

MARRIAGE (CELEBRANT PROFESSIONAL DEVELOPMENT) STATEMENT 2021

EXPLANATORY STATEMENT

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

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’ (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 Program (the Program). The Registrar registers and regulates marriage celebrants. The Program 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 and 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 2021* (the Statement) lists the professional development activities, approved by the Registrar, available to marriage celebrants in meeting their obligations for 2021 under paragraph 39G(1)(b) of the Act.

Delivery of professional development activities is limited to certain providers. The Attorney-General’s Department (AGD) has established a panel of four approved Ongoing Professional

Development (OPD) providers. Registered Training Organisations (RTOs) with a Certificate IV in Celebrancy within their scope can also apply to AGD to deliver units from the qualification to count as OPD. Four RTOs have been approved to deliver Certificate IV units for OPD purposes in 2021. In addition, celebrant associations can apply for their conferences to count towards professional development obligations. Six associations have conferences approved in 2021.

An activity is defined in the Statement as:

- an OPD activity delivered by a provider on AGD's OPD panel, or
- a Certificate IV in Celebrancy unit, or
- a conference delivered by a celebrant association.

The Registrar has specified a single activity as a compulsory activity for 2021 (paragraph 53(3)(b)), a legal questions activity available online for free to marriage celebrants for completion through their self-service portal. The activity is also available via email or hard copy for marriage celebrants who cannot access their portal.

Celebrants are free to choose from other activities listed in the table at Schedule 1 to make up the five hour professional development requirement.

It is up to each individual celebrant to identify activities from the list and enrol with an organisation listed as delivering the activity, unit, or conference to undertake that activity within the year.

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. The Statement will be available from the AGD website, www.ag.gov.au as soon as the Statement commences. The Statement is also available at the Federal Register of Legislation, www.legislation.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. If 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 Statement repeals the *Marriage (Celebrant Professional Development) Statement 2020*.

CONSULTATION

In 2016 and 2017, AGD consulted with key stakeholders, including Commonwealth-registered marriage celebrants, RTOs, state and territory registries of births, deaths and marriages, and celebrant associations about OPD requirements, including the types of activities that could count as OPD for marriage celebrants.

Following this consultation, a policy on OPD was published on the AGD's website in August 2017. This policy expanded the types of activities the Registrar would consider as elective activities for OPD; confirmed that the Registrar would continue to approve the activities; and confirmed that completion of a compulsory activity will only be required where there are significant changes to legislation, guidelines or the Program.

Following an open selection process undertaken by AGD in 2017, a panel of OPD providers (the OPD panel) was established to deliver OPD activities from 1 January 2018 to 31 December 2020. The OPD panel was extended until 31 December 2021 while AGD undertakes further consultations in 2021 on future options for OPD.

In December 2019, AGD wrote to the OPD panel notifying of the department's intention to introduce a one hour online legal questions activity through the celebrant self-service portal. In March 2020, AGD introduced the one hour online legal questions activity with instructions for accessing the

activity for celebrants who selected to complete the activity. Two OPD providers developed complimentary activities to assist celebrants to access the activity. The online legal questions activity is set as the compulsory activity for 2021.

AGD consulted with the OPD Panel, associations, and RTOs between 15 September 2020 and 15 February 2021 in the development of this statement. As part of this consultation, the OPD panel nominated courses proposed for delivery in 2021. The Registrar reviewed each panel member's outline of nominated activities, which describes how the activity would meet previously established OPD principles and objectives.

On 1 October 2020, the OPD panel was invited to submit a full list of their training activities for delivery in the 2021 calendar year to the Registrar for assessment and approval. Celebrant associations or networks can also apply to the Registrar for their conferences to count towards a celebrant's professional development obligation. RTOs delivering the Certificate IV in Celebrancy can deliver units from that qualification to count as OPD where they have applied to AGD to do so. The Registrar approved 75 activities put forward by OPD panel members for inclusion on the Statement. One activity was not approved because it related to proposed new marriage forms which are not currently approved for use under the Marriage Act.

The Registrar wrote to celebrant associations/networks on 1 October 2020 and 16 November 2020 inviting submissions for association/network conferences to count towards OPD in 2021. Celebrant associations/networks were required to advise the Registrar of conferences they proposed for inclusion on the Statement by 31 January 2021. The Registrar approved all six applications received for inclusion in the Statement.

The application form (in the form of a Declaration) for RTOs to deliver the Certificate IV in Celebrancy units so that the units can count towards OPD obligations is available on AGD's website. Four RTOs have been included in the Statement as delivering Certificate IV in Celebrancy units to count towards OPD. RTOs do not need to submit activities for approval. The Registrar does not reconsider the content proposed for the Certificate IV units, as the units and their content have already been separately accredited by the Australian Skills Quality Authority. Accordingly, all units which make up the Certificate IV in Celebrancy can be undertaken and count towards meeting 2021 OPD obligations.

A total of 98 activities are included in the Statement.

Marriage celebrants were not consulted separately in the development of the Statement. This is because AGD requires the OPD panel and celebrant associations/networks to incorporate feedback they receive from celebrants before they submit activities and conferences to the Registrar for approval. AGD is separately consulting with marriage celebrants about future options for OPD in 2021.

There were no significant issues raised during the consultation process for the 2021 Statement. Any issues relating to activity content have been communicated to the relevant OPD panel members.

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 ID 43623).

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

PART 1 – Preliminary

Section 1 – Name

Section 1 provides that the title of the instrument is the *Marriage (Celebrant Professional Development) Statement 2021*.

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 – Definitions

Section 4 defines the following terms:

In this instrument:

ACQ means Alliance of Celebrants Queensland.

Activity means a professional development activity delivered by a provider on the Attorney-General's Department Ongoing Professional Development (OPD) Panel, a Certificate IV in Celebrancy unit, or a celebrant association conference.

AFCC means Australian Federation of Civil Celebrants.

ACMCV means Association of Civil Marriage Celebrants of Victoria Inc.

Australian Celebrations Training means Australian Celebrations Training Pty Ltd (ACN 104 287 112).

The Celebrant Institute RTO means The Celebrant Institute RTO Pty Ltd (ACN 059 479 159) (formerly Life Skills Training Pty Ltd).

The Gordon means Gordon Institute of TAFE (ABN 27 241 053 246).

QualTrain means QualTrain Australia Pty Ltd (ACN 622 208 182).

Regulations means the Marriage Regulations 2017.

Rose Training means Rose Training Australia Pty Ltd (ACN 605 893 810).

The Celebrant A List means The Celebrant A List.

The Celebrant Society means The Celebrant Society.

The Celebrants Training College Alumni means The Celebrants Training College Alumni.

The Unleashed Collective means The Unleashed Collective Pty Ltd (ABN 14 763 510 851).

Section 5 – Schedules

Section 5 provides that 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.

Section 6 – List of professional development activities

Subsection 6(1) provides that the list of professional development activities for 2021 are set out in Schedule 1.

Subsection 6(2) provides that a celebrant must complete the compulsory activity at item 1 of the table in clause 1 of Schedule 1 as part of meeting their obligation to complete five hours of OPD in 2021.

SCHEDULE 1 – Professional development activities

Schedule 1 provides the full list of professional development activities for 2021 in one table. In order to meet the obligation in subparagraph 39G(1)(b) of the Act for 2021, a celebrant must complete the first activity listed in the table.

The table lists:

- the activity, unit or conference
- the length in minutes, and
- the name of the provider or association offering the activity, unit, or conference.

SCHEDULE 2 – Repeals

Schedule 2 repeals the *Marriage (Celebrant Professional Development) Statement 2020*.

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) Statement 2020

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) Statement 2020* (the Statement) is a published list of activities which Commonwealth-registered celebrants can complete 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 list the professional development activities available to marriage celebrants in accordance with subsection 53(3) 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.