

## **EXPLANATORY STATEMENT**

Issued by the Authority of the Attorney-General

*Marriage Act 1961*

*Marriage (Recognised Denominations) Amendment (New Denominations and Other Name Changes) Proclamation 2015*

The [Marriage Act 1961](#) (the Act) came into operation on 6 May 1961. Its main purpose is to establish a uniform marriage law throughout the Commonwealth. It 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 *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.

Proclaimed 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.

In 2007, the *Marriage (Recognised Denominations) Proclamation 2007* (the 2007 Proclamation) was made. The last amending Proclamation, the *Marriage (Recognised Denominations) Amendment (Name Changes) Proclamation 2015* (the 2015 amending Proclamation), was made by the Governor-General on 17 June 2015. There are currently 128 proclaimed recognised denominations.

The purpose of the proposed Proclamation is to amend the 2007 Proclamation to add thirteen religious organisations in Schedule 1 as follows:

- Assembly of God Church of Samoa in Australia Inc
- Australian United Shia Islamic Councils Incorporated
- Australian Zoroastrian Association of NSW Incorporated
- Edge Church International Ltd
- Free Church of Tonga, The
- Hope Ministries Australia
- Indian Orthodox Church Incorporated
- Mar Thoma Syrian Church of Malabar
- One Light Federation
- Riverview Church Incorporated

- Shree Sanatan Dharm Pratinidhi Sabha of Australia Inc
- Spirit of the Earth Medicine Society
- Syrian Orthodox Archdiocese of Australia and New Zealand (Patriarchal Vicarate) Limited

The proclamation also corrects errors in the names of two existing recognised denominations. The Free Reformed Churches of Australia is listed incorrectly in the 2007 Proclamation as the Free Reformed Church of Australia. The Church of Jesus Christ of Latter-Day Saints (Australia) is listed incorrectly in the 2007 Proclamation as Church of Jesus Christ of Latter-Day Saints.

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

The proposed 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 thirteen organisations seeking to be declared a recognised denomination for the purpose of the *Marriage Act 1961* and the two organisations seeking a name change.

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 (New Denominations and Other Name Changes) Proclamation 2015***

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 include thirteen religious organisations and declare that they be recognised denominations under the Act, and to correct the names of two organisations.

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 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 of religious identities.

### **Conclusion**

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