

# ***Legislation (Deferral of Sunsetting—Marriage Regulations) Certificate 2016***

## **EXPLANATORY STATEMENT**

Issued by the Attorney-General in compliance with section 15G of the *Legislation Act 2003*

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### **INTRODUCTION**

This Certificate was made under paragraph 51(1)(c) of the *Legislation Act 2003* (the Legislation Act) and is a legislative instrument for the purposes of the Legislation Act.

A certificate issued by the Attorney-General under subsection 51(1) of the Legislation Act is not subject to disallowance. As such, a statement of compatibility with human rights is not required (*Human Rights (Parliamentary Scrutiny) Act 2011* section 9).

### **OUTLINE**

The purpose of the sunseting provisions of the Legislation Act is to ensure that legislative instruments are kept up to date and only remain in force for so long as they are needed.

Paragraph 51(1)(c) enables the Attorney-General to issue a certificate to defer the sunseting day for an instrument for a period of six or 12 months. The instrument will then cease to be in force on the day specified in the certificate instead of the scheduled sunseting day.

This allows instruments to continue to be in force for a further but limited period of time when they would otherwise sunset. This removes the administrative burden of remaking instruments which would have a limited duration prior to their repeal and potential replacement.

### **PROCESS BEFORE CERTIFICATE WAS MADE**

#### **Regulatory impact analysis**

Certificates of deferral of sunseting are machinery of government instruments, and are therefore not subject to the regulatory impact assessment requirements set out by the Office of Best Practice Regulation (OBPR). The OBPR reference for this standing exemption is ID19633.

#### **Consultation before making**

Before this Certificate was issued, the Attorney-General considered the general obligation to consult imposed by section 17 of the Legislation Act. The Attorney-General is responsible for the *Marriage Act 1961*, the enabling legislation under which the Regulations were made, under section 6 of the Legislation Act and under the current Administrative Arrangements Order. The Certificate is consistent with the policy intent of the sunseting arrangements and does not significantly alter existing arrangements. Accordingly, further consultation was unnecessary.

### **Statutory preconditions relevant to this Certificate**

If the Attorney-General is satisfied that the statutory conditions in section 51 of the Legislation Act are met, an instrument's sunset day can be deferred for either six or 12 months by means of a certificate made under that section. In terms of process, the Legislation Act requires:

- a) the responsible rule-maker to apply to the Attorney-General in writing;
- b) the Attorney-General to be satisfied that the instrument meets the statutory conditions; and
- c) the Attorney-General to issue a certificate that includes a statement of reasons for the issue of the certificate.

The certificate issued by the Attorney-General must be laid before each House of Parliament no later than six sitting days after it is made. It is a legislative instrument and must be registered on the Federal Register of Legislation, but is not subject to disallowance (*Legislation (Exemptions and Other Matters) Regulation 2015*, section 10, item 19).

### **More information**

The detail of the Certificate is provided in [Attachment A](#).

The instrument subject to this Certificate (the *Marriage Regulations 1963*) is available on the Federal Register of Legislation. Further information about the operation of those Regulations may also be requested from the Attorney-General's Department.

## NOTES ON THE CERTIFICATE

### Section 1      Name

This section provides that the Certificate is named the *Legislation (Deferral of Sunsetting—Marriage Regulations) Certificate 2016*.

### Section 2      Commencement

This section provides for the Certificate to commence on the day after it is registered.

### Section 3      Authority

This section provides that the Certificate is made under paragraph 51(1)(c) of the *Legislation Act 2003* (the Legislation Act)

### Section 4      Definitions

This section defines ‘Act’ to mean the Legislation Act, for the purposes of the Certificate.

### Section 5      Statement of reasons for issue of certificate

This section provides the statement of reasons required by paragraph 51(2)(a) of the Legislation Act.

The statement of reasons explains why the Attorney-General is satisfied that the relevant instrument would (apart from the operation of Part 4 of Chapter 3 of the Legislation Act) be likely to cease to be in force within 12 months after the scheduled sunseting day, as required by subparagraph 51(1)(b)(i) of the Legislation Act.

### Section 6      Deferral of sunseting of the *Marriage Regulations 1963*

This section provides that the *Marriage Regulations 1963*, for which the scheduled sunseting day is 1 April 2017, are taken to cease to be in force under section 51 of the Legislation Act on 1 April 2018.

### Section 7      Repeal of this instrument

This section provides that the Certificate is repealed on 2 April 2018.