

MARRIAGE (CELEBRANT PROFESSIONAL DEVELOPMENT) SECOND AMENDMENT STATEMENT 2020

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 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. This 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.

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.

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.

The Marriage (Celebrant Professional Development) Statement 2020 (the Statement) commenced on 14 February 2020 and is available on the Attorney-General's Department (the department) website, www.ag.gov.au. Schedule 1 to that Instrument (comprising Tables 1 and 2) lists all of the professional development activities which Commonwealth-registered marriage celebrants may undertake in 2020 to meet their obligations under paragraph 39G(1)(b) of the Act.

The Statement was amended on 16 March 2020 adding an OPD activity provided by the department, and two activities (delivered by providers from the department's OPD panel) designed to complement the department's activity.

The Marriage (Celebrant Professional Development) Second Amendment Statement 2020 adds a further activity delivered by the National Health Academy of Australia (line 161 of Table 2 in Schedule 1), amends the definitions section (Section 4) to reference the National Health Academy of Australia, and amends incorrect code references to the Certificate IV in Celebrancy (lines 65-70 of Table 1 of Schedule 1).

The activity to be delivered by the National Health Academy of Australia is a unit of competency that could, or would be undertaken as part of a Certificate IV in Celebrancy (CHC41015). This activity is already listed in the Statement for delivery by six different registered training organisations.

No activities have been removed from Schedule 1 in the Statement.

By virtue of subsection 92(1) of the Regulations, the amendments set out at Schedule 1 of the Amendment Statement apply to the OPD year beginning on 1 January 2020.

CONSULTATION

The Department has established a panel of training providers to deliver OPD activities (OPD Panel). The OPD Panel are requested to submit a full list of their training activities for delivery in the OPD year to the Registrar for assessment and approval. The OPD Panel was consulted in the development of the Statement and both Amendment Statements.

The Amendment 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 26119).

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

NOTES ON SECTIONS

PART 1 – Preliminary

Section 1 – Name

Section 1 provides that the title of the instrument is the Marriage (Celebrant Professional Development) Second Amendment Statement 2020.

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 – Schedules

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.

SCHEDULE 1 – Professional development activities

Schedule 1 amends the Marriage (Celebrant Professional Development) Statement 2020 as follows:

- Section 4 Definitions

The definitions section is amended to include reference to the Natural Health Academy of Australia. The Natural Health Academy of Australia was not previously listed as delivering a professional development activity. The definition for the Natural Health Academy of Australia is inserted after *Life Skills Training* means Life Skills Training Pty Ltd (ACN 059 479 159).

- Table 1 of Schedule 1

Reference to the course code in lines 65 through 70 in Table 1 are incorrect. The existing reference to the course code (CH41015) for these lines is replaced by the correct course code (CHC41015).

- Table 2 of Schedule 1 (after item 160)

The professional development activity delivered by the Natural Health Academy of Australia is added to the existing list of professional development activities after item 160.

Insert:

161.	20NHACertIV	A unit of competency that could, or would be undertaken as part of a Certificate IV in Celebrancy (CHC41015)	300	Natural Health Academy
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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) Second Amendment Statement 2020 amends the Marriage (Celebrant Professional Development) Statement 2020 (the Statement) which 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 Statement was published on 13 February 2020 and commenced on 14 February 2020.

The purpose of this Legislative Instrument is to amend the Statement to add a further activity delivered by the National Health Academy of Australia (line 161 of Table 2 in Schedule 1), amend the definitions section (Section 4) to reference the National Health Academy of Australia, and amend incorrect code references to the Certificate IV in Celebrancy (lines 65-70 of Table 1 of Schedule 1).

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.