

**MARRIAGE (CELEBRANCY QUALIFICATIONS OR SKILLS) AMENDMENT  
(GUIDELINES) DETERMINATION 2021**

**EXPLANATORY STATEMENT**

Issued by the Registrar of Marriage Celebrants under section 39C of the Marriage Act 1961

**PURPOSE AND OPERATION OF THE INSTRUMENT**

The purpose of the *Marriage (Celebrancy Qualifications or Skills) Amendment (Guidelines) Determination 2021* (the Amendment Determination) is to amend the *Marriage (Celebrancy qualifications or skills) Determination 2018* (the Determination) to include a reference to the Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021 (the Guidelines) as a training material to be utilised in the delivery of the Certificate IV in Celebrancy. The Guidelines contain minor updates to reflect changes in official marriage forms released on 1 September 2021.

**AUTHORITY**

The Amendment Determination is made by the Registrar of Marriage Celebrants under paragraph 39(1)(b) of the Marriage Regulations 2017 (the Regulations).

**BACKGROUND**

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’).

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 Programme. The Registrar registers and regulates marriage celebrants. The Programme 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.

Commonwealth-registered marriage celebrants are the only category of ‘authorised celebrant’ 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.

Individuals apply to the Registrar for registration as a marriage celebrant. In determining whether to register an individual as a marriage celebrant, the Registrar is required to be satisfied that person is aged 18 years or over; has all the qualifications, and/or skills, determined in writing to be necessary by the Registrar; and is a fit and proper person to be a marriage celebrant (section 39C of the Act).

Section 120 of the Act provides that the Governor-General may make regulations, not inconsistent with the Act, prescribing all matters required or permitted by the Act, or necessary or convenient for carrying out and giving effect to the Act.

Section 39 of the Regulations requires that a determination issued by the Registrar specifying the skills and qualifications necessary for registration as a marriage celebrant (for the purposes of section 39C of the Act) must provide that it is necessary for the person to possess a ‘Certificate IV in

Celebrancy’, a ‘celebrancy qualification’ or ‘celebrancy skills’ (paragraph 39(1)(a) of the Regulations).

‘Certificate IV in Celebrancy’ is defined in Section 39(2) of the Regulations as a qualification with that name that is awarded by a registered training organisation or NVR registered training organisation (both within the meaning of the *National Vocational Education and Training Regulator Act 2011*) and includes each unit, and uses all the materials, specified in the determination.

Paragraph 39(1)(b) of the Regulations provides that if the Registrar considers that it is necessary for registration as a marriage celebrant a Certificate IV in Celebrancy include certain units and use certain materials, then those units and materials must also be specified in the determination. The Determination commenced on 3 July 2018 and specifies the skills or qualifications an applicant seeking to become a Commonwealth-registered marriage celebrant, under section 39C of the Act, must hold. It also requires certain training materials to be used in the delivery of a formal course of training that will award the required qualifications.

The Amendment Determination amends the Determination to add a document incorporated by reference in subsection 7(4) of the Determination, specifically, the Guidelines. Minor revisions were made to the prior version of the Guidelines to reference changes in official marriage forms that commenced on 1 September 2021.

It is intended by the Amendment Determination that trainers teaching the Certificate IV in Celebrancy commencing on or after 1 January 2022 must use the Guidelines. For transitional purposes, for a Certificate IV in Celebrancy that commences before 1 January 2022 a prior version of the Guidelines can continue to be used, in addition to the Guidelines available from September 2021.

The Guidelines are available to be viewed on the Attorney-General’s Department’s website at <https://www.ag.gov.au>.

This Amendment Determination is a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the Determination are set out at **Attachment A**.

## **CONSULTATION**

The Guidelines were updated to take into account changes in official marriage forms and certificates that commence on 1 September 2021. The changes in the marriage forms are as a result of a review conducted by the Attorney-General’s Department, which took into account stakeholder feedback received during a public consultation on a draft revised Notice of intended marriage form (NOIM) in October 2018. As part of the review the department consulted with the Australian Bureau of Statistics, the Department of Home Affairs, the National Archives of Australia, state and territory registries of births, deaths and marriages, celebrants, their representative associations, and members of the public. Training providers of the Certificate IV in Celebrancy and ongoing professional activities for marriage celebrants were informed of the updates to the marriage forms and resulting updates to the Guidelines and Determination. The Amendment Determination is consequential and machinery in nature and does not substantially alter existing arrangements.

## **REGULATION IMPACT STATEMENT**

The Office of Best Practice Regulation was consulted about the determination and advised that a Regulatory Impact Statement is not necessary (OBPR ID 23697).

## **STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

The Statement of Compatibility with Human Rights is at **Attachment B**.

## NOTES ON SECTIONS

### Section 1 – Name

Section 1 provides that the title of the instrument is the *Marriage (Celebrancy Qualifications or Skills) Amendment (Guidelines) Determination 2021*.

### Section 2 – Commencement

The instrument commences on 1 September 2021.

### Section 3 – Authority

The instrument is made by the Registrar of Marriage Celebrants under section 39C(1)(b) of the *Marriage Act 1961* and in accordance with section 39 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 – Amendments

*Marriage (Celebrancy qualifications or skills) Determination 2018*

### Item 1 – After paragraph 7(4)(b)

This item inserts a new paragraph 7(4)(ba) which provides that for a Certificate IV in Celebrancy that is commenced on or after 1 January 2022 a necessary material is the *Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021*, published by the Department, as existing on 1 September 2021.

### Item 2 – Paragraph 7(4)(c)

This item amends existing paragraph 7(4)(c) to provide that for any other Certificate IV in Celebrancy, a necessary material is the *Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021*, published by the Department, as existing on 1 September 2021 or one of the prior versions of the Guidelines. This item ensures that training providers have an appropriate period to transition to the use of the updated Guidelines.

### Item 3 – At the end of subsection 7(4)

This item inserts a note which provides that the *Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021* could in 2021 be viewed on the Department's website (<https://www.ag.gov.au>).

**STATEMENT OF COMPATIBILITY WITH HUMAN RIGHTS**

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

**Overview of the Disallowable Legislative Instrument**

The *Marriage (Celebrancy Qualifications or Skills) Amendment (Guidelines) Determination 2021* is made by the Registrar of Marriage Celebrants under paragraph 39C(1)(b) of the *Marriage Act 1961* and in accordance with section 39 of the *Marriage Regulations 2017*. It amends the *Marriage (Celebrancy qualifications or skills) Determination 2018* to include a reference to the Guidelines on the Marriage Act 1961 for Authorised Celebrants September 2021 (the Guidelines) as a training material to be utilised in the delivery of the Certificate IV in Celebrancy. The Guidelines contain minor updates to reflect changes in official marriage forms released on 1 September 2021.

**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.