



Marriage Amendment (Celebrant Administration and Fees) Act 2014

No. 25, 2014

**An Act to amend the *Marriage Act 1961* in relation
to celebrants, and for other purposes**

Note: An electronic version of this Act is available in ComLaw (<http://www.comlaw.gov.au/>)

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No. 25, 2014

**An Act to amend the *Marriage Act 1961* in relation
to celebrants, and for other purposes**

[Assented to 9 April 2014]

The Parliament of Australia enacts:

1 Short title

This Act may be cited as the *Marriage Amendment (Celebrant
Administration and Fees) Act 2014*.

2 Commencement

- (1) Each provision of this Act specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

Commencement information		
Column 1	Column 2	Column 3
Provision(s)	Commencement	Date/Details
1. Sections 1 to 3 and anything in this Act not elsewhere covered by this table	The day this Act receives the Royal Assent.	9 April 2014
2. Schedules 1 and 2	A single day to be fixed by Proclamation. However, if the provision(s) do not commence within the period of 6 months beginning on the day this Act receives the Royal Assent, they commence on the day after the end of that period.	1 July 2014 (see F2014L00717)

Note: This table relates only to the provisions of this Act as originally enacted. It will not be amended to deal with any later amendments of this Act.

- (2) Any information in column 3 of the table is not part of this Act. Information may be inserted in this column, or information in it may be edited, in any published version of this Act.

3 Schedule(s)

Each Act that is specified in a Schedule to this Act is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this Act has effect according to its terms.

Schedule 1—Amendments relating to fees and charges

Part 1—Amendments relating to annual celebrant registration charge

Marriage Act 1961

1 Subsection 5(1)

Insert:

celebrant registration charge: see subsection 39FA(1).

2 Subsection 5(1)

Insert:

charge payment day: see subsection 39FA(2).

3 After section 39F

Insert:

39FA Celebrant registration charge: liability to pay charge

- (1) A person is liable to pay *celebrant registration charge* to the Commonwealth in respect of a financial year if:
- (a) the person:
 - (i) is a marriage celebrant on 1 July in that financial year;
or
 - (ii) becomes a marriage celebrant later in that financial year; and
 - (b) the person has not, before the end of the charge payment day, been granted an exemption from liability to pay the charge.

The charge must be paid by the end of the charge payment day.

Note: For the imposition and rate of the charge, see the *Marriage (Celebrant Registration Charge) Act 2014*.

- (2) The Registrar of Marriage Celebrants must, in respect of a financial year, send each person who is a marriage celebrant on

Schedule 1 Amendments relating to fees and charges

Part 1 Amendments relating to annual celebrant registration charge

1 July in the financial year, or who becomes a marriage celebrant on a later day in the financial year, a notice that:

- (a) specifies:
 - (i) the amount of celebrant registration charge that is payable by the person (unless the person is granted an exemption); and
 - (ii) the **charge payment day** (being a day that is at least 30 days after the day on which the notice is sent); and
 - (b) complies with any other requirements prescribed by the regulations relating to the content of the notice, or how it is to be sent.
- (3) The regulations may do all or any of the following:
- (a) provide for the granting of exemptions, on grounds specified in the regulations, from liability to pay celebrant registration charge in respect of a financial year;
 - (b) require a fee to be paid in respect of an application for an exemption;
 - (c) provide for internal review of decisions to refuse to grant exemptions.
- (4) Regulations made for the purpose of paragraph (3)(b) may specify a fee, or provide for a fee to be determined by the Minister by legislative instrument.
- (5) Regulations made for the purpose of paragraph (3)(c) must provide that the outcome of an internal review of a decision (the **original decision**) is either:
- (a) that the original decision is confirmed; or
 - (b) that a different decision is substituted for the original decision, with effect from the time when the original decision was made.
- (6) An amount of celebrant registration charge that a person is liable to pay:
- (a) is a debt due by the person to the Commonwealth; and
 - (b) may be recovered by action in a court of competent jurisdiction.
-

39FB Celebrant registration charge: consequence of non-payment

(1) If a person has not, by the end of the charge payment day, paid an amount of celebrant registration charge that the person is liable to pay, the Registrar of Marriage Celebrants must, as soon as practicable after that day, send the person a notice in accordance with subsection (2), unless the Registrar considers that the notice should not be sent at that time because the person's liability to pay the charge may be affected by:

- (a) the outcome of an application for internal review of a decision to refuse to grant an exemption; or
- (b) any other circumstance of which the Registrar is aware.

Note: Depending on the outcome of matters referred to in paragraph (a) or (b), it may turn out that the person is not liable to pay the charge.

(2) The notice referred to in subsection (1) must:

- (a) advise the person that, because the person has failed to pay celebrant registration charge, the person will be deregistered as a marriage celebrant after the day specified in the notice (being a day that is at least 7 days after the day on which the notice is sent); and
- (b) comply with any other requirements prescribed by the regulations relating to the content of the notice, or how it is to be sent.

(3) The Registrar of Marriage Celebrants must deregister the person as a marriage celebrant by removing his or her details from the register of marriage celebrants as soon as practicable after the day specified under paragraph (2)(a).

Note: If the person wishes to become a marriage celebrant again, the person may reapply under section 39D.

4 At the end of paragraph 39J(1)(c)

Add "(including under subsection 39FB(3))".

Part 2—Amendments relating to fee for applying to become a marriage celebrant

Marriage Act 1961

5 Before subsection 39D(1)

Insert:

Applying for registration

6 After subsection 39D(1)

Insert:

- (1A) An application is taken to be made if, and only if:
- (a) the application complies with subsection (1); and
 - (b) the applicant has either:
 - (i) paid the registration application fee in respect of the application; or
 - (ii) been granted an exemption from liability to pay the registration application fee.

Note: The application is made on the day on which paragraphs (a) and (b) are first satisfied in relation to the application.

Registration application fees

- (1B) The regulations may require a fee (a *registration application fee*) to be paid in respect of an application.
- (1C) The regulations may also do all or any of the following:
- (a) provide for the granting of exemptions, on grounds specified in the regulations, from liability to pay a registration application fee;
 - (b) require a fee to be paid in respect of an application for an exemption;
 - (c) provide for internal review of decisions to refuse to grant exemptions.

- (1D) Regulations made for the purpose of subsection (1B) or paragraph (1C)(b) may specify a fee, or provide for a fee to be determined by the Minister by legislative instrument.
- (1E) Regulations made for the purpose of paragraph (1C)(c) must provide that the outcome of an internal review of a decision to refuse to grant an exemption is either:
- (a) that the refusal decision is confirmed; or
 - (b) that an exemption is granted, with effect from when the internal review decision is made.

7 Subsection 39D(2)

Repeal the subsection, substitute:

How Registrar deals with applications

- (2) The Registrar must deal with applications in the order in which they are made (see subsection (1A)).

8 Paragraph 39D(4)(a)

Repeal the paragraph, substitute:

- (a) the person has made an application (see subsection (1A));
and

9 Paragraph 39J(2)(a)

Omit “under section 39D”, substitute “(see subsection 39D(1A))”.

Part 3—Amendments relating to fee for applying for exemption from professional development requirements

Marriage Act 1961

10 Section 39G

Before “A marriage celebrant”, insert “(1)”.

11 At the end of section 39G

Add:

- (2) Without limiting subsection (1), the regulations may require a fee to be paid in respect of an application for an exemption from requirements prescribed by regulations made for the purpose of paragraph (1)(b). The regulations may specify the fee, or provide for the fee to be determined by the Minister by legislative instrument.

Part 4—Application of amendments

12 Application of amendments made by Part 1

- (1) Subject to subitem (2), the amendments made by Part 1 apply in respect of the financial year starting on 1 July 2014 and later financial years.
- (2) If this Schedule commences during the financial year starting on 1 July 2014 (the **2014 year**), but after 1 July 2014, section 39FA of the *Marriage Act 1961* (as inserted by item 3) applies in respect of the 2014 year as if the references in subsections 39FA(1) and (2) to 1 July in a financial year were instead references to the commencement of this Schedule.

13 Application of amendments made by Part 2

The amendments made by Part 2 apply in relation to the making of applications for registration as a marriage celebrant on or after the later of:

- (a) 1 July 2014; and
- (b) the commencement of this Schedule.

14 Application of amendments made by Part 3

The amendments made by Part 3 apply in relation to the making of applications for exemptions on or after the later of:

- (a) 1 July 2014; and
- (b) the commencement of this Schedule.

Schedule 2—Other amendments

Part 1—Amendments relating to forms

Marriage Act 1961

1 Paragraph 16(2A)(a)

Omit “in the prescribed form”.

2 Subsection 30(1)

Omit “in accordance with the regulations,”, substitute “in writing”.

3 Subsection 39D(1)

Repeal the subsection, substitute:

- (1) A person may apply, in writing, to the Registrar of Marriage Celebrants to be registered as a marriage celebrant.

4 Subsection 39D(6)

Omit “must notify the person in accordance with regulations made for the purposes of this subsection”, substitute “must, as soon as practicable, give the person written notice of the registration”.

5 Subsection 39D(7)

After “the Registrar must”, insert “, as soon as practicable,”.

6 Paragraph 39H(4)(a)

Omit “, in accordance with regulations made for the purposes of this paragraph,”.

7 Paragraph 42(1)(c)

Omit “in accordance with the prescribed form”, substitute “in writing”.

8 Paragraph 42(2)(a)

Repeal the paragraph, substitute:

- (a) must contain such particulars in relation to the parties as are prescribed; and

9 Subsection 42(5A)

Omit “in the prescribed form”.

10 Paragraph 42A(1)(b)

Omit “in the prescribed form”.

11 Paragraph 50(1)(b)

Omit “in accordance with the prescribed form”.

12 Subsection 74(1)

Omit “, in accordance with the prescribed form,”.

13 Paragraph 80(1)(b)

Omit “in accordance with the prescribed form”.

14 Subsection 80(8)

Omit all the words after “forward to the Registrar”, substitute:
written notice of the marriage, or of each of the marriages, stating
the following:

- (a) the date and place of the marriage;
- (b) the full name of each party to the marriage;
- (c) such other particulars as are prescribed.

15 Subsection 84(1)

Omit “, in accordance with the prescribed form,”.

16 Subsection 112(3)

Omit “, in the prescribed form,”.

17 After section 118

Insert:

119 Approved forms

- (1) The Minister may, in writing, approve a form for the purpose of a provision of this Act or the regulations. If the Minister approves a form, that form must be used.
- (2) An approved form may do any of the following:

Schedule 2 Other amendments
Part 1 Amendments relating to forms

- (a) require the form to be accompanied by specified documents;
 - (b) require documents or information to be verified by statutory declaration.
- (3) The Minister must ensure that an approved form is in force for each of the following provisions:
- (a) subsection 30(1) (application for registration of minister of religion);
 - (b) subsection 39D(1) (application for registration as a marriage celebrant);
 - (c) paragraph 42(1)(a) (notice of intended marriage);
 - (d) paragraph 42(1)(c) (declaration by parties to marriage);
 - (e) paragraph 50(1)(b) (official certificate of marriage);
 - (f) subsection 74(1) (declaration to be made before chaplain);
 - (g) paragraph 80(1)(b) (official certificate of marriage);
 - (h) subsection 84(1) (certificate of overseas marriage);
 - (i) subsection 112(3) (interpreter's certificate);
 - (j) any provision of the regulations specified by the regulations for the purpose of this paragraph.

18 Paragraph 120(a)

Repeal the paragraph.

Part 2—Other miscellaneous amendments

Marriage Act 1961

19 Section 39E

Repeal the section.

20 Subsections 39H(1) and (2)

Repeal the subsections, substitute:

- (1) The Registrar of Marriage Celebrants may, from time to time, review the performance of a marriage celebrant in respect of a period to determine whether the Registrar considers that the celebrant's performance in the period is satisfactory.

Note: The period to which a review relates is at the discretion of the Registrar.

21 Paragraph 39J(1)(a)

Omit "(unless a ground for the decision was that the Registrar would breach section 39E by registering the person)".

22 Subsection 39J(3)

Omit "(even if doing so at the time the action is taken would cause a breach of a limit under section 39E)".

23 Subparagraph 42(1)(b)(iii)

Omit "; and", substitute "; or".

24 At the end of paragraph 42(1)(b)

Add:

- (iv) an Australian passport, showing the date and place of birth of the party; and

25 Subsection 115(1)

Omit ", as soon as practicable after each 14 March".

Part 3—Transitional provisions

26 Definitions

In this Part:

amended Act means the *Marriage Act 1961* as in force after commencement.

commencement means the commencement of this Schedule.

old Act means the *Marriage Act 1961* as in force immediately before commencement.

27 Transitional provision relating to forms

If, during the period of 6 months after commencement:

- (a) a person does something, for the purpose of a provision of the amended Act, using a form that was, immediately before commencement, prescribed by regulations under the old Act for doing that thing; and
- (b) there is a form approved under section 119 of the amended Act for doing that thing;

then, for the purposes of the amended Act, the requirement to use the approved form for doing that thing is taken to have been satisfied by using the prescribed form.

28 Transitional provisions relating to amendment made by item 20

- (1) If:
 - (a) before commencement, the Registrar of Marriage Celebrants was obliged to conduct a review of a marriage celebrant's performance in respect of a period under section 39H of the old Act; but
 - (b) the review had not been completed by commencement;the obligation to conduct the review ceases on commencement. The Registrar may (at the Registrar's discretion) complete any such review under section 39H of the amended Act.
- (2) To avoid doubt, disciplinary measures may, after commencement, be taken in accordance with section 39I of the amended Act in relation to a review that was completed under section 39H of the old Act before

commencement, or that is completed after commencement as mentioned in subitem (1).

*[Minister's second reading speech made in—
House of Representatives on 20 March 2014
Senate on 27 March 2014]*

(55/14)
