB(1).

Note 2: *Celebrant registration charge* is defined in subsection 5(1) of the Act.

28 Regulation 37L

Omit “paragraph 39G(a)”, substitute “paragraph 39G(1)(a)”.

29 Subregulation 37M(1)

Omit “paragraph 39G(b)”, substitute “paragraph 39G(1)(b)”.

30 Subregulations 37M(1), (3), (4) and (5)

Omit “registration year”, substitute “calendar year”.

31 Subregulation 37M(5) (note)

Repeal the note, substitute:

Note: A marriage celebrant may undertake more than the minimum requirements of professional development activities. However, any activity undertaken in a calendar year in excess of the minimum requirements will not count towards the marriage celebrant’s obligation under this subregulation for other calendar years.

32 Subregulations 37M(6) and (7)

Repeal the subregulations, substitute:

- (6) A marriage celebrant is not required to comply with subregulation (4):
- (a) for the calendar year in which the marriage celebrant successfully completes a formal course of training (the *stated calendar year*) and the 2 calendar years after the stated calendar year—if the marriage celebrant:
 - (i) enrolled in the formal course of training before 1 July 2010; and
 - (ii) provided evidence of the enrolment to the Registrar before 14 August 2010; or

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- (b) otherwise—if the Registrar grants an exemption for a calendar year under regulation 37MA or 37MB.

33 After regulation 37M

Insert:

37MA Application for professional development exemption because of exceptional circumstances

- (1) If a marriage celebrant believes that exceptional circumstances will result in the marriage celebrant being unable to comply with the requirement in subregulation 37M(4) for a calendar year, the marriage celebrant may apply, in writing, to the Registrar of Marriage Celebrants for an exemption.
- (2) The application must:
 - (a) be made before 31 December of the calendar year to which the application relates; and
 - (b) be accompanied by:
 - (i) information or documents that may assist the Registrar to decide whether to grant the exemption; and
 - (ii) the professional development exemption application fee.
- (3) The Registrar may, by written notice, ask the marriage celebrant to give the Registrar additional information, within a period specified in the notice, to assist the Registrar to decide whether to grant the exemption.
- (4) If the Registrar asks the marriage celebrant to give additional information, the Registrar is not required to consider the application while waiting for the information to be given.
- (5) If the marriage celebrant does not provide the additional information within the period specified in the notice, the application is taken to have been withdrawn.
- (6) The Registrar may grant the exemption if the Registrar is satisfied that the marriage celebrant will be unable to complete any professional development activity required by subregulation 37M(4) for the calendar year because of the exceptional circumstances mentioned in the application.

- (7) The Registrar must, by written notice, inform the marriage celebrant of the Registrar's decision to grant or refuse the exemption.

37MB Other circumstances in which Registrar may grant professional development exemption

- (1) The Registrar of Marriage Celebrants may grant a marriage celebrant an exemption from the requirement to comply with subregulation 37M(4) for a calendar year if the Registrar is satisfied that the marriage celebrant will be unable to complete any professional development activity for the calendar year because of the date of the marriage celebrant's registration.
- (2) The Registrar must, by written notice, inform the marriage celebrant of the Registrar's decision to grant the exemption.

37MC Professional development exemption application fee

For subsection 39G(2) of the Act, the Minister may, by legislative instrument, determine the fee (the *professional development exemption application fee*) to be paid in respect of an application for exemption from undertaking, in a calendar year, the professional development activities mentioned in subregulation 37M(4).

34 Paragraph 37N(1)(d)

Omit "paragraph 39G(b)", substitute "paragraph 39G(1)(b)".

35 Subregulation 37N(2)

Repeal the subregulation.

36 Subregulation 38(1)

Repeal the subregulation.

37 Regulation 38A

Repeal the regulation, substitute:

38A Requirements for declaration before authorised celebrant

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

- (a) that the party making the declaration has turned 18 years; or

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- (b) if the party has not turned 18 years:
 - (i) the party's date of birth; and
 - (ii) that an order has been made under section 12 of the Act in relation to the party.

38 Regulation 39A

Repeal the regulation.

39 Subregulation 40(6)

Repeal the subregulation.

40 Regulation 46

Repeal the regulation, substitute:

46 Requirements for declaration before chaplain

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

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

41 Subregulation 47(6)

Repeal the subregulation.

42 Regulations 49 and 50

Repeal the regulations.

43 Subregulation 57(1)

Omit "accordance with Form 21", substitute "writing".

44 Subregulation 58(1)

Repeal the subregulation, substitute:

- (1) The information to be furnished to a registering authority with respect to a legitimization in accordance with regulation 57 is information that is:
 - (a) applicable in the circumstances of the particular case; and
 - (b) either:

- (i) within the knowledge of the parent furnishing the information; or
- (ii) ascertainable with accuracy by that parent making reasonable inquiries.

45 Paragraph 59(4)(d)

Repeal the paragraph, substitute:

- (d) information that is:
 - (i) applicable in the circumstance of the particular case; and;
 - (ii) either within the knowledge of the applicant or ascertainable with accuracy by the applicant making reasonable inquiries.

46 Subregulation 60(1)

Repeal the subregulation, substitute:

- (1) A registering authority may, by notice in writing, require a person to furnish to the registering authority, within 14 days after receipt of the notice or within such extended period as the registering authority allows, a statement in accordance with subregulation (1A).
- (1A) For subregulation (1), the statement must contain information specified in the notice, being information relating to the legitimization of the child (other than information with respect to the paternity of the child) as is:
 - (a) within the knowledge of the person giving the statement; or
 - (b) ascertainable with accuracy by the person making reasonable inquiries.

47 Subregulation 60(2)

Omit, “A person shall not be required by the registering authority in a State or Territory to furnish information under the last preceding subregulation”, substitute “However, a person is not required by the registering authority in a State or Territory to furnish information under subregulation (1)”.

48 Subregulation 62(1)

Omit “accordance with Form 21”, substitute “writing”.

49 Subregulation 62(2)

Repeal the subregulation, substitute:

- (2) The information to be furnished to a registering authority with respect to a legitimization in accordance with subregulation (1) is information that is:
- (a) applicable in the circumstances of the particular case; and
 - (b) either:
 - (i) within the knowledge of the parent furnishing the information; or
 - (ii) ascertainable with accuracy by that parent making reasonable inquiries.

50 Subregulation 63A(1)

Omit “accordance with Form 21, substitute “writing”.

51 Paragraph 68(2)(a)

Repeal the paragraph, substitute:

- (a) it contains information as is applicable in the circumstances of the particular case; and

52 Paragraph 70(3)(b)

Omit “, in accordance with Form 23”.

53 Regulation 72

Repeal the regulation.

54 Schedule 1 (Forms 1 to 14A)

Repeal the forms.

55 Schedule 1 (Forms 16 to 24)

Repeal the forms.

56 Schedule 3 (after table item 1)

Insert:

Schedule 1 Amendments

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- | | | |
|----|----------|---|
| 1A | Victoria | <ul style="list-style-type: none">(a) Registrar of Births, Deaths and Marriages(b) Citizen Experience Lead, Registry of Births, Deaths and Marriages(c) Team Leader Citizen Service, Registry of Births, Deaths and Marriages(d) Service Co-ordinator, Registry of Births Deaths and Marriages(e) Citizen Service Ambassadors, Registry of Births, Deaths and Marriages |
|----|----------|---|