

## EXPLANATORY STATEMENT

Issued by the Authority of the Attorney-General

*Marriage Act 1961*

*Marriage (Recognised Denominations) Amendment Proclamation 2013*

Section 26 of the *Marriage Act 1961* (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.

Religious bodies or organisations declared by the Governor-General to be recognised denominations under section 26 of the Act are permitted to nominate their ministers of religion directly to the state and territory registrar of births, deaths and marriages for authorisation as marriage celebrants.

In 2007, the *Marriage (Recognised Denominations) Proclamation 2007* (the 2007 Proclamation) was made. The last amending recognised denomination Proclamation, the *Marriage (Recognised Denominations) Amendment Proclamation 2010* (the 2010 amending Proclamation), was made by the Governor-General on 24 March 2010. There are currently 123 denominations recognised by virtue of the 2007 Proclamation and its 2010 amendments.

The *Marriage (Recognised Denominations) Amendment Proclamation 2013* (the 2013 amending Proclamation) amended the 2007 Proclamation to add the following five organisations, which had sought recognised denomination status under the Act:

- Caodai Overseas Missionary (Australia) Incorporated
- Korean Presbyterian Reformed Church Incorporated
- Peace Christian Ministries Limited
- Sabian Mandaean Religious Community, and
- Ukrainian Catholic Church in Australia.

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

The Proclamation is a legislative instrument for the purposes of the *Legislative Instruments Act 2003*.

Pursuant to section 17 of the *Legislative Instruments Act 2003* consultation was undertaken with the five organisations given recognised denomination status by the 2013 amending Proclamation.

Authority: Section 26 of the *Marriage Act 1961*

## Statement of Compatibility with Human Rights

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

### ***Marriage (Recognised Denominations) Amendment Proclamation 2013***

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 2007* to add five religious organisations who had sought recognised denomination status under the Act to the list of recognised denominations.

These organisations are:

- Caodai Overseas Missionary (Australia) Incorporated
- Korean Presbyterian Reformed Church Incorporated
- Peace Christian Ministries Limited
- Sabian Mandaean Religious Community, and
- Ukrainian Catholic Church in Australia.

Religious bodies or organisations declared to be recognised denominations are permitted to nominate their ministers of religion directly to the state and territory registrar of births, deaths and marriages for authorisation as marriage celebrants.

#### **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 increasing the number of religious organisations on the list of 123 already recognised denominations, the proclamation will promote the rights of individuals in Articles 18 and 27 of the ICCPR by providing greater 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 of religious identities.

#### **Conclusion**

This proclamation is compatible with human rights as it advances the protection of human rights.