

# **MARRIAGE (RECOGNISED DENOMINATIONS) PROCLAMATION 2018**

## **EXPLANATORY STATEMENT**

Issued by authority of the Attorney-General

under section 26 of the *Marriage Act 1961*

### **PURPOSE AND OPERATION OF THE INSTRUMENT**

The *Marriage Act 1961* (the Act) came into operation on 6 May 1961. The Act's principal purpose is to establish a uniform marriage law throughout the Commonwealth. The Act sets out who may marry, who may perform the marriage ceremony, how the ceremony is to be conducted and where and when it may be performed. The Act also provides for the recognition of foreign marriages, and provides a process for marriages to be solemnised overseas by Australian Defence Force personnel including chaplains. Finally, the Act provides for the legitimisation of ex-nuptial children and the provision of grants for marriage education.

Section 26 of the Act provides that the Governor-General may, by Proclamation, declare a religious body or a religious organisation to be a recognised denomination for the purposes of the Act.

Proclaimed recognised denominations are permitted to nominate their ministers of religion directly to the State and Territory Registrar of Births, Deaths and Marriages for registration as authorised marriage celebrants.

In 2007, the *Marriage (Recognised Denominations) Proclamation 2007* (the 2007 Proclamation) was made. There are currently 151 proclaimed recognised denominations.

The 2007 Proclamation will sunset on 1 April 2019. It was previously scheduled to sunset on 1 April 2018, but this date was deferred by 12 months following the granting of a deferral certificate under section 51 of the *Legislation Act 2003* on 5 September 2017.

The purpose of the *Marriage (Recognised Denominations) Proclamation 2018* (the Proclamation) is to replace the sunseting 2007 Proclamation on substantially the same terms, subject to the removal of four recognised denominations and changes to the name of three recognised denominations.

The Proclamation does not include four recognised denominations, listed on the 2007 Proclamation, that no longer require proclamation as follows:

- Belarusian Autocephalous Orthodox Church in Australia and Abroad
- Calvary Life Assemblies

- Federation of Reformed Christian Churches of the Pacific Australia Incorporated, and
- German Evangelical Lutheran Church.

The Proclamation also updates the proclaimed names of three existing recognised denominations as follows:

- Christian Brethren has changed its name to Christian Community Churches of Australia
- Church of Pentecost Australia has changed its name to The Church of Pentecost Australia, and
- Macedonian Orthodox Church, Diocese of Australia and New Zealand has changed its name to Macedonian Orthodox Church.

The Act specifies no conditions that need to be satisfied before the power to make the proposed Proclamation may be exercised.

The proposed Proclamation is a legislative instrument for the purposes of the [Legislation Act 2003](#).

Pursuant to section 17 of the Legislation Act, consultation was undertaken with each recognised denomination to confirm its current status. Where the recognised denomination was uncontactable, the department consulted with associated religious organisations. Consultation was also undertaken with the three organisations seeking a name change.

Authority: Section 26 of the *Marriage Act 1961*

### **Statement of Compatibility with Human Rights**

*Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011*

*Marriage (Recognised Denominations) Proclamation 2018*

This Proclamation 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*.

### **Overview of the Proclamation**

The purpose of this Proclamation, made under section 26 of the *Marriage Act 1961*, is to replace the *Marriage (Recognised Denominations) Proclamation 2007* which is due to sunset on 1 April 2019. The Proclamation removes four recognised denominations that were listed on the previous Proclamation and updates the names of three recognised denominations.

Religious bodies or organisations declared to be recognised denominations are permitted to nominate their ministers of religion directly to the State and Territory Registrars of Births, Deaths and Marriages for authorisation as marriage celebrants.

## **Human rights implications**

This Proclamation engages the following rights:

- the right to freedom of religion, including the right to practice that religion, in Article 18 of the International Covenant on Civil and Political Rights (ICCPR), and
- the right of everyone to participate in their own culture, including professing their own religion, in Article 27 of the ICCPR.

By recognising certain religious denominations, the Proclamation will promote the rights of individuals in Articles 18 and 27 of the ICCPR by providing access to religious marriage ceremonies that are based on their religious beliefs, practices and ceremonial acts.

Religious bodies or organisations declared to be recognised denominations are able to nominate ministers of religion to be authorised celebrants to solemnise marriages according to their religious beliefs. By recognising the right of persons to engage in religious worship and perform marriage ceremonies according to their beliefs and practices, this Proclamation promotes the continued development and enjoyment of religious identities.

## **Conclusion**

This Proclamation is compatible with human rights as it advances the protection of human rights.