

EXPLANATORY STATEMENT

Minute No. 259 of 2024 – Attorney-General

Subject - *Marriage Act 1961*

Marriage (Recognised Denominations) Amendment Proclamation 2024

The proposed instrument would amend the *Marriage (Recognised Denominations) Proclamation 2018* to declare and remove religious bodies or organisations as recognised denominations for the purposes of section 26 of the *Marriage Act 1961*

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.

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 2018 the *Marriage (Recognised Denominations) Proclamation 2018* was made. There are currently 147 proclaimed recognised denominations. The Proclamation sunsets in April 2029.

The purpose of the *Marriage (Recognised Denominations) Proclamation 2024* (the Proclamation) is to amend the 2018 Proclamation on substantially the same terms, subject to the addition of four recognised denominations and the removal of one recognised denomination.

The Proclamation includes four new recognised denominations as follows:

- Fusion City Church Incorporated
- Newness in Christ Ministries Incorporated
- Christ the Good Shepherd Church Incorporated
- Diocese of the Southern Cross Limited

The Proclamation does not include one recognised denomination, listed on the 2018 Proclamation, that no longer requires Proclamation, as follows:

- United Aborigines Mission

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

The proposed Proclamation would be a legislative instrument for the purposes of the *Legislation Act 2003*.

The Minute recommends that the Proclamation be made in the form proposed.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011
Marriage (Recognised Denominations) Proclamation 2024

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 amend the Marriage (Recognised Denominations) Proclamation 2018. The Proclamation adds four recognised denominations and removes one recognised denomination that was listed on the previous Proclamation.

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.

Consultation

Consultation took place with organisations impacted by the proclamation only, with the organisation's members confirming their support for the request for proclamation within the evidence provided as part of the due diligence process for evaluation of the organisation's application for recognised denomination status. No other parties are impacted by the instrument, therefore no broader consultation was undertaken.

Impact Analysis

The Office of Impact Analysis (OIA) was consulted and advised that no Impact Analysis is required. The OIA consultation reference number is OIA24-07771.

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.

Authority: Section 26 of the *Marriage Act 1961*