# **MARRIAGE (CELEBRANT PROFESSIONAL DEVELOPMENT) amendment STATEMENT 2019**

# **EXPLANATORY STATEMENT**

Issued by the Registrar of Marriage Celebrants under subsection 53(3) of the Marriage Regulations 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’). Marriage celebrants are the only category of authorised celebrants 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.

The Act establishes the position of ‘Registrar of Marriage Celebrants’ (the Registrar) (section 39A of the Act). 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 (the 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.

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

Subsection 53(1) of the Regulations provides that a marriage celebrant must, each calendar year, undertake listed 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.

The *Marriage (Celebrant Professional Development) Statement 2019* (the Statement) lists the professional development activities, approved by the Registrar, available to marriage celebrants in 2019 to meet their obligations under paragraph 39G(1)(b) of the Act.

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. A link to the Statement is published on the Attorney-General’s Department website, [www.ag.gov.au](http://www.ag.gov.au).

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.

The *Marriage (Celebrant Professional Development) Amendment Statement 2019* (Amendment Statement) amends the Statement.

Schedule 1 of the Amendment Statement amends Section 4 of the Statement by adding a definition for the Association of Civil Marriage Celebrants of Victoria Incorporated. Schedule 1 of the Amendment Statement adds new activities at 51A and 59 respectively. The new activity at 51A is a unit of competency that could, or would be undertaken as part of a Certificate IV in Celebrancy (CH41015) delivered by Life Skills Training. The new activity at 59 is the Association of Civil Marriage Celebrants of Victoria Incorporated Conference for 2019.

By virtue of subsection 92(1) of the Regulations, the amendments set out at Schedule 1 of the Amendment Statement apply to the OPD year beginning on 1 January 2019.

**Consultation**

The Attorney-General’s Department has established a panel of training providers to deliver OPD activities. 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. Celebrant associations are also provided the opportunity to submit their association conference for delivery in the OPD year for assessment and approval.

The OPD Panel, Registered Training Organisations and celebrant associations were consulted in the development of the Statement.

Subsequent to the Statement commencing, the Attorney-General’s Department was made aware that the Association of Civil Marriage Celebrants of Victoria Incorporated 2019 conference and the delivery of Certificate IV in Celebrancy (CH41015) units by Life Skills Training, a Registered Training Organisation, were inadvertently omitted from the Statement. The Amendment Statement has been made to insert the Association of Civil Marriage Celebrants of Victoria Incorporated 2019 conference and the delivery of Certificate IV in Celebrancy (CH41015) units by Life Skills Training. The Attorney-General’s Department did not make available the option for further activities to be submitted given the recent commencement of the Statement and requirement that proposed activities be provided to the Registrar by 4 January 2019 to allow time for assessment.

The 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 ID23665).

**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 2019*.

**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.

**SCHEDULE 1 – Amendments**

Section 1 of Schedule 1 amends Section 4 of the *Marriage (Celebrant Professional Development) Statement 2019* by including a definition for the Association of Civil Marriage Celebrants of Victoria Incorporated. This term is defined after the definition of AMC Australian Marriage Celebrants Inc.

Section 2 of Schedule 1 amends Table 1 of Schedule 1 of the Statement by including a new item number 51A which is a unit of competency that could, or would be undertaken as part of a Certificate IV in Celebrancy (CH41015) delivered by Life Skills Training.

Section 3 of Schedule 1 amends Table 1 of Schedule 1 of the Statement by including a new item number 59 which is the 2019 Conference for the Association of Civil Marriage Celebrants of Victoria Incorporated.

**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 2019**

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 2019* the (Amendment Statement) amends the *Marriage (Celebrant Professional Development) Statement 2019* (the Statement). The Statement is a published list of activities which Commonwealth-registered celebrants can choose from to meet their ongoing professional development obligations. The Statement 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* (the Marriage Act).

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.

The purpose of this Legislative Instrument is to amend the list the professional development activities available to marriage celebrants in accordance with subsection 53(3) of the Regulations. The Amendment Statement adds a further celebrant association conference and an additional provider of Certificate IV in Celebrancy (CH41015) units to the existing list of professional development activities.

**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.