

# **MARRIAGE (CELEBRANT PROFESSIONAL DEVELOPMENT) AMENDMENT STATEMENT 2018**

## **EXPLANATORY STATEMENT**

Issued by the Registrar of Marriage Celebrants under subsection 53(3) of the *Marriage Regulations of 2017*.

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

The *Marriage Act 1961* (the Act) establishes the legal framework for marriage in Australia, including the requirements for marriages to be validly solemnised under Australian law. This includes a requirement that marriages must be solemnised by an ‘authorised celebrant’. An ‘authorised celebrant’ can be a Minister of religion of a recognised denomination; a person authorised by a State or Territory; or a ‘marriage celebrant’ (which includes a ‘religious marriage celebrant’).

The Act establishes the position of ‘Registrar of Marriage Celebrants’ (section 39A of the Act) (the Registrar). The Registrar is required to maintain the Register of Marriage Celebrants (section 39B of the Act), and is responsible for administering the Marriage Celebrants Programme (Programme). The Registrar registers and regulates marriage celebrants. The Programme has the legitimate aims of applying appropriate scrutiny to aspiring marriage celebrants; supporting the availability of marriage services across Australia; and regulating marriage celebrants’ performance to ensure delivery of professional, knowledgeable and legally correct marriage services to the community.

Section 120 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters that the Act requires or permits to be prescribed or are necessary or convenient to be prescribed for carrying out and giving effect to the Act. Commonwealth-registered marriage celebrants are the only category of ‘authorised celebrant’ regulated by the Commonwealth under the Act and the Marriage Regulations 2017 (the Regulations). Ministers of religion of recognised denominations and persons authorised by a State or Territory, are regulated by state and territory authorities.

Paragraph 39G(1)(b) of the Act requires that a marriage celebrant must undertake all professional development activities listed by the Registrar in accordance with the Regulations.

Subsection 53(1) of the Regulations provides that a marriage celebrant must, each calendar year, undertake professional development activities that take at least five hours to complete. This must include the completion of any activities determined by the Registrar as compulsory activities for the year.

The Registrar may take disciplinary measures against a celebrant who has not complied with their professional development obligations for a given year (paragraph 39I(1)(b) of the Act).

Subsection 53(3) of the Regulations requires that the Registrar must, as soon as practicable after the start of each calendar year, publish a written statement that sets out the professional development activities for the year, and specify which of those activities (if any) are compulsory.

Subsection 53(5) of the Regulations requires that the Registrar publish the statement on the internet and in any other way the Registrar considers appropriate.

Subsection 53(6) of the Regulations provides that the Registrar may add professional development activities to a list that is set out in a statement published under subsection 53(3) for a calendar year; however, those activities cannot be compulsory activities for that year. Where the Registrar approves further professional development activities during the year, the list set out in the Statement at Schedule 1 of this Instrument will be amended.

The *Marriage (Celebrant Professional Development) Statement 2018* (the Statement) commenced on 1 April 2018. Schedule 1 of that Instrument lists all of the professional development activities which Commonwealth-registered marriage celebrants may undertake in 2018 to meet their obligations under paragraph 39G(1)(b) of the Act.

Clause 1 and Clause 2 of Schedule 1 to this Instrument, the Marriage (Celebrant Professional Development) Amendment Statement 2018 (the amendment Statement), updates the list of professional development activities in Schedule 1 to the Statement to include a further three new activities approved by the Registrar after 1 April 2018, namely: ‘The blended family ceremony’; ‘Are you having a rehearsal’; and ‘Multicultural Multireligious rites and ritual in an Australian wedding’.

In addition, Clause 3 and Clause 4 of Schedule 1 of the amendment Statement repeals and replaces item 185 and inserts new items 186-188 to improve efficiencies in administration of the OPD reporting process. Following these amendments, each of the four Registered Training Organisations (RTOs) who have entered into a formal undertaking with the department and have the Certificate IV in Celebrancy (CH41015) in their registration scope, will be able to use their own individual course codes when reporting to the department on the OPD activities undertaken by Commonwealth-registered marriage celebrants through their organisation. There is no substantive change to the OPD activities; Certificate IV units will continue to be able to count towards a celebrant’s OPD in the relevant OPD year.

No activities have been removed from Schedule 1 in the Statement.

The Registrar considers the following training methods when determining which professional development activities are to be included on the Statement for an OPD year:

- units of competency delivered under the Certificate IV in Celebrancy (CHC41015), by a Registered Training Organisation with a Certificate IV in Celebrancy in their registration scope (RTOs), and who have entered into a formal undertaking with the department. The units are counted if they are equivalent to undertaking five hours training minus the duration of any compulsory activity. The Registrar has determined that there will be a compulsory activity in 2018
- elective OPD activities developed by Registered Training Organisations who are a member of the department’s panel of approved OPD providers, and
- approved conferences hosted by celebrant associations to count towards the elective OPD requirements.

It is up to each individual celebrant to identify activities (other than those which are compulsory activities for the OPD year) they wish to complete, and apply to an organisation listed as delivering the activity/ies.

By virtue of subsection 92(1) of the Regulations, the amendments set out at Schedule 1 to this Instrument apply to the OPD year beginning on 1 January 2018.

## CONSULTATION

The OPD Panel are requested to submit a full list of their training activities for delivery in the OPD year to the Registrar for assessment and approval. The OPD Panel may submit additional activities during the year. Where approved by the Registrar, Schedule 1 to the amendment Statement will be updated to insert, remove or amend the list of professional development activities. The Registrar wrote to the OPD panel in April 2018 requesting that additional activities be provided by the end of June 2018, for the purpose of updating the Statement. Three additional activities were approved by the Registrar after 1 April 2018 and are listed in Schedule 1 to the amendment Statement.

Marriage celebrants were not consulted on the training activities developed and delivered by training providers, as they have the ability to choose from a large range of approved activities, as published in the Statement, as counting toward their five hours of OPD compliance.

The amendment Statement is a legislative instrument for the purposes of the *Legislation Act 2003*. Details of the instrument are set out in **Attachment A**.

## REGULATION IMPACT STATEMENT

The Office of Best Practice Regulation was consulted about the Statement and advised that a Regulatory Impact Statement was not necessary (OBPR ID 23665).

## STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS

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

The Statement of Compatibility with Human Rights is at **Attachment B**.

## **Attachment A**

### **NOTES ON SECTIONS**

#### **PART 1 – Preliminary**

##### **Section 1 – Name**

Section 1 provides that the title of the instrument is the Marriage (Celebrant Professional Development) Amendment Statement 2018 (amendment Statement).

##### **Section 2 – Commencement**

The instrument commences on the day after the instrument is registered.

##### **Section 3 – Authority**

Section 3 provides that the instrument is made by the Registrar of Marriage Celebrants under subsection 53(3) of the *Marriage Regulations 2017*.

##### **Section 4 – List of professional development activities**

Section 4 provides that the instrument amends the Marriage (Celebrant Professional Development) Statement 2018, as set out in Schedule 1 to the amendment Statement.

#### **SCHEDULE 1 – Professional development activities**

Schedule 1 has been updated to insert three additional activities into the list of professional development activities for 2018; and provide a separate course code to four Registered Training Organisations who have the Certificate IV in Celebrancy (CH41015) in their registration scope and who have entered into a formal undertaking with the department for those Certificate IV units to count towards the celebrant's OPD obligation in the relevant OPD year.

The list of professional development activities for 2018 is ordered by:

- activity code
- activity
- ways in which the activity may be undertaken
- length in minutes
- who the activity is suitable for, and
- the name of the provider offering the activity.

As a result of the insertions there have been corresponding changes to the line item numbering.

## **Attachment B**

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

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

#### **Marriage (Celebrant Professional Development) Amendment Statement 2018**

This Disallowable Legislative Instrument 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 Disallowable Legislative Instrument**

The *Marriage (Celebrant Professional Development) Amendment Statement 2018* is a published list of additional activities which Commonwealth-registered celebrants can complete to meet their ongoing professional development obligations. The Instrument amends the Marriage (Celebrant Professional Development) Statement 2018 which is only applicable to marriage celebrants, including religious marriage celebrants, who are registered under Subdivisions C and D of Division 1 of Part IV of the *Marriage Act 1961*.

Under paragraph 39G(1)(b) of the Marriage Act, Commonwealth-registered marriage celebrants are required to undertake all professional development activities required by the Registrar of Marriage Celebrants in accordance with the *Marriage Regulations 2017* (the Regulations).

Under subsection 53(3) of the Regulations, the Registrar must, as soon as practicable, after the start of each calendar year, publish a written statement that sets out the professional development activities for the year, and specifies which of those activities (if any) are compulsory.

Under subsection 53(6) of the Regulations, the Registrar may add professional development activities to a list that is set out in a statement published under subsection 53(3) for a calendar year; however, those activities cannot be compulsory activities for that year. If the Registrar approves further professional development activities for 2018, the list set out in the Statement at Schedule 1 of this Instrument will be amended.

The purpose of the amendment Legislative Instrument is to update the list of professional development activities in accordance with subsection 53(6) of the Regulations.

#### **Human rights implications**

This Disallowable Legislative Instrument does not engage any of the applicable human rights or freedoms.

#### **Conclusion**

This Disallowable Legislative Instrument is compatible with human rights as it does not raise any human rights issues.