

CIVIL CELEBRATIONS NETWORK (CCN) INC

SUBMISSION

**To: The Commonwealth Attorney General
Parliament House Canberra**

January 2012

Re: Cost Recovery and Increased Professionalism of Marriage Celebrants



*Let the
celebration
be your gift*

www.civilcelebrationsnetwork.org.au

CCN INC Submission:

Index	2
Preamble	3
Introduction	4
Summary of Recommendations	6
Recommendations	
SECTION A – GENERAL	15
SECTION B - MARRIAGE ACT, REGULATIONS & RELATED MATTERS	26
SECTION C - INCREASING PROFESSIONALISM	51
Appendices	
Appendix 1: Adequacy of Regulation Impact Statement	65
Appendix 2: Most Appropriate Model upon which to achieve RIS aims	79
Appendix 3: CCN Inc Model of Celebrancy	74
Appendix 4: Code of Practice	79
Appendix 5: Time for Notice of Intended Marriage in Other Countries:	81
Appendix 6: Revised Form 13A	83
Appendix 7: NSW Birth Certificates – Example of Requirements of Proof of Identity	84
Appendix 8: Example of Revised Notice of Intended Marriage	86
Appendix 9: Example of Information for the Data Base of an Upgraded MLCS Website	87

PREAMBLE:

This Civil Celebrations Network (CCN) Inc. submission makes recommendations based on celebrants' working knowledge of the aspects of the Marriage Act and the Marriage Celebrant Program that cause the main difficulties for marrying couples and their celebrants.

The CCN Inc. also offers its time and expertise to explain and to work with the Marriage Law and Celebrant Section (MLCS) to ensure that the Attorney General's Department has a clear understanding of the proposals made here, as it is difficult to document all the necessary information of what is being proposed in simple text.

The Civil Celebrations Network (CCN) Inc. considers the Regulation Impact Statement to be inadequate, misleading, and based upon assumptions that limit the potential for increasing the professionalism of marriage celebrants. (Details - See Appendix 1)

However, in the context of the Consultations, where "a fee has been decided", and where MLCS staff has indicated a need to establish a secure funding base for the Marriage Celebrant Program's future survival, the CCN Inc. offers the comments and recommendations in this paper.

It is important that this submission be seen as half of a comprehensive plan to address cost recovery, the other half being the Coalition of Celebrant Associations (CoCA)'s submission, increasing professionalism, and establishing an integrated approach to the delivery of marriage services in the twenty-first century and beyond.

INTRODUCTION

The Civil Celebrations Network (CCN) Inc. calls upon the Attorney General to support the recommendations of the Coalition of Celebrant Associations (CoCA).

Like CoCA, the Civil Celebrations Network Inc. does not support the concept that the marriage celebrant is the “beneficiary” of the Marriage Program; thus, the celebrant should not be forced to bear more of its costs in time and money, instead, the Program’s funding should be borne by the taxpayer directly.

The CoCA submission focused upon “increasing professionalism” in a pragmatic manner to:

- maximise improvement in the quality of the marriage services
- maximise the specialized knowledge and skills of the MLCS and other stakeholders and
- minimise the work-load of the MLCS,

and to establish a framework for cost recovery to ensure that the marrying public and all celebrants (state and commonwealth) share the burden equitably.

This Civil Celebrations Network Inc. submission builds upon the work already done by CoCA.

This CCN Inc. submission focuses upon the Marriage Act, Regulations, and administrative strategies to minimise:

- the inherent discrimination in a document written over a half a century ago
- hardship and distress caused to the marrying public and their celebrants by unclear policies and procedures
- un-informed value judgements and assumptions that appear to underlie certain policies and recommended practices
- the complexity and resulting confusion of two different approaches to the validation of an Australian marriage

and to maximize the Government’s objectives:

- in reducing identity fraud, and
- delivering a quality program in an effective, efficient, and stable manner.

This Civil Celebrations (Network CCN) Inc. submission calls upon the Attorney General to:

- Embrace a model of marriage celebrancy as part of the profession of celebrancy, whether that is one based upon a religious belief system or a humanitarian one.
- Acknowledge the largely hidden (to government and others) community work that is done by all celebrants on a daily basis as they interact with couples, families, and communities in times of change – getting engaged, leaving home, being married, having a baby, losing a baby or parent or grandparent through death, having a child come of age, retiring, moving into a hostel or nursing home care.
- Understand that ‘community development’ as defined within the social work profession is a legitimate, powerful long-term strategy for social change for the benefit of all communities.

- Acknowledge that community development is a process that all sorts of people are engaged in, by the effect of their actions, without their necessarily having the theoretical training and language to be able to articulate their work in these terms.
- View the Marriage Celebrant Program, not as an isolated “problem” to be fixed, but an opportunity to establish its place within a community development context, so that other government objectives now and in the future can utilise the Program’s potential.
- Build upon the original, (though not articulated in these terms at the time), civil and human rights’ objectives of appointing capable and community focused citizens to perform an important role for their communities on behalf of their Government.
- Understand that simple Government strategies can have profound long-term benefits.
- Assess the benefits and disadvantages associated with the different underlying models of the Civil Marriage Celebrants (CMC) Program as it has evolved.
- Redirect the policies, administration, and management of the Marriage Celebrant Program based upon this community development philosophy:
 - Developing an integrated system of the key stakeholders – Marriage Law & Celebrant Section (MLCS), Registries of Births, Deaths & Marriages, Celebrant Associations, Religious Organisations, and celebrants themselves
 - Using the advantages of computer and IT systems for administration, communication, data collection, and planning
 - Facilitating improvements in the pre-appointment, training, and appointment processes as well as in the ongoing professional development with other stakeholders, existing and potential
- Base ‘Cost Recovery’ upon principles that ensure all marriage celebrants and all marrying couples are treated equally, in both principle and practice, so that:
 - The law is applied equally to all marrying couples, regardless of the style of ceremony they choose
 - The compliance costs to all celebrants, including Commonwealth Appointed Marriage Celebrants of their ongoing registration, is minimised and that these cost are appropriately assigned.

SUMMARY OF RECOMMENDATIONS

RECOMMENDATIONS - DETAILS

SECTION A – GENERAL

The CCN Inc. recommends that the Commonwealth Attorney General:

RECOMMENDATION 1 – PAGE 16

That discrimination be removed from the Marriage Act and Regulations, in principle and practice, based upon ‘non or neutral religious belief’ as well as “religious belief” as regards the criteria for validation of the marriage by ensuring that the same criteria are required of all classes of marriage celebrants and all marrying couples to ensure that:

- all couples are treated equally with respect to the basic criteria for the validation of a marriage
- the wording of the key components of the marriage ceremony is in simple, plain English
- Compliance as regards Sections 45 and 46 do not question the validity of a marriage on the basis of the specific wording of the declaration
- all marriage celebrants are dealt with fairly and equitably as regards Compliance measures.

RECOMMENDATION 2 – PAGE 19

That changes to the Marriage Celebrant Program be made based upon a professional model of celebrancy wherein marriage services and ceremonies are a sub-set, regardless of whether the celebrant is independent (i.e. in private practice) or not, or offering religious services or not.

RECOMMENDATION 3 – PAGE 20

That all newly appointed marriage celebrants, whether commonwealth or state registered, be required to have the same basic level of training as regards Marriage Law, and Marriage Registration.

RECOMMENDATION 4 – PAGE 20

That the Conflict of Interest provisions be based on a professional model of celebrancy

RECOMMENDATION 5 – PAGE 22

That all new marriage celebrants be required to adhere to the same Code of Practice.

RECOMMENDATION 6 – PAGE 23

That all marriage celebrants be required to complete Ongoing Professional Development (OPD)

RECOMMENDATION 7 – PAGE 23

That all marriage celebrants be required to utilize the Marriage Law and Celebrant Website’s “Celebrant Only” section to

1. Provide annual statistics

2. Review, confirm, or provide information on their OPD activities and other compliance requirements
3. Gain access to legal fact sheets, information, and news bulletins
3. Update contact information

RECOMMENDATION 8 – PAGE 24

That all marriage celebrants be subjected to the same procedures for information distribution about marriage, marriage related services, and complaints about celebrants.

SECTION B - MARRIAGE ACT, REGULATIONS AND RELATED MATTERS

Revised Happily Ever After brochure:

RECOMMENDATION 9 – PAGE 26

That the Form 13A be revised and used as a strategy to increase the compliance of all celebrants in providing

- information about relationship education and support services,
- information about Marriage according to Australian Law
- information about the couple’s rights to complain about services supplied by the marriage celebrant
and
- encouraging marriage celebrants to belong to celebrant associations or networks if they do not belong to a celebrant-related organisation.

(N.B. Some celebrants’ associations do take religious as well as civil celebrants.)

Note: CoCA Recommendation 12 also relates to this community information opportunity.

Giving Notice:

RECOMMENDATION 10 – PAGE 27

That the principles underlying the Length of Notice, Shortening of Time for Notice, and the Documentation required to be sighted by all celebrants be reviewed.

Australian passports:

RECOMMENDATION 11 – PAGE 32

That a change be made to the EXISTING: Section 42 Notice to be given and declaration made

(1) Subject to this section, a marriage shall not be solemnized unless: (a) notice in writing of the intended marriage has been given in accordance with this section and has been received by the authorized celebrant solemnizing the marriage not earlier than 18 months before the date of the marriage and not later than 1 month before the date of the marriage;

(b) there has been produced to that authorized celebrant, in respect of each of the parties:

(i) an official certificate, or an official extract of an entry in an official register, showing the date and place of birth of the party; or

(ii) a statutory declaration made by the party or a parent of the party stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate or extract and stating, to the best of the declarant’s knowledge and belief and as accurately as the declarant has been able to ascertain, when and where the party was born; or

(iii) a passport issued by a government of an overseas country, showing the date and place of birth of the party; and

BE CHANGED TO:

42 Notice to be given and declaration made

(1) Subject to this section, a marriage shall not be solemnized unless:

- (a) as is
- (b) as is
- (i) as is
- (ii) as is
- (iii) **a passport issued by the Australian Government for an overseas born Australian citizen and verified by an Australian Citizenship Certificate or a passport issued by a government of an overseas country,**

Establish improved procedures for verifying identity

RECOMMENDATION 12 – PAGE 33

That improved procedures for all marriage celebrants be established to verify the identity of the parties applying to be married.

Additional Categories for Shortening of Time

RECOMMENDATION 13 – PAGE 35

That the EXISTING Schedule 1B Circumstances for authorising marriage despite late notice (regulation 39) be changed from

There are the five categories of circumstances set out in the regulations. These are:

- *Employment related or other travel commitments,*
- *Wedding or celebration arrangements, or religious considerations,*
- *Medical reasons,*
- *Legal proceedings,*
- *Error in giving notice.*

To:

Schedule 1B Circumstances for authorising marriage despite late notice (regulation 39)

There are the **seven** categories of circumstances set out in the regulations. These are:

- Employment related or other travel commitments,
- Wedding or celebration arrangements, or religious considerations,
- Medical reasons,
- Legal proceedings,
- Error in giving notice
- **Established relationship of three months**
- **Pregnancy**

The definition of an established relationship of three months would be that the parties to the marriage have known one another, been engaged to, or lived with one another for at least three months.

Revision of the Role of Prescribed Authorities

RECOMMENDATION 14 – PAGE 36

That the role of the Prescribed Authorities be reviewed to address the primary concerns of the Federal Government as they relate to couples marrying in a shorter time than Australia allows, given Australia could just as easily determine, like many other countries, a much shorter time.

Additional Classes of Prescribed Authorities

RECOMMENDATION 15 – PAGE 36

That a new class of Prescribed Authorities be created from Community Based Marriage Celebrants (both religious and civil) such that there would be a minimum of four Community-based Marriage Celebrant Prescribed Authorities per electorate available after-hours and weekends to process requests for Shortening of Time.

Education and Information for Prescribed Authorities and Their Staff

RECOMMENDATION 16 – PAGE 37

That the processes for the appointment of Prescribed Authorities (PA) be reviewed to ensure that all PAs

- be provided with a handbook on their responsibilities, including the need to inform themselves and any front-line personnel of their roles, and of the dangers of moralizing and discriminating against couples simply on the basis of their making a request for Shortening of Time.
- have access to the Celebrant Only section of the MLCS of the AGD's website.

Note: It is also expected that this information would be available to all marriage celebrants via the Marriage Celebrants Only On-line Portal section of the MLSC website.

Celebrant rights re service provision

RECOMMENDATION 17 – PAGE 38

Change the EXISTING Marriage Act Section 47 from:

47 Ministers of religion not bound to solemnize marriage etc.

Nothing in this Part:

- (a) imposes an obligation on an authorized celebrant, being a minister of religion, to solemnize any marriage; or*
- (b) prevents such an authorized celebrant from making it a condition of his or her solemnizing a marriage that:*
 - (i) longer notice of intention to marry than that required by this Act is given; or*
 - (ii) requirements additional to those provided by this Act are observed.*

To:

47 Celebrants' Rights re Service Provision etc.

47 Authorised Marriage Celebrants not bound to solemnize marriage etc.

Nothing in this Part:

- (a) imposes an obligation on an authorized celebrant, to solemnize any marriage;*
- (b) prevents an authorized celebrant, being a religious celebrant, from making it a condition of his or her solemnizing a marriage that:*

- (i) longer notice of intention to marry than that required by this Act is given; or
- (ii) requirements additional to those provided by this Act are observed.

Statement of Authorisation and Definition of Marriage

RECOMMENDATION 18 – PAGE 39

Change the EXISTING Marriage Act Section 46 from

46 Certain authorised celebrants to explain nature of marriage relationship

(1) Subject to subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion of a recognized denomination, the authorized celebrant shall say to the parties, in the presence of the witnesses, the words:

“I am duly authorized by law to solemnize marriages according to law.

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”;

or words to that effect.

(2) Where, in the case of a person authorized under subsection 39(2) to solemnize marriages, the Minister is satisfied that the form of ceremony to be used by that person sufficiently states the nature and obligations of marriage, the Minister may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt that person from compliance with subsection (1) of this section.

To:

46 Authorised celebrants make their status clear and explain nature of marriage relationship

~~(1) Subject to subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion of a recognized denomination, the authorized celebrant shall say to the parties, in the presence of the witnesses~~ **and at some point before Section 45**, the words:

“I am authorized by law to witness and register this marriage according to law.

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn, binding and special nature of the relationship into which you are now about to enter.

“Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, entered into voluntarily on the understanding that this relationship is for life.”

(2) delete

NOTE: Whilst The CCN Inc. assumes that it is not within the scope of this review, the CCN Inc. recommends and supports the change of the definition of marriage to:

“Marriage, according to law in Australia, is the union of two adults to the exclusion of all others, entered into voluntarily on the understanding that this relationship is for life.”

Form of ceremony - Parties publicly consent to marry

RECOMMENDATION 19 – PAGE 42

Change the EXISTING Marriage Act Section 45 from:

Marriage Act Section 45 Form of ceremony

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant, being a minister of religion, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the religious body or organization of which he or she is a minister.

(2) Where a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion, it is sufficient if each of the parties says to the other, in the presence of the authorized celebrant and the witnesses, the words:

“I call upon the persons here present to witness that I, A.B. (or C.D.), take thee, C.D. (or A.B.), to be my lawful wedded wife (or husband)”;

or words to that effect.

(3) Where a marriage has been solemnized by or in the presence of an authorized celebrant, a certificate of the marriage prepared and signed in accordance with section 50 is conclusive evidence that the marriage was solemnized in accordance with this section.

(4) Nothing in subsection (3) makes a certificate conclusive:

- (a) where the fact that the marriage ceremony took place is in issue—as to that fact; or
- (b) where the identity of a party to the marriage is in issue—as to the identity of that party.

To:

Marriage Act Section 45 Form of ceremony

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant, ~~not being a minister of religion~~, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the marriage celebrant and is sufficient if, in the presence of the authorized celebrant and the witnesses, each of the parties indicates consent to the marriage by saying in words or indicating in some other form to the other:

I, A. take you, B, to be my wife (or husband or marriage partner or partner in marriage or spouse)

Or words to that effect.

(2)(~~3~~) Where a marriage has been solemnized by or in the presence of an authorized celebrant, a certificate of the marriage prepared and signed in accordance with section 50 is conclusive evidence that the marriage was solemnized in accordance with this section.

(3) (~~4~~) Nothing in subsection (~~2~~)(~~3~~) makes a certificate conclusive:

- (a) where the fact that the marriage ceremony took place is in issue—as to that fact; or
- (b) where the identity of a party to the marriage is in issue—as to the identity of that party.

Processes to Minimise Identity Fraud

RECOMMENDATION 20 – PAGE 45

That a funding component should be built into Cost Recovery to allow people getting married to use a “Verification Change of Name” Form via their celebrant, along with a statutory declaration, for a small or no fee to address this problem, if the federal government has other reasons for wanting to secure a paper trail for the identity of citizens

SECTION C - INCREASING PROFESSIONALISM

Guiding Principles

(Re: COCA Recommendation)

RECOMMENDATION 21 – PAGE 46

That, in addition to the CoCA principles, the Attorney General applies the following principles in addressing Cost Recovery for the purpose of “increasing professionalism”.

- 1 All marriage celebrants are providing a government service to the community on behalf of the Federal Government under the Marriage Act 1961. As such the aims and delivery of the program need to have the best interests of the community as its highest priority.
- 2 All marriage celebrants and marrying couples need to be treated with the same respect and upon the same underlying principles, whether the ceremony is conducted within a religious context or not. Note marriage was originally in Western culture, and is in Australia, a civil (not religious) function governed by one Commonwealth Marriage Act.
- 3 The Commonwealth Attorney General’s Office and its Department have a leadership role in the areas of justice for all citizens and the removal of all forms of discrimination.
- 4 The Commonwealth Attorney General’s Department has a responsibility to ensure that all aspects of the Marriage Celebrant Program operate in a fair and equitable manner and that cost recovery does not use ‘loop holes’ in government policy to continue unfair practices.
- 5 The primary profession through which marriage services need to be delivered is that of a family and community focused celebrant, whether religious or not, and where marriage ceremonies are part of a range of ceremonies delivered by the profession. That is, marriage celebrancy is a sub-set of the broader professional role of ‘Family and Community Celebrant’. i.e. Civil Celebrancy as a profession fits within the context of the three original professions of Ministry, Law, and Medicine.
- 6 The potential for Civil Celebrants to assist other government goals in the areas of human rights, social inclusion, physical and mental health, and the prevention of domestic violence and child abuse should not be adversely affected by the way in which the Marriage Celebrant program is perceived and administered.

- 7 Compliance measures should be fair and should not be used to discriminate against independent civil marriage celebrants who should not have to meet more rigorous standards than those that apply to recognized religious celebrants.
- 8 Compliance measures need to be based upon a well-designed and non-discriminatory program that is designed to improve professionalism of the delivery of ALL marriage services, rather than building a bigger bureaucracy.

Limiting Appointments to Community Need

(Re: CoCA Recommendation 2)

RECOMMENDATION 22 – PAGE 47

That all people being considered for appointment need to have a current pass from the Pre-Appointment Knowledge and Skills Assessment. “Current” is defined as being within the two years prior to consideration for appointment by a Regional Advisory Committee.

RECOMMENDATION 23 – PAGE 48

That the Attorney General establish

1. its own appointment panel and criteria to elect the most appropriate people for the vacancies in that region and/or
2. a random draw from the pool of all the suitable applicants for that Region after all other processes have been completed, if the Department considers that the face-to-face interview process recommended by CoCA not practical (*CCN Inc. considers that it can be practical.*)

Celebrant pre-training processes

(CoCA Recommendation 4)

The CCN Inc. supports the principles outlined in CoCA recommendation 4. However 4.2 *Implement a Suitability Course* does not need to be as complicated as implied by this title.

RECOMMENDATION 24 – PAGE 51

That a simple process could be implemented using a two hour information session, designed and conducted by the MLCS in conjunction with the BDMs and CoCA representatives held at the BDM offices or other suitable venues, available once or twice per year.

Review approaches to Marriage Celebrant Training

(CoCA Recommendation 5)

RECOMMENDATION 25 – PAGE 52

That, in addition to the CoCA recommendations on the Certificate IV in Celebrancy, the Attorney General refer this recommendation to the appropriate Branch of the AGD or other government department to advocate for the development of following new VET units to be available for students for a range of Certificate IV courses in the Community Services and Health Sector, including students of the Certificate IV in Celebrancy.

- **UNIT 1 Human Rights, Discrimination, and Citizenship** – Evolution of separation of church and state; Human Rights’ history and examples of the ways that belief systems about the meaning of life and causes of human behaviour have impacted and still do impact the

treatment of women, people with disabilities, people with mental illness, people vulnerable to life style pressures etc. Rights and Responsibilities of Citizens in a secular multicultural society

- **UNIT 2 Spirituality, Religion, and Community**

Relationship between belief, faith, knowledge, and behaviour; Secular (Civil) Spirituality, New Age and other Forms of Spirituality, Comparative Religion, Cults, Advantages and Disadvantages, Stages of Religious/Spiritual/Psychological Growth, Examination of spiritual and religious beliefs and their impacts on human rights and society.

- **UNIT 3 Rites of Passage and Stages of Human Growth to Maturity** (*physical, mental,*

spiritual and social, cultural). Symbolism, Dependence, Independence, Interdependence issues. Their relation to alcohol and other drug use, mental health, violence, etc.

Examination of the South Australian program used in some schools, called The Rite Journey (a unique educational programme designed to support the development of self-aware, vital, responsible and resilient adults) <http://theritejourney.com.au/>

- **UNIT 4 Role of Community Citizenship Celebrant**

Role of a Community Citizenship Celebrant; Australian Constitution; Basic structure of Australia's legal system; History and Law as related to Citizenship; Rights & Responsibilities of Citizenship; Citizenship Ceremonies and Programs; Knowledge of factors affecting the social and cultural development of all citizens; local community structures and their relationships with federal, state, and local government; research, liaison and referral skills,

- **UNIT 5 Role of Civil Chaplain for schools, hospitals etc.**

The role of civil chaplain; its benefits and limitations; support structures for the role; principles of empowerment of people to take responsibility for the well-being of self and others; problem identification and referral; knowledge and understanding of well-being structures; advantages and limits of providing emotional/spiritual support and leadership, crisis management principles; values clarification and analysis; leadership skills, motivational skills.

Review approaches to Ongoing Professional Development (OPD)

(RECOMMENDATION 26 – PAGE 53)

That the Attorney General make provision for independent basic feedback related to OPD for planning and review, in addition to the recording of OPD activities completed by the marriage celebrant. *For example: via the Celebrant Only section of the website.*

Upgrade to MLCS Web and IT systems

(CoCA Recommendation 8)

RECOMMENDATION 27 – PAGE 55

That the Attorney General requires all marriage celebrants to complete an annual return as regards

- their delivery of marriage services, and
- their evidence of their Duty of Care in the provision of their Marriage Services

- their compliance with any other responsibilities they may have under the Marriage Act and Regulations and associated laws.

Support for Celebrant Associations and other Stakeholders
(CoCA Recommendation 11)

RECOMMENDATION 28 – PAGE 55

That Cost Recovery measures include the provision for some funding to support the State Registries of Births, Deaths and Marriages in their involvement with the “Expert Resource Team” and the provision of Ongoing Professional Development, as required and as appropriate, for State registered marriage celebrants.

Support for Public Information on Marriage.
(CoCA Recommendation 12)

RECOMMENDATION 29 – PAGE 56

That the Attorney General facilitate the availability of “blank” decorative Wedding Anniversaries Certificates with the Commonwealth of Australia (*similar in style but not security to Form 15*) to be available for purchase by all marriage celebrants via either Canprint or the State Registry Offices.

RECOMMENDATION 30 – PAGE 57

That the Attorney General facilitates a process of dialogue between the ML&CS with other relevant AG and government departments to improve the flow of information on marriage related issues to all marriage celebrants.

RECOMMENDATION 31 – PAGE 57

That the Attorney General facilitate the development of a Coming of Citizenship Age Pack to be utilised by suitably trained marriage celebrants to be available via Canprint and to include

- an appropriately worded and designed Coming of Citizenship Age Certificate
- a copy of the Australian Constitution (and /or a Summary thereof)
- an Electoral Voting Pack including a Summary of the Australian Voting system
- a Citizenship (Human) Rights and Responsibility Booklet
- any other material as deemed appropriate by government for young adults who are about to reach citizenship age.

RECOMMENDATIONS - DETAILS

SECTION A – GENERAL

The CCN Inc. recommends that the Commonwealth Attorney General:

RECOMMENDATION 1

Remove discrimination from the Marriage Act and Regulations, in principle and practice, based upon “non or neutral religious belief” as well as “religious belief” as regards the criteria for validation of the marriage by ensuring that the same criteria are required of all classes of marriage celebrants and all marrying couples to ensure that:

- all couples are treated equally with respect to the basic criteria for the validation of a marriage
- the wording of the key components of the marriage ceremony is in simple, plain English
- Compliance as regards Sections 45 and 46 does not question the validity of a marriage on the basis of the specific wording of the declaration
- all marriage celebrants are dealt with fairly and equitably as regards Compliance measures.

Rationale:

The CCN Inc. argues that:

- 1 the essence of a civilised and humane society is its ability to adhere not just to the letter of the law, but also to the spirit of the law. That is, to continue to review the law and its practical effects to ensure that the law and its consequences continue to serve the interests of all citizens without discrimination.
- 2 Australia in many ways has made important contributions to the development of human and civil rights philosophy and practice. Whilst Australia may lag behind other countries as regards its understanding, respect, and treatment of its first peoples, having started “white” settlement as a penal colony does seem to have influenced the development of our national characteristics of ‘a fair go’, ‘giving people a second chance’, ‘a healthy suspicion of power, authority - big shot-ism’ and the allied “taking-the-micky” sense of humour.
- 3 Australia was second only to NZ in granting women the right to vote and is the country with the longest history of women having the right to vote (NZ backtracked for a while).
- 4 In the post Second World War years, Australia played a key role in the development of the United Nations’ Declaration of Human Rights, which outlines a range, not just race, gender, age, and disability, of factors upon which human beings are discriminated.
- 5 The Australian Civil Marriage Celebrant program was the first in the world to be based upon human rights principles
- 6 The role of both civil and religious celebrancy have important implications for the ways in which communities develop,

The Commonwealth Attorney General and Department (AGD), being the national government body recommending law policy and reform in Australia, has not only a leadership responsibility with regard to human and civil rights for all Australian citizens, but it also has responsibilities through its agreements to the international community.

Thus, it is important to see the Marriage Celebrant Program in the context of other programs under the AGD's responsibility, especially the AGD's human rights objectives and anti-discrimination law, Family Law, Marriage and Relationship Education, and Support Services etc

The Australian Government Attorney General and Attorney General's Department provide legal and policy information on domestic human rights matters, anti-discrimination legislation, and implementation of international human rights obligations as well as a policy advising role and administrative responsibilities for the Australian Human Rights Commission.

In 2008 the Federal Attorney General established a major Human Rights Consultation process that resulted in a number of recommendations to advance and better protect the human rights of our citizens as members of a free and democratic country, which played a major role in 1948 in the development of the Universal Declaration of Human Rights. A number of recommendations in this submission are relevant here

As regards this submission, CCN Inc. recommends that now is an appropriate time for the Attorney General's Department to consider the Commission's Recommendation 8 in relation to the Marriage Act and its Regulations and the Universal Declaration of Human Rights, especially articles 2 and 16.

Human Rights Consultation 'Human rights in practice' Recommendation 8 (in part) states

The Committee recommends as follows:

· that the Federal Government develop a whole-of-government framework for ensuring that human rights—based either on Australia's international obligations or on a federal Human Rights Act, or both—are better integrated into public sector policy and legislative development, decision making, service delivery, and practice more generally

The Universal Declaration of Human Rights Article 16 states:

(1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.

(2) Marriage shall be entered into only with the free and full consent of the intending spouses.

(3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

The Universal Declaration of Human Rights Article 2 states:

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Other Articles of the Declaration of Human Rights contain principles such as

'All are equal before the law and are entitled without any discrimination to equal protection of the law' (7)

"presumed innocent until proved guilty" (11)

"the right to leave any country, including his own, and to return to his country" (13),

The CCN Inc. also understands that

- Australia is a signatory under the International Instrument titled The Declaration of the Elimination of Intolerance and Discrimination based on Religion or belief 1981
- The AGD is currently calling for comment and submissions based upon the "consolidation of federal anti-discrimination laws" (*Racial Discrimination Act 1975 (RDA) Sex Discrimination Act 1984 (SDA) Disability Discrimination Act 1992 (DDA), and Age Discrimination Act 2004 (ADA)*) to provide "an opportunity to consider the existing framework, and explore opportunities to improve the effectiveness of the legislation to address discrimination and provide equality of opportunity to participate and contribute to the social, economic and cultural life of our community"

- The government intends that “Clearer and more consistent anti-discrimination legislation will make it easier for both individuals and businesses to understand rights and obligations under the legislation”.

Many of the provisions in the legislation set out above implement Australia’s obligations under the seven core human rights treaties to which Australia is a party:

International Convention on Civil and Political Rights

International Convention on Economic, Social and Cultural Rights

International Convention on the Elimination of All Forms of Racial Discrimination (CERD)

Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)

Convention on the Rights of the Child

Convention on the Rights of Persons with Disabilities (CRPD), and

Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

- The Government has made it clear that this exercise will not lead to a reduction in existing protections in federal anti-discrimination legislation. In considering options for reform, the Government will keep the following principles in mind:
 - a reduction in complexity and inconsistency in regulation to make it easier for individuals and business to understand rights and obligations under the legislation
 - no reduction in existing protections in federal anti-discrimination legislation
 - ensuring simple, cost-effective mechanisms for resolving complaints of discrimination, and
 - clarifying and enhancing protections where appropriate.

Note Above extracts from Consolidation of Commonwealth Anti-Discrimination Laws Discussion Paper September 2011

It is in this context, that CCN Inc. considers the fundamental underlying principles that apply Compliance to Commonwealth appointed Marriage Celebrants need to be applied to all marriage celebrants; its recommendations attempt to establish an equitable baseline for all marriage celebrants and the marrying public.

Classes of marriage celebrants

1. Employed civil (BDM staff)
2. (“Employed”) Recognised religious
3. Independent religious (*Religious marriage celebrants in private practice*)
4. Independent civil (*Civil marriage celebrants in private practice*)

The CCN Inc. understands that the rationale (assumption) of government is that when a government function is outsourced, the organisation to which the function is given

1. selects appropriate personnel
2. ensures said personnel are appropriately trained
3. supervises said personnel
4. oversees the quality of the work done by said personnel
5. ensures said personnel do ongoing professional development
6. takes measures to censure or terminate said personnel’s employment if they do the wrong thing or are performing badly and continue to do so.

Because they are considered to be covered by the above rationale, Classes 1 and 2 are exempted from the MLCS administration.

“In practice” however, Class 2 Recognised Religious Celebrants do not have experience in any of the above in relation to the Marriage Act and the requirements for conducting and registering a marriage.

Because Classes 3 and 4 do not meet the “outsourcing criteria”, the 2003 changes brought in the Compliance requirements for only these classes and the five year reviews that can remove Commonwealth Celebrants appointments on grounds that do not apply to state authorised celebrants.

Class 3 Independent minority religious and civil marriage celebrants

Whilst CCN Inc. encourages competence and high standards in independent marriage celebrants, the government’s aim to establish a stable funding base upon which to run its Marriage Law and Celebrant Section should NOT be used to

- expose civil celebrants to extra financial burdens that do not apply to the other classes of marriage celebrants
- apply higher Compliance standards to civil celebrants especially as regards the Marriage Act and OPD, and
- de-register civil celebrants on grounds that would never be applied to the other Classes of Marriage Celebrants.

It is important that the AGD recognise that

Any concerns that the government may have with the quality of the work of marriage celebrants needs to be equally applied to the recognised religious marriage celebrants.

In particular, the prevalent attitude that many religious celebrants appear to hold is that primarily the “real” or “true” marriage is the spiritual union between the couple and their God as bound by their presiding minister in their religious ceremony, and that compliance with the legal requirements (such as legal time for Notice, all the paper checks etc) is secondary and thus not adhered to as required.

Numerous examples are reported to civil celebrants about the failure of recognised religious marriage celebrants to apply the legal requirements especially as regards Giving Notice *Eg Notice being signed by both parties after the marriage or the registration of the marriage needing to be postponed until the Notice period has passed as the Notice had not been filled out in the first place.*

The government not holding recognised religious celebrants to the same standards implies a disrespectful and discriminatory treatment of couples choosing a civil ceremony and their celebrants.

RECOMMENDATION 2

That changes to the Marriage Celebrant Program be made based upon a professional model of celebrancy wherein marriage services and ceremonies are a sub-set, regardless of whether the celebrant is independent (i.e. in private practice) or not, or offering religious services or not.

The CCN Inc. considers that the original Civil Marriage Celebrant Program

- was, in essence, a human rights program to remove discrimination against secular couples who wanted a dignified and meaningful alternative to a religious ceremony and an affirmative action for women program from which profession of civil celebrancy has been evolving.
- is comparable now in many ways to the profession of religious celebrancy and has the potential to continue to contribute to the goals of social inclusion, harmonious relationships, community health and well-being.

Thus, the Marriage Program, as established by the Attorney General in 1973, was about fairness, equity, and independence, especially “fairness before and access to the law” for people wishing to marry according to their own beliefs, as well as granting women the right to officiate at marriages.

Appendix 2 examines different models of celebrancy and concludes that a professional model of celebrancy within which marriage services are a sub-set is the best model upon which to build a stable and equitable foundation for the future.

The evolving profession of civil celebrancy could be strengthened by government support to meet other marriage related, community development, and community education goals pursued by government in the public interest. e.g. human rights, civic responsibilities, relationship building, social inclusion, mental health, community support.

See Recommendations 29, 30 and 31.

The CCN Inc. sees parallels with the broadening of the concept of the Schools Chaplain programme to include a secular pastoral care/youth worker role.

Therefore, the model upon which future directions are based needs to ensure that all marriage celebrants (religious and civil) are treated equally in principle and in practice, thereby providing a broad community development role. There is a community benefit in adopting a professional model of celebrancy and viewing civil celebrancy as equal in value to whilst different in mode from religious celebrancy (i.e. “professional celebrants in private practice” using a mix of strategies e.g. community development , information provision, and ceremonial duties.)

RECOMMENDATION 3

That all newly appointed Marriage Celebrants, whether commonwealth or state registered, be required to have the same basic level of training as regards Marriage Law and Marriage Registration.

Rationale

See Recommendation 1 above.

See CoCA Recommendation 5.1.

RECOMMENDATION 4

That the Conflict of Interest provisions be based on a professional model of celebrancy.

Rationale:

The CCN Inc. considers that this recommendation is an integral part of the underlying model

upon which the decisions are made by the AGD.

The CCN Inc. considers that

- Conflict of Interest primarily applies to people working in a profession; thus, it is not a concept that is applied so easily to businesses.
- The principle underlying this concept is that professions have altruistic motives or provide services where the expectation of the clients and/ or the community is that the professional person will put their own needs and interests as secondary to those of the client.
- The receipt of fees for services or products supplied by professionals “in private practice”, in contrast to professional practitioners in salaried employment by government or non-profit agencies, is the acknowledgement that “private practice” increases the possibility of the professional practitioners taking advantage of his or her client in monetary or other ways.
- As professions have evolved, Codes of Conduct and other strategies have been developed to lessen the possibility of actual conflicts of interest for members of that profession being in private practice.
- Where a government is outsourcing a service to professionals in private practice, the government is responsible to ensure that there are mechanisms to safe guard the community’s interest.

The Attorney General’s Department appears to have no difficulty with this concept when outsourcing services to religious celebrants, whether in private practice or under the umbrella of a religious organisation. The Draft Explanatory Material Section 12.3 makes it quite clear that “*the minister [who] has been making a business of solemnising marriages for the purpose of profit or gain*” is not acceptable and as such does not have an automatic right to be appointed.

12.3 Fees for solemnizing marriages

All Commonwealth-registered marriage celebrants may charge each couple an appropriate fee for solemnising a marriage. The amount of the fee is a matter between the celebrant and the couple. Similarly, there are no prescribed fees in relation to Registry officials who perform marriages. The Marriage Act does not affect the right of a minister of religion who is an authorised celebrant to require or receive a fee for or in respect of the solemnisation of a marriage. However, a minister of religion of a recognised denomination may have his or her name removed from the register if a Registrar of Ministers of Religion is satisfied that the minister has been making a business of solemnising marriages for the purpose of profit or gain.¹

So why is a double standard applied to the role of an independent civil marriage celebrant?

If the same principle were to be applied to independent civil marriage celebrants, then the government should not authorize any person whose primary aim is to make a “*business of solemnising marriages for the purpose of profit or gain.*” Note: “profit” is defined as income in excess of the cost of providing a service or product, which includes the cost of paying for the labour in making or delivering the service. Currently, this provision does not apply to civil celebrants.

Thus, it is the government's responsibility to ensure that independent people:

1. whose goal is to make "*a business of solemnising marriages for the purpose of profit or gain*", or
 2. who have a conflict of interest
- are not appointed and that those who are appointed are operating on a "professional in private practice" model of celebrancy.

Thus, the CCN Inc argues that:

- "business model" of celebrancy is not appropriate and that
- Conflict of Interest provisions need to be strengthened as proposed by CoCA's Submission.

RECOMMENDATION 5

That all new Marriage Celebrants be required to adhere to the same Code of Practice.

Rationale

Over the last few years, extreme weather conditions, like bushfires, floods, high temperatures, heavy rains, and earthquakes, have threatened weddings and highlighted the celebrant's duty of care to self, the marrying couple, and their guests.

Because of the

- emotional investment in the wedding day, made especially by the brides,
- energy and time expended in planning a once-in-a-life time event, such as a wedding
- cost of products and services that cannot be transferred to another time
- the focus on "me" of the bride rather than on "guests" of the day

changing the venue or time of the wedding, even when circumstances clearly are potentially life threatening, can be extremely difficult for the couple and thus for the celebrant.

In this increasingly litigious age, celebrants need to have the clear assurance of the government that requiring a change of venue or time is within their control, when extreme weather conditions are a major concern, without fear of censure by the government or the couple.

Accountability for services and Occupational Health and Safety issues are increasingly concerning for all governments, so the Code of Practice will serve as a conscious-raising tool for all celebrants.

Besides, as noted under Recommendation 4, all professions need to develop Codes of Practice to guide their work. As such, the wording of the Code for Marriage Celebrants can be crafted to include all Classes of Marriage Celebrants, whether they are independent or not, state or Commonwealth appointed.

CoCA revised the Code of Practice to accommodate these concerns and presented it to the Department via the Registrar. To date, CoCA has had no feedback on its recommendation for the revised Code from the AGD.

See: Appendix 4

RECOMMENDATION 6

That all marriage celebrants be required to complete Ongoing Professional Development (OPD).

See Recommendations 1, 7, 8, 20, and 27 to 31.

RECOMMENDATION 7

That all marriage celebrants be required to utilize the Marriage Law and Celebrant Website's Celebrant Only section to

1. Provide annual statistics
2. Review, confirm, or provide information on their OPD activities and other compliance requirements
3. Gain access to legal fact sheets, information, and news bulletins
3. Update contact information

Rationale:

This recommendation builds upon preceding arguments, especially in Recommendation 5.

Predominantly, the CCN Inc. is of the view that

- where a government department is responsible for law and policies related to that law, it is important to have accurate and unbiased information upon which to make policy so that in the end, it will deliver a legal service to the Australian community
- requiring every authorised marriage celebrant to demonstrate a certain level of duty of care to the marrying public, and specifically to those couples they marry, will encourage all marriage celebrants to improve their performance so that the marrying public will receive a better service as a consequence.

It could be argued that, as is the case in other professions, the Attorney General's Department should require all authorised marriage celebrants to have appropriate:

- Public Liability and Professional Indemnity Insurance cover Licence/s to cover Copyright of any materials/ resources that they have not authored and/ or for materials for which they have not gained the specific approval from the author for the use of the material, in whatever format in which it is intended to be used *e.g. stored in a computer, emailed to others, printed in memento copies or celebrant's ceremony planners, printed in couple's programs for guests etc.*
- Membership of a celebrant association, network, organisation, institution etc.

The CCN Inc. is unsure of the government's ability to make such requirements mandatory. However, as a process of encouraging and supporting all celebrants, using an Annual Survey would be one way to improve services and protections for the general public.

RECOMMENDATION 8

That all marriage celebrants be subject to the same procedures for information distribution about marriage, marriage related services, and complaints about celebrants.

Rationale:

All marriages, whether religious or civil, whether conducted by independent celebrants or celebrants employed by registry offices or church organizations, are conducted under the same Act – The Commonwealth Marriage Act 1961.

Therefore, the CCN Inc. considers that all Australian marriages should be equal under law. (*The Universal Declaration of Human Rights Article 2 and 16*)

All the pre- and post- legal paperwork is the same, whether the couple chooses an independent civil or religious marriage celebrant, or one from a recognised religion or a registry office.

Prior to 2003, all marriage celebrants had a degree of flexibility in terms of the wording of the ceremony.

For recognised religious celebrants the Act says:

- Section 45 (1) allows: "the Minister is satisfied that the form of ceremony to be used by that person sufficiently states the nature and obligations of marriage, the Minister may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt that person from compliance with subsection (1) of this section".
And,
- Section 46 (2) allows "any form and ceremony recognized as sufficient for the purpose by the religious body or organization of which he or she is a minister".

For civil marriage celebrants the Act says:

Civil weddings are required to contain some wording that indicates:

- the celebrant is authorised to marry the couple – Section 46 (1)
- the occasion was a legal wedding by giving a definition of marriage – Section 46 (1)
- the couple say words to the effect that they take each other as husband and wife, thus giving consent to the marriage – Section 45 (2).

The "words to that effect" in Section 45 (2) and 46 (1) clearly give civil marriage celebrants the flexibility and the responsibility to assess this aspect of the ceremony themselves.

In principle, this approach respects people with religious beliefs, different beliefs, and no religious beliefs alike, as regards their form of ceremony and the wording of the consent by allowing some flexibility i.e. "words to that effect".

The CCN Inc. is very concerned, however, that measures intended to address difficulties in the pre-2003 Marriage Celebrant Program by

- making the appointment process more transparent and less subject to claims of bias, and
- ensuring a baseline level of training for Commonwealth appointed marriage celebrants

are now being used to de-register Commonwealth appointed marriage celebrants on grounds that

- are not clearly required of Recognised Religious Celebrants and State Officers, and
- would be hard to imagine ever being applied to Recognised Religious marriage celebrants.

This approach constitutes “unfair dismissal” or “discriminatory” action on behalf of the AGD.

Not being able to afford a high annual “so-called Professional Celebrant Fee” similarly adds another criterion upon which Commonwealth appointed marriage celebrants could be discriminated against.

Whilst the Australian Constitution may be interpreted to give protection only to those people with religious belief, that narrow interpretation “in practice” means that

- people with different religious beliefs (non-aligned religious, now termed independent religious) are discriminated against on religious grounds by being held to account in different ways, with negative consequences, as compared to the “Recognised” religious celebrants, and
- people who personally may or may not hold religious beliefs, but who support human rights and the importance of neutrality in a civil society in the acknowledgement of inclusive rites of passage, also are discriminated against on religious grounds by being held to account in different ways, with negative consequences, as compared to the “Recognised” religious celebrants.

The other related aspect is that ‘marriage’ or ‘marital status’ is understood to be covered by Anti-Discrimination legislation such that discrimination on marital status is grounds upon which Australia people can take legal action.

Therefore, the process of ‘acquiring marital status’ likewise should not be grounds upon which marrying couples are discriminated against by having different procedures and related fees imposed upon them by different government requirements administered by different service providers. (*Seems in some ways, as an issue under anti-competitive practices*)

SECTION B - MARRIAGE ACT, REGULATIONS AND RELATED MATTERS

Revised Happily Ever After brochure:

RECOMMENDATION 9

That the Form 13A be revised and used as a strategy to increase the compliance of all celebrants in providing

- information about relationship education and support services,
- information about Marriage according to Australian Law
- information about the couple's rights to complain about services supplied by the marriage celebrant
and
- encouragement for marriage celebrants to belong to celebrant associations or networks if they do not already belong to a celebrant related organisation.

(N.B. Some celebrants' associations do include religious as well as civil celebrants.)

Rationale:

It is envisaged that the current Form 13A Brochure could be

- renamed "Statement of Government Expectations of Marriage"
- produced in a new format as a one page A4 Form on carbonised pads in triplicate
- used to require both celebrants and each member of the couple to sign to enable copies to be kept by all parties
- used as a cost recovery measure.

Human rights abuses in relation to spouses and children are often found within the context of domestic living arrangements. More people suffer physical, sexual, emotional, and other abuse from people they know, rather than from strangers.

Marriage is one such arrangement, as are civil unions (*whether formalised or not*) such as defacto relationships, same sex couples, carer-caree arrangements etc.

Strengthening marriage has implications for the context in which children are raised and thus for the development of future generations.

Civil marriage celebrants are responsible for providing information to couples on relationship education services.

Religious celebrants have a perceived (*by the couple*) right to discuss a couple's relationship in depth. Couples do not, not that this submission aims to, bestow that right on civil celebrants.

Rather, this submission aims to empower the celebrant to discuss relationship education in more depth and to provide more information about strategies for promoting successful relationships.

Requiring couples to sign a document, similar to their Notice of Intended Marriage (Form 13) or their Marriage Declaration (Form 14), could serve several purposes. Not only would it alert some less informed or less empowered individuals of their rights, but it would also empower the celebrant to read and to explain the document about to be signed, and provide an opportunity for the celebrant to discuss relationship education services with more authority. Being required to sign this document may also encourage couples to pay more attention to building quality

relationships. This additional Government tool would provide various benefits. Having better training, via specific units to be incorporated in civil celebrant training, and playing a broader role in community education as well as providing ceremonies would empower and equip civil celebrants with better skills to discuss these relationship issues.

There also would be a role for celebrants, in conjunction with their celebrant associations, to develop a range of information strategies, such as providing information sessions for engaged couples, and writing articles for local newspapers and magazines to assist in raising public awareness of these issues.

Note: CoCA Recommendation 12 also relates to this community information opportunity.

Giving Notice:

RECOMMENDATION 10

That the principles underlying the Length of Notice, Shortening of Time for Notice and the Documentation required to be sighted by all celebrants be reviewed.

Rationale

As a result of the long Notice time, the government's approach to marrying couples appears to be based upon "presumption of guilt" about identity fraud, motives for marriage, age, marital status, and other factors as related to freedom to marry. People born overseas, especially Australian Citizens and refugees, are likewise treated as "presumed guilty" first. Thus, not all couples appear to be treated as adults ("*of full age*").

Civil Marriage Celebrants encounter the following issues of apparent paternalism, moralising, and discrimination on a regular basis due to narrow interpretations in the Explanatory Notes and/or the requirements of the Marriage Act and / or Regulations upon couples:

- Birth Certificates for Overseas Born people as proof of age and identity when it is obvious in almost all cases that the person sitting across from the celebrant is over the age of 18 years!
- One calendar month for Notice of Intended Marriage
- Change of Name certificates
- The wording of the Marriage Vows
- The wording of Section 46 of the Marriage Act
- The use of "full names" in the marriage ceremony
- Recording the number of children of a previous marriage, yet no recording of children born "out of wedlock" on Form 13 Notice.

These matters cause distress and may increase costs and in many cases, actual hardship for couples and /or their celebrants.

Length of Notice:

Australia has one of the longest periods for Giving Notice in the world. Of the 26 countries surveyed, 21 had shorter or no period of time for giving Notice to be married. **See Appendix 5**

Being able to marry the person of one's choice is a basic right of all adults. Our nearest neighbour New Zealand requires only three days Notice. It is also understood that after New Zealand shortened its time for Notice, there were no significant adverse consequences.

Australia's long Notice of Intended Marriage begs the questions:

- What is the purpose of having such a long period of Notice?
- Does it achieve those aims?
- Whose interests does it serve?
- Is it for a government agenda, the celebrant's convenience, or for the couple's good?

Laws change over time, and as communities become more educated, they also become more balanced and civilized and less prejudicial.

What is the 30-day wait for?

People not being free to marry?

The thirty-day waiting period comes from the old church bans in a time when people did not have access to fast methods of communication. Time was allowed for the news to travel in case one of the parties was not eligible to marry. Recording of deaths and divorce is now more prevalent and accessible. Furthermore, as the Notice to Marry is not a public document, this "banns" rationale does not apply anyway.

Preventing poor decision making by people in the heat of lust?

In Australia people do not rush to get married these days. Rather, the situation is reversed. People in Australia no longer need to be married to have 'socially acceptable' sex, so the days of people meeting, possibly mating and going to the registry office the next day, in case of pregnancy or clear conscience, as in the pre-1960s have long gone.

Is the Australian government treating Australian couples as adults? Do we really think that marriages don't last just because people did not wait long enough before deciding to get married?

Living longer in a more complex world is making increasingly difficult demands of people and their relationships. Evidence would suggest that other factors are much more likely to strain the marriage – economic pressures, children and step-children, changing needs and expectations of the marriage partners of each other and the relationship. So divorce should not necessarily be seen as a failure of the individuals or of the relationship, but of the social support structures for the relationship.

Stability of positive relationships is important, especially for the raising of children. Therefore, rather than making it harder for people to marry, especially those expecting a baby or with children, it may be more in the community's interest to make marriage easier.

Ensuring that people have thought carefully about the responsibilities of marriage?

Most couples approaching marriage these days are older than they were in the past and many have already lived together. Even so, having thought carefully about the responsibilities of marriage prior to the marriage ceremony does not guarantee a long lasting marriage.

If the responsibilities of marriage are not well understood, then having to wait four weeks without any extra detailed information is also not likely to be productive.

Almost all couples (over 90%) wishing to take their relationship to a higher legal level (i.e. marriage) have been living together for over a year, according to the experience of most Australian Civil Marriage Celebrants.

A much shorter Notice time would simplify the whole system of putting people through hoops to

get a shortened time, especially where the MDM and Court staff are not trained and appear to be becoming more and more legalistic and moralistic.

Human behaviour is complex, and human beings rarely operate strictly on logic alone, so at best, governments can try to make decisions based upon the principle of doing less harm than more, wherever possible.

In the current context, marriage celebrants need to be more informed and could be playing a broader role in public information and education, especially before couples live together, so more appropriate strategies should be considered. Providing marriage information to couples once they have already decided to get married is too late in the development of the couple's relationship in the Australian context. Providing Marriage Information sessions as outlined in the CoCA Submission is supported by the CCN Inc.

Do all couples need 30 days to gather all the appropriate documentation?

Australia has an excellent system of recording marriage related information. Most couples could obtain the necessary documents in as little as three days if they did not already have them.

The Celebrant's Convenience

Many celebrants when surveyed say that they prefer the one-month's notice as thirty days is enough time for the couple to obtain their necessary documentation and for the celebrant to prepare a personalized marriage ceremony, tailored to meet the couple's needs.

However, there are times when the couple's needs for a prompt marriage ceremony outweigh their needs for a more personalized and complex ceremony and the celebrant's preference.

Government Agenda

Is the long Notice period a government agenda? The CCN Inc. assumes that the Commonwealth Government wants to

- insure that coercion is not a factor, and
- reinforce a public message that "marriage" is an important legal contract and "a special relationship that should not be entered into lightly".

Are there other aspects of the process of giving Notice that are discriminatory?

One aspect not raised elsewhere in this submission is the consequences of Questions 15 and 16 of the Notice of Intended Marriage.

The CCN Inc. challenges the need for the collection of the information under Questions 15 and 16, its legitimacy, and purpose.

Certainly, parents consider this aspect of the Notice as discriminatory, because it excludes the recording of their children who do not fit under the definition of a previous marriage. Asking these questions creates difficult situations in the process of the interview between the couple and the celebrant.

Given the context of the legitimacy of children born out of wedlock, the variety of domestic arrangements both within the context of marriage (both pre- and post) and outside of the bounds of marriage, it is hard to identify the practical implications of applying the knowledge gained in this process and thus to justify its collection.

Another aspect is the different interpretations of a “child of a marriage”. It is understood that some state Registry Offices consider a child born to the couple prior to their marriage as a product of that marriage, and thus can be included under Questions 15 and 16.

Therefore, the need for Questions 15 and 16 would be important to address in the “review of principles underlying the Length of Notice, Shortening of Time for Notice and the Documentation required to be sighted by all celebrants”

If a party has been previously married, that party must give the following particulars:

13. Number of previous marriages						
14. Year of each previous marriage ceremony <small>(If known, give date)</small>						
15. Number of children of the previous marriage or marriages born alive <small>(whether now living or deceased)</small>						
16. Year of birth of each of those children						
17. How LAST marriage terminated <small>(Insert 'death', 'divorce' or 'nullity')</small>						
18. Date on which last spouse died, or date on which dissolution of last marriage became final, or nullity order made	Day	Month	Year	Day	Month	Year

In what ways could the associated forms used by marriage celebrants assist in improving the quality of their work and / or reduce any associated difficulties or hardships for marrying couples?

Form 15

As discussed at the October CoCA meeting, the two paragraphs on the back of this form need review.

First Paragraph not valid in all circumstances

Given that the Department cannot guarantee that a person who is an authorised celebrant has actually performed the ceremony or been present at the ceremony, this statement is inaccurate and misleading.

There are circumstances in both religious and non-religious settings where a couple has been ‘married’ by a person not authorized to do so, and without the presence of an authorized celebrant.

The CCN Inc. considers the Revised Form 13A and recommendation that Section 46 be revised to require that marriage celebrants to state their legal status in the ceremony should assist in reducing the likelihood of circumstances where the celebrant is not authorised or not present.

However, there are also examples of marriage papers having been stolen, whether they were securely stored or not. The CCN Inc.’s recommendation is that the Code of Practice apply to all marriage celebrants to assist in increasing the security of the storage of marriage documents. However, there is always the possibility that even if stored as required, more skilled thieves might gain access to them.

Second Paragraph problematic

Whilst people who are involved in identity fraud may be hard to detect, the second paragraph suggests that a person cannot be sure of his/her own identity. If this is so, then this could bring into question their Marriage Declaration. It is suggested that unless this information is needed for some obscure legal reason, the paragraph be re-worded. If this aspect of the statement were needed, then the provision of its rationale to marriage celebrants would be helpful – particularly in light of their responsibilities to ensure the identity of the parties to the marriage.

Notice of Intended Marriage

There are a number of ways in which this Notice could assist in “increasing the professionalism” of all marriage celebrants and the quality of their performance.

See Appendix 8 for an Example of a Revised Page 4 of the Notice

PARTICULARS TO BE COMPLETED BY AUTHORIZED CELEBRANT

Date notice received by celebrant <input type="text"/> ● Celebrant Number <input type="text"/> ● Celebrant Signature <input type="text"/>	Date marriage solemnized <input type="text"/> Rites used <input type="text"/> Place marriage solemnized <input type="text"/> <hr style="border-top: 1px dashed black;"/>																																																															
<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Bridegroom</th> <th style="width: 35%; text-align: center;">Bride</th> </tr> </thead> <tbody> <tr> <td>Birth certificate(s) produced</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Registration Number</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Overseas passport produced</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>Overseas passport number</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>Statutory declaration(s) regarding birth produced</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>● ID Number and Type:</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>● ID Number and Type:</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>● ID Number and Type:</td> <td><input type="text"/></td> <td><input type="text"/></td> </tr> <tr> <td>● Form 13A completed and given to the parties</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		Bridegroom	Bride	Birth certificate(s) produced	<input type="checkbox"/>	<input type="checkbox"/>	Registration Number	<input type="text"/>	<input type="text"/>	Overseas passport produced	<input type="checkbox"/>	<input type="checkbox"/>	Overseas passport number	<input type="text"/>	<input type="text"/>	Statutory declaration(s) regarding birth produced	<input type="checkbox"/>	<input type="checkbox"/>	● ID Number and Type:	<input type="text"/>	<input type="text"/>	● ID Number and Type:	<input type="text"/>	<input type="text"/>	● ID Number and Type:	<input type="text"/>	<input type="text"/>	● Form 13A completed and given to the parties	<input type="checkbox"/>	<input type="checkbox"/>	<table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 30%;"></th> <th style="width: 35%; text-align: center;">Bridegroom</th> <th style="width: 35%; text-align: center;">Bride</th> </tr> </thead> <tbody> <tr> <td>* death</td> <td></td> <td></td> </tr> <tr> <td>†Evidence of *nullity</td> <td style="text-align: center;"><input type="checkbox"/></td> <td style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>*dissolution</td> <td></td> <td></td> </tr> <tr> <td>If dissolution or nullity, Court location</td> <td colspan="2"><input type="text"/></td> </tr> <tr> <td>● Note: Record Document Numbers</td> <td colspan="2"><input type="text"/></td> </tr> <tr> <td colspan="3">†For marriage of a party under 18 years:</td> </tr> <tr> <td>• consents received</td> <td colspan="2" style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>• court approval</td> <td colspan="2" style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>†Approval for shortening of time received</td> <td colspan="2" style="text-align: center;"><input type="checkbox"/></td> </tr> <tr> <td>● Change of Name Form Verification enclosed</td> <td colspan="2" style="text-align: center;"><input type="checkbox"/></td> </tr> </tbody> </table>		Bridegroom	Bride	* death			†Evidence of *nullity	<input type="checkbox"/>	<input type="checkbox"/>	*dissolution			If dissolution or nullity, Court location	<input type="text"/>		● Note: Record Document Numbers	<input type="text"/>		†For marriage of a party under 18 years:			• consents received	<input type="checkbox"/>		• court approval	<input type="checkbox"/>		†Approval for shortening of time received	<input type="checkbox"/>		● Change of Name Form Verification enclosed	<input type="checkbox"/>	
	Bridegroom	Bride																																																														
Birth certificate(s) produced	<input type="checkbox"/>	<input type="checkbox"/>																																																														
Registration Number	<input type="text"/>	<input type="text"/>																																																														
Overseas passport produced	<input type="checkbox"/>	<input type="checkbox"/>																																																														
Overseas passport number	<input type="text"/>	<input type="text"/>																																																														
Statutory declaration(s) regarding birth produced	<input type="checkbox"/>	<input type="checkbox"/>																																																														
● ID Number and Type:	<input type="text"/>	<input type="text"/>																																																														
● ID Number and Type:	<input type="text"/>	<input type="text"/>																																																														
● ID Number and Type:	<input type="text"/>	<input type="text"/>																																																														
● Form 13A completed and given to the parties	<input type="checkbox"/>	<input type="checkbox"/>																																																														
	Bridegroom	Bride																																																														
* death																																																																
†Evidence of *nullity	<input type="checkbox"/>	<input type="checkbox"/>																																																														
*dissolution																																																																
If dissolution or nullity, Court location	<input type="text"/>																																																															
● Note: Record Document Numbers	<input type="text"/>																																																															
†For marriage of a party under 18 years:																																																																
• consents received	<input type="checkbox"/>																																																															
• court approval	<input type="checkbox"/>																																																															
†Approval for shortening of time received	<input type="checkbox"/>																																																															
● Change of Name Form Verification enclosed	<input type="checkbox"/>																																																															
Celebrant's number <input type="text"/> Celebrant's signature <input type="text"/>	Official use only <input type="text"/>																																																															

02AG736
page 4 of 4
Notice of Intended Marriage (Form 13)

The red dots indicate some examples of changes based upon

- current marriage celebrant practice *e.g. Celebrant Number and Signature when receiving the Notice (covers situations where the Notice is not received in person) and Noting the Document Numbers for death, dissolution or nullity* and
- possible future practice if other CCN Recommendations are implemented *e.g. ID spaces and Change of Name Verification*

Summary re Notice:

The CCN Inc. considers

- that although there is grounds for recommending that the Period of Notice for Marriage be considerably reduced, such a reduction for length of Notice of Intended Marriage may be difficult to consider in the current social and political climate in Australia.
- that other aspects of the Marriage Act and Regulations and its implementation can be changed to alleviate problems for couples seeking a Shorter time for Notice.

Australian passports:

RECOMMENDATION 11

That a change be made to the EXISTING: Section 42 Notice to be given and declaration made

(1) Subject to this section, a marriage shall not be solemnized unless: (a) notice in writing of the intended marriage has been given in accordance with this section and has been received by the authorized celebrant solemnizing the marriage not earlier than 18 months before the date of the marriage and not later than 1 month before the date of the marriage;

(b) there has been produced to that authorized celebrant, in respect of each of the parties:

(i) an official certificate, or an official extract of an entry in an official register, showing the date and place of birth of the party; or

(ii) a statutory declaration made by the party or a parent of the party stating that, for reasons specified in the declaration, it is impracticable to obtain such a certificate or extract and stating, to the best of the declarant's knowledge and belief and as accurately as the declarant has been able to ascertain, when and where the party was born; or

(iii) a passport issued by a government of an overseas country, showing the date and place of birth of the party; and

BE CHANGED TO:

42 Notice to be given and declaration made

(1) Subject to this section, a marriage shall not be solemnized unless:

(a) as is

(b) as is

(i) as is

(ii) as is

(iii) a passport issued by the Australian Government for an overseas born Australian citizen and verified by an Australian Citizenship Certificate or a passport issued by a government of an overseas country, showing the date and place of birth of the party; and

Rationale:

Use of Australian Passports & Citizenship Papers as valid alternatives to Birth Certificates for Overseas Born people as proof of age

The CCN Inc. appreciates that identity fraud is a matter of concern as may be other factors of which celebrants are not aware. However, the CCN Inc. questions the underlying assumptions and the effectiveness of using the current strategies in the marrying process to address these concerns.

The CCN Inc. also appreciates that Australia has a good recording system for its births, deaths and marriages.

However, on a practical level, it is assumed that the key issue is not one of under-age marriage, very few requests being made on these grounds, but primarily one of identity.

The CCN Inc. considers that applying for Australian Citizenship is the equivalent of the establishment of one's nationality by birth. As such, overseas born Australian citizens are discriminated against when not being able to use their Australian passport combined with their Citizenship Certificate to verify both age and identity.

This concern about not being able to use Australian passports is expressed by both overseas and Australian born couples, particularly as passports have been costly to obtain both in time and money. Requiring extra time and expense, in applying for additional documentation in the form of Birth Certificates is considered "not fair", especially when the process does not in fact identify people who are perpetuating "identity fraud".

The CCN Inc. considers that applying for Citizenship is the equivalent of the establishment of one's nationality by birth.

Therefore, the combination of an Australian passport and a Citizenship Certificate should be clearly stated as an acceptable option for overseas born Australian citizens.

Establish improved procedures for verifying identity

RECOMMENDATION 12

That improved procedures be established for all marriage celebrants to verify the identity of the parties applying to be married.

Rationale:

In the last decade, since America's September 11, 2001 Twin Towers tragedy and the 'War on Terror', there appears to have developed an increasingly paternalistic, disrespectful and discriminatory approach to commonwealth marriage celebrants and the marrying public by the Attorney General's Department in the policy development and implementation of the Marriage Act and its implementation, and by personnel in some of the State Registry Offices of Births, Deaths and Marriages.

Given the Attorney General's other responsibilities in National Security etc., it is understandable that concerns about national security could influence attitudes to other programs run by the AGD and the states.

This situation also has been compounded by a number of factors, including the previous government's decision to base Commonwealth Marriage Celebrants appointments upon a "business only" model and on "only One Unit" of a national Vocational and Education Training (VET) course as an educational qualification (nowhere near a "professional" qualification entry level) and on numerous problems in the quality of course delivery under the VET system.

A review of the requirements of the state registry office identity requirements would establish the types of documentation and their minimum number as clearer guidelines for marriage celebrants to establish the identity and the age of the parties applying for marriage.

Such documentation should include Deed Polls or Change of Name Instruments, which were acceptable methods of changing name at the time issued. The Australian Passport Office now accepts name changes by Deed Polls from all states except SA, instead of a Change of Name Form as currently required. Alternatives may include Statutory Declarations by other people as is required by the Passport Office.

It is envisaged that space for such documents and their verifying numbers would be built into Revised Notice of Intended Marriage and/ or Declaration of Marriage Forms.

It is also envisaged that the Marriage Law and Celebrant Section would, in consultation with CoCA and the BDMs and other relevant bodies, issue FACT Sheets to better inform marriage celebrants of their verifying identity requirements.

Marriage celebrants encounter on a regular basis the difficulties faced by people who have changed their names for a variety of non-fraudulent reasons. For example:

- Names by Common Usage (*which is not illegal in Australia*)
- Deed Poll at a Lands Titles Office
- Anglo-sizing a non-English name
- Not liking a name given by parents, but feeling that this dislike is not sufficient grounds to formally change name
- Previous marriage, but for various reasons not reverting to a birth surname

The MLCS, BDM staff, Prescribed Authorities and celebrants need to

- appreciate that there are many valid reasons why a person may have changed his/her name or had his/her name changed by a parent, and that a person's name is directly linked to his/her sense of identity
- be sensitive to these underlying issues when discussing the names to be recorded on the Notice.

The system therefore needs to find more respectful and effective ways of strengthening these procedures. This approach should mean

- higher compliance of people to resolve issues affecting a proper paper trail for the name
- that there is less or no need to use the ceremony itself to embarrass people with previous names and/or birth names not in common usage under some illusion that doing so will identify people who are perpetuating identity fraud.

“Generally the name for the bride that should be recorded on the NOIM is the name recorded on her birth certificate”.

As many women change their names through a previous marriage, this recommendation in Explanatory Material leads to complications and problems predominantly for women. Please note that some of these matters discussed may apply to males also.

If the bride has continued to use her previous married name, for the sake of her children or any other reason, and records this name on the Notice, then the previous married name will be used in the ceremony. This is because the MLCS currently strongly advises the celebrant to use the party's name on the Notice as the name in section 46 of the Marriage Act.

It can create distress for the bride to use her previous husband's name at the same time as making a commitment to her next husband as currently required under Section 45. This distress

occurs whether the previous marriage ended due to divorce, nullity, or the death of the previous husband. There are many cases of the ending of a marriage due to a traumatic death whether by accident or suicide.

If, to avoid using the previous married name when making her vows to her groom, the bride wishes to revert to her maiden name, she should be able to do so.

However, the bride may find that the Registered Marriage Certificate will not provide a practical link between

- her previous married name recorded with certain organizations and agencies and
- the name on her Birth Certificate if she has been married more than once, or previously changed her name by common usage, or if overseas born, modified her name in some way that creates difficulties.

These difficulties also raise privacy issues for women as well as practical issues in providing a paper trail each time with all the relevant bodies with which she needs to notify a change of name.

Therefore, if the bride (or groom) can provide the marriage celebrant with the required evidence of a paper trail underpinning a change of name, and the marriage celebrant can facilitate the completion with the person of the appropriate Application Form and Attachments then

- the Change of Name can be appropriately registered with the relevant DBM and
- the likelihood of subsequent difficulties for the person and for government agencies can be reduced.

This process is not at all unlike the current arrangements Marriage Celebrants have in being able to assist couples to gain access to a Registered Copy of their Marriage Certificate.

Some states allow marriage celebrants to forward the application on behalf of the couple

- without the supporting documentation, on the assumption that the marriage celebrant has checked both identity and birth documents etc. or
- only if the supporting documentation is included.

The CCN Inc. considers that a nationally consistent approach involving marriage celebrants with checks and balances as required would increase compliance with people registering previous Change of Name, and reduce difficulties both for the couple and their celebrant.

Additional Categories for Shortening of Time

RECOMMENDATION 13

That the EXISTING Schedule 1B Circumstances for authorising marriage despite late notice (regulation 39) be changed from

There are the five categories of circumstances set out in the regulations. These are:

- *Employment related or other travel commitments,*
- *Wedding or celebration arrangements, or religious considerations,*
- *Medical reasons,*
- *Legal proceedings,*

- *Error in giving notice.*

To:

Schedule 1B Circumstances for authorising marriage despite late notice (regulation 39)

There are the [seven](#) categories of circumstances set out in the regulations. These are:

- Employment related or other travel commitments,
- Wedding or celebration arrangements, or religious considerations,
- Medical reasons,
- Legal proceedings,
- Error in giving notice
- [Established relationship of three months](#)
- [Pregnancy](#)

The definition of an established relationship of three months would be that the parties to the marriage have known one another, been engaged or lived with one another for at least three months.

Revision of the Role of Prescribed Authorities

RECOMMENDATION 14

That the role of the Prescribed Authorities be reviewed to address the primary concerns of the Federal Government as they relate to couples marrying in a shorter time than the Australian government currently allows, given that the Australian government could just as easily determine, like many other countries, a much shorter time.

Rationale:

As above.

It is presumed that criteria of primary concern would be that

- the parties to the marriage are competent to marry
- the parties have been given the definition of marriage and its responsibilities (*As outlined in the Revised Form 13A*)
- there is no coercion (*parties interviewed separately as well as together*)
- the parties meet the criteria of one of the categories as above, with supporting documentation
- all other documentation has been produced to verify identity and freedom to marry.

Additional Classes of Prescribed Authorities

RECOMMENDATION 15

That a new class of Prescribed Authorities be created from Community Based Marriage Celebrants (both religious and civil) such that there would be a minimum of four Community-based Marriage Celebrant Prescribed Authorities per electorate available after-hours and weekends to process requests for Shortening of Time.

Education and Information for Prescribed Authorities and Their Staff

RECOMMENDATION 16

That the processes for the appointment of Prescribed Authorities (PA) be reviewed to ensure that all PAs

- be provided with a handbook on their responsibilities, including the need to inform themselves and any front line personnel of their roles, and of the dangers of moralizing and discriminating against couples simply on the basis of their making a request for Shortening of Time.
- have access to the Celebrant Only section of the MLCS of the AGD's website.

Note: It is also expected that this information would be available to all marriage celebrants via the Marriage Celebrants Only On-line Portal section of the MLCS website.

Rationale : Need for extra categories for Shortening of Time, Revision of the Role of and Additional Classes of Prescribed Authorities and Education and Information for Prescribed Authorities and Their Staff

Spontaneous events:

Many examples of couples wanting to marry more spontaneously are ones where they had planned to marry at some time, but some fortuitous circumstance occurred to bring their decision forward. A relative's birthday, a family visit, a meaningful date, a pregnancy etc. can create the opportunity for an unplanned special occasion when it would be suitable to be married.

Pregnancy:

Whilst children born out of wedlock are no longer considered illegitimate under law, social attitudes take a long time to change. Many couples do plan to marry when they start a family. Unplanned pregnancies do occur even with the best contraceptive measures. Some studies also suggest that marriage does afford children with a greater chance of a stable environment with both parents.

The length of Notice should not be used to punish the couple or their child ("You should have been married before you had sex") by outmoded attitudes to children born out of wedlock.

Illness or Death:

Likewise, many couples wanting to marry more spontaneously have experienced a serious illness and/ or impending death of a partner or important relative or friend, and that event brings their decision forward or deepens their understanding of the importance of their relationship.

When a partner, family member, or close friend experiences medical problems, demonstrating an existing marriage relationship is less stressful for the couple because they can more easily provide this documentation than obtain the necessary paperwork from medical staff and others for the prescribed authority.

Treatment of Couples by some BDM Staff and Prescribed Authorities:

Whilst it may be common knowledge to celebrants, to BDM staff and to Prescribed Authorities that Australia has a long Notice of Intended Marriage time, this fact is not common knowledge in the general population.

According to feedback from couples to celebrants, Prescribed Authorities are either ill-informed about their role and/ or have failed to adequately inform or educate their front line staff about

how to deal with Requests for Shortening of Time. It is not the role of front-line staff to be gatekeepers, and thus construct barriers to couples making this simple request.

Couples can be treated in such a way as to imply that they are

- automatically “in the wrong” just for requesting a Shortening of Time, especially when illness or death is not the reason for the request, or
- trying to “fudge” or “trick” the system into getting away with something that they should not be requesting.

The CCN Inc. considers that the process for shortening of time needs to be revised to address the key reasons why it would be important to hasten or bring forward a marriage, and to allow a shortening whenever possible.

Celebrant rights re service provision

RECOMMENDATION 17

That the EXISTING Marriage Act Section 47 be changed from:

47 Ministers of religion not bound to solemnize marriage etc.

Nothing in this Part:

- (a) imposes an obligation on an authorized celebrant, being a minister of religion, to solemnize any marriage; or*
- (b) prevents such an authorized celebrant from making it a condition of his or her solemnizing a marriage that:*
 - (i) longer notice of intention to marry than that required by this Act is given; or*
 - (ii) requirements additional to those provided by this Act are observed.*

To:

47 Celebrants rights re Service Provision etc.

47 Authorised Marriage Celebrants not bound to solemnize marriage etc.

Nothing in this Part:

- (a) imposes an obligation on an authorized celebrant, to solemnize any marriage;*
- (b) prevents an authorized celebrant, being a religious celebrant, from making it a condition of his or her solemnizing a marriage that:*
 - (i) longer notice of intention to marry than that required by this Act is given; or*
 - (ii) requirements additional to those provided by this Act are observed.*

Rationale:

For a celebrant to “celebrate” a particular occasion in a professional manner, the celebrant needs to have integrity of purpose and meaningful rapport with the couple. There are many factors that can affect the celebrant-couple relationship – cultural and social background, education, class, gender, age, values, life experiences etc. Taking these complex factors into account was one of the strengths of the original program; couples could be married by their “peers”, not by someone from a religious or administrative hierarchy, nor someone so highly academically trained that the couple had difficulty establishing rapport.

So there are circumstances where the celebrant has been approached or has agreed to conduct the ceremony and witness the marriage, when it has become obvious that the couple’s wishes for a form or style of the ceremony do not meet with the standards or approach of the celebrant. In this case, the celebrant needs to be able to terminate the arrangements with the couple without fear of legal or other reprisal, and to refer the couple onto another celebrant.

Thus, all marriage celebrants, whether religious or civil celebrants, should be granted equal flexibility under the Section 47 to choose with whom they engage for their service provision.

Freedom of choice will also be an important factor should the definition of marriage change to include marriage between couples of the same sex. Religious views are not the only grounds upon which a celebrant may wish to refuse to marry same sex couples.

Freedom of choice for both the couple and the celebrant is an important value to uphold in a free society.

Statement of Authorisation and Definition of Marriage

RECOMMENDATION 18

That the EXISTING Marriage Act Section 46 be changed from

46 Certain authorised celebrants to explain nature of marriage relationship

(1) Subject to subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion of a recognized denomination, the authorized celebrant shall say to the parties, in the presence of the witnesses, the words:

“I am duly authorized by law to solemnize marriages according to law.

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn and binding nature of the relationship into which you are now about to enter.

“Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life.”;

or words to that effect.

(2) Where, in the case of a person authorized under subsection 39(2) to solemnize marriages, the Minister is satisfied that the form of ceremony to be used by that person sufficiently states the nature and obligations of marriage, the Minister may, either by the instrument by which that person is so authorized or by a subsequent instrument, exempt that person from compliance with subsection (1) of this section.

To:

46 **Authorised celebrants make their status clear and explain nature of marriage relationship**

~~(1) Subject to subsection (2), before a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion of a recognized denomination, the authorized celebrant shall say to the parties, in the presence of the witnesses~~ **and at some point before Section 45**, the words:

“I am authorized by law to witness and register this marriage according to law.”

“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn, **binding and special nature of the relationship into which you are now about to enter.”**

“Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, entered into voluntarily **on the understanding that this relationship is for life.”**

(2) delete

NOTE: Whilst The CCN Inc. assumes that it is not within the scope of this review, the CCN Inc. recommends and supports the change of the definition of marriage to:

“Marriage, according to law in Australia, is the union of **two adults to the exclusion of all others,**

entered into voluntarily [on the understanding that this relationship is for life.](#)”

Rationale for Changes to Section 46: Statement of Authorisation and Definition of Marriage:

Purpose:

- To ensure that all couples are treated equally with respect to the basic criteria for the validation of a marriage
- To ensure that the wording of the key components of the marriage ceremony is in simple plain English
- To ensure that Compliance as regards Sections 45 and 46 does not question the validity of a marriage on the basis of the specific wording of the declaration of consent
- To ensure that all marriage celebrants are dealt with fairly and equitably as regards Compliance measures.

Rationale:

It is discriminatory to require specific wording to be said by marriage celebrants to couples choosing to marry in a civil context, but not in a religious context.

All parties to a marriage, whether religious or not, should be clear that marriage in Australia is voluntary and that under certain circumstances, the marriage can be terminated.

The Australian government has authorized celebrants from religions, which in other countries can support or enforce arranged marriage as the norm and can prevent divorce unless the husband consents. Such attitudes can lead to abuse and in some cases, domestic violence.

For Australian marriages, the issue of consent is seen as a basic human right that needs to be upheld, and thus the ceremony wording needs to ensure that parties to the marriage are clear about these aspects of consent and ability for the marriage to be dissolved.

Also, the Marriage Act was written half a century ago. The language is overly legalistic, moralistic, and in various parts, offensive to many couples.

In principle, a government department when reviewing laws, policies, procedures and communication with the public needs to ensure that the wording is in plain English, wherever possible.

1. RE changes to: *“I am duly authorized by law to solemnize marriages according to law.*”

Many couples do not know what "solemnize" means.
Some couples think the celebrant is saying "sodomize" and are offended.

2. RE changes to: *“Before you are joined in marriage in my presence and in the presence of these witnesses, I am to remind you of the solemn, binding and special nature of the relationship into which you are now about to enter.*”

Marriage no longer confers on the parties all the benefits (and burdens) it once did. Marriage is evolving. De facto couples have property rights and can gain custody rights, and marriage alone no longer determines inheritance rights.

Today marriage's primary power lies in the public promise of two people before their community of family and friends and is reinforced and supported by

- the legal nature of the contract
- the trauma of divorce
- the impact on children and on one's lifestyle if considering returning to a single status and income after divorce.

The primary intent of any legislation needs to be to serve the people and thus to reinforce the common good.

The primary work of marriage celebrants is to assist couples in strengthening their relationships by their public commitment to one another.

Like other professionals, celebrants experience the impact of the law on parts of their work, but their work is not defined by the law.

For example, schoolteachers have mandatory reporting requirements as legal responsibilities, but the lawmakers do not try to define teachers as "child protection workers". Like any professionals, celebrants need to comply with the legal requirements of their work.

If the government wants to strengthen marriages, then it needs to reinforce its "special" nature not just its legal aspects.

3. RE changes to: *"Marriage, according to law in Australia, is the union of a man and a woman to the exclusion of all others, voluntarily entered into for life."*

For a public promise to have power, it must have integrity at every level. It is not true to say that marriage is for life in Australia as the Family Law Act allows couples to divorce.

Whilst divorce was possible in Australia at the time these words were written in 1961, its requirements were onerous and punitive, and the consequences of divorce then were far more damaging than they are today under "no-fault" divorce laws.

Of course, "no-fault" divorce does not mean that there are no faults or mistakes made by either or both parties to the marriage. Rather, it means that when a marriage has broken down, a "fault-based" approach only creates further problems and trauma for all concerned. In this way, "no-fault" divorce avoids finger pointing and blame.

So what may appear to be a softening of this phrase is in fact the reverse.

Having the freedom to choose to stay married:

- supports love rather than the reverse
- empowers a person to negotiate aspects of the relationship, which were there no divorce, may not be so negotiable.
- empowers a couple, because in full knowledge that the law cannot force them to stay together, they still commit themselves to a lifelong relationship.

It can also empower women and men in abusive relationships to protect themselves and children better by not making a promise that they consider actually to bind them for life. Some religious people adopt this attitude.

Form of ceremony - Parties public consent to marry

RECOMMENDATION 19

That the EXISTING Marriage Act Section 45 be changed from:

Marriage Act Section 45 Form of ceremony

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant, being a minister of religion, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the religious body or organization of which he or she is a minister.

(2) Where a marriage is solemnized by or in the presence of an authorized celebrant, not being a minister of religion, it is sufficient if each of the parties says to the other, in the presence of the authorized celebrant and the witnesses, the words:

“I call upon the persons here present to witness that I, A.B. (or C.D.), take thee, C.D. (or A.B.), to be my lawful wedded wife (or husband)”;

or words to that effect.

(3) Where a marriage has been solemnized by or in the presence of an authorized celebrant, a certificate of the marriage prepared and signed in accordance with section 50 is conclusive evidence that the marriage was solemnized in accordance with this section.

(4) Nothing in subsection (3) makes a certificate conclusive:

- (a) where the fact that the marriage ceremony took place is in issue—as to that fact; or*
- (b) where the identity of a party to the marriage is in issue—as to the identity of that party.*

To:

Marriage Act Section 45 Form of ceremony

(1) Where a marriage is solemnized by or in the presence of an authorized celebrant, ~~not being a minister of religion~~, it may be solemnized according to any form and ceremony recognized as sufficient for the purpose by the marriage celebrant and is sufficient if, in the presence of the authorized celebrant and the witnesses, each of the parties indicate consent to the marriage by saying in words or indicating in some other form to the other:

I, A. take you, B, to be my wife (or husband or marriage partner or partner in marriage or spouse)

Or words to that effect.

(2)(3) Where a marriage has been solemnized by or in the presence of an authorized celebrant, a certificate of the marriage prepared and signed in accordance with section 50 is conclusive evidence that the marriage was solemnized in accordance with this section.

(3) (4) Nothing in subsection (2)(3) makes a certificate conclusive:

- (a) where the fact that the marriage ceremony took place is in issue—as to that fact; or*
- (b) where the identity of a party to the marriage is in issue—as to the identity of that party.*

Rationale:

The principle purpose of this section of the Act is a public indication of consent to the marriage before two witnesses and the authorized celebrant.

The CCN Inc. considers that:

- specific wording is obviously not necessary; otherwise, religious ceremonies would not be allowed different versions of the consent wording, even as minimal in some cases as “I do”.
- it is discriminatory to require specific wording of vows to be said by couples choosing to marry in a civil context, but not in a religious context.
- just because there may be some evidence for religious marriages lasting longer than civil ones, it does not mean that those relationships are superior in any way. In countries where religious marriages are enforced, it is often at the expense of women and children’s health and safety.

Prior to 2003, rigid adherence to the words in Section 46 was not required. In fact, for a long period, civil celebrants were exempted from having to use Section 46 at all.

Thus, for thirty years, the specific wording of Section 45 for a civil marriage could not be used as grounds for invalidation of a marriage, nor should it be. Marriage celebrants are human, and simple mistakes can be made by the best of them on occasions. The Marriage Act should rightly protect the couple’s legal status even if the words indicating consent used at the ceremony vary from the norm by the celebrants and by themselves.

Certainly, any variations of words at the ceremony should not be used some time later as grounds for annulment, when it would have been clear to both parties, to the celebrant, and to the witnesses that the couple had consented to the marriage during the wedding ceremony.

Paternalistic, disrespectful, and ineffective?

In Australia, the aim of consent during a marriage ceremony in this century has primarily a personal, psychological, spiritual, and social effect, rather than a legal one.

With a high literacy rate, good registration systems, and the freedom to marry, an Australian couple can be confident of the fact that their marriage has taken place and has been documented accurately and recorded legally. Verbal consent, as was required centuries ago, is no longer as relevant.

The CCN Inc. considers that

- the statement by the celebrant to the wedding gathering that he/she is authorized by law to marry people and to conduct all the other checks and balances of the Forms 13 and 14 should be sufficient to verify the identity of the parties to the marriage and the processes ensure sufficient time for consent to be obvious
- the parties to the marriage should have the freedom to express their commitment to each other in plain English and without the complications of previous names or common law usage of names being involved.

Many couples have experienced stress and disappointment when celebrants have tried to force them to use this antiquated wording and/ or forms of their names that they dislike during the ceremony that they expect to be the most beautiful expression of their love and commitment to one another.

- Previously married women suffer the most discrimination because of the MLCS insistence on rigid adherence to the specific wording, especially as regards ‘AB and CD’.

A woman who has changed her surname to her previous husband’s surname and not formally chosen to return to her maiden name for a variety of reasons, such as ensuring that her children still have the emotional security of the same surname as their mother or being widowed, should not be forced to

- use the previous married name in the ceremony in which she is committing herself to another man (*In this way she can avoid an unnecessary reminder of heartache, distress, and in some cases, trauma and /or failure*)
- go to the expense of changing all her identity papers back to her maiden name for a few months and then to go through the expense of changing those identity papers to the new married name, if that is their her plan.
- besides, professional women are allowed the choice of using both their maiden names and their married names in different contexts, without being seen as acting fraudulently.

It must be pointed out that in religious ceremonies where the surnames may not be used at all, such as consent to the marriage being simply “I do”, it is the person who makes the commitment, not the name label that he/she has been given by parents or social traditions or by choice.

The bride-to-be’s name should be obvious to the celebrant from the paper trail and thus her choice as to whether a surname is be used and if so, which one (*maiden or previously married name*).

There is no evidence to support the assumption that somehow forcing every couple to use full names will uncover a fraudulent name during a wedding ceremony!

Issues to do with ensuring a paper trail to prevent future difficulties for the parties to the marriage or for the government to ensure its citizens’ marriages are properly recorded can be dealt with through the paper-work to the BDM's office and future change of name processes etc.

It appears that 99% of marrying couples are being put through an unnecessarily harsh process that could be vastly simplified and improved.

Besides, those people who are intent on identity fraud are most likely not to be identified by this process.

This revised Section 46 should also ensure that both parties to the marriage are in the same room at the time of the legalization of the marriage, even if under religious law the couple is married by giving their consent individually to the authorized religious celebrant whilst not present together.

Processes to Minimise Identity Fraud

RECOMMENDATION 20

That a funding component be built into Cost Recovery to allow people getting married to use a “Verification Change of Name” Form via their celebrant, along with a statutory declaration, for a small or no fee to address this problem, if the federal government has other reasons for wanting to secure a paper trail for the identity of citizens

Rationale:

People who have changed their names by common usage or by previously recognized processes, such as deed polls, should not be forced to endure the added expense and difficulty of having to formally apply for a Change of Name to the State BDM prior to their wedding.

The Australian Passport Office will now accept deed polls from all states, except South Australia, so requiring celebrants to be untruthful about this aspect of their work is not acceptable. It is not only an affront to a couple’s sense of identity, worth, and integrity, but it also involves additional expense and inconvenience for the couple to be forced to deal with the state BDMs, which are not geographically convenient for most people.

This is a reason why the NZ model of the BDMs processing the Notice is not practical in Australia. The public should not be denied the convenience of the Notice being available from their celebrant based upon difficulties with the 2003-2010 appointment system. Strategies to strengthen the profession as proposed by this submission and CoCA’s submission should allay most of the concerns of government.

Certainly such requirements affect people from poorer socio-economic and educational backgrounds, and those with disabilities and age related difficulties. Thus, it would be more effective to

- enable all marriage celebrants (state and commonwealth appointed) to assist in the process of documenting existing Name Changes, or with name changes that are shortly to be confirmed in marriage, and
- ensure that the process is streamlined and economically accessible to all.

Groom wishing to change name after marriage including taking the bride’s name

Not all states offer the groom the same rights as the bride to use the Registered Marriage Certificate as evidence of change of name.

This situation creates extra hassles and expense, especially when the process is less expensive for the groom to change his name prior to the marriage. However, doing so de-powers the traditional symbolism during the ceremony of the change of name of one spouse to the family name of the other. Whilst this name change is usually a matter of the bride taking the groom’s family name, if the groom has already changed his family name to the bride’s, then the celebrant and the couple cannot announce a name change with integrity, especially as currently advised under Section 45 for AB and CD for couples married by Commonwealth marriage celebrants.

This situation is discriminatory and could be resolved by implementing better and consistent processes Australia-wide.

SECTION C - INCREASING PROFESSIONALISM

The CoCA Submission addresses “increasing the professionalism” of marriage celebrancy from a holistic perspective and makes recommendations to lay the foundation for the systematic improvement of the Marriage Celebrant Program (MCP) over the next decade and beyond.

The CCN Inc. supports all the recommendations of the CoCA submission.

In this section, the CCN Inc. builds upon the Coalition of Celebrant Association’s (CoCA) Submission, to make the following additional recommendations.

Guiding Principles

(Re: COCA Recommendation)

RECOMMENDATION 21

That, in addition to the CoCA principles, the Attorney General applies the following principles in addressing Cost Recovery for the purpose of “increasing professionalism”.

1. All marriage celebrants are providing a government service to the community on behalf of the Federal Government under the Marriage Act 1961. As such, the aims and delivery of the program need to have the best interests of the community as its highest priority.
2. All marriage celebrants and marrying couples need to be treated with the same respect, based upon the same underlying principles, whether the ceremony is conducted within a religious context or not. **Note:** Marriage was originally in Western culture, and is in Australia, a civil (not religious) function governed by one Commonwealth Marriage Act.
3. The Commonwealth Attorney General’s Office and its Department have a leadership role in the areas of justice for all citizens and the removal of all forms of discrimination.
4. The Commonwealth Attorney General’s Department has a responsibility to ensure that all aspects of the Marriage Celebrant Program operate in a fair and equitable manner and that cost recovery does not use “loop holes” in government policy to continue unfair practices.
5. The primary profession through which marriage services need to be delivered is that of a family and community focused celebrant, whether religious or not, and where marriage ceremonies are part of a range of ceremonies delivered by members of the profession. That **is**, marriage celebrancy is a sub-set of the broader professional role of “Family and Community Celebrant”, **i.e.** Civil Celebrancy as a profession fits within the context of the **three** (3) original professions of Ministry, Law, and Medicine.
6. The potential for Civil Celebrancy to assist other government goals in the areas of human rights, social inclusion, physical and mental health, and the prevention of domestic violence and child abuse will not be adversely affected by the way in which the Marriage Celebrant program is perceived and administered.

7. Compliance measures should be fair and should not be used to discriminate against independent civil marriage celebrants by applying more rigorous standards to them than those applied to recognized religious celebrants.
8. Compliance measures need to be based upon a well designed and non-discriminatory program that is designed to improve professionalism of the delivery of ALL marriage services, rather than to build a bigger bureaucracy.

Rationale:

Section A outlines the background and support for applying these principles.

Limiting Appointments to Community Need

(Re: COCA Recommendation 2)

RECOMMENDATION 22

All people being considered for appointment need to have a current pass from the Pre-Appointment Knowledge and Skills Assessment, which is currently defined as being within the two years s prior to consideration for appointment by a Regional Advisory Committee.

Rationale:

Of all the recommendations included in both the CoCA submission and this submission, this recommendation to limit the overall level of appointment is the most crucial.

The CCN Inc. recognises that governments increasingly do not want to accept responsibility for placing limits on what appears to be “business”, yet the bottom line is that the role of governments is to protect the public interest.

The motivation for people to take up the celebrant’s role is not simple. It is driven by many factors but predominantly by the need for women in particular to find flexible employment so that they can timetable their work while still meeting their family responsibilities, use their talents and skills, provide a worthwhile and meaningful service, and earn income.

The rewards associated with the celebrant’s role likewise are complex. The primary reward is being able to focus closely on one of the most important, if not the most important, symbolic aspects of life, which is love in all its various forms and expressions, at unique peak stages of life, whether that is the birth of a child, the marriage of two lovers, the celebration of a birth or union in anniversaries, or the mourning of the loss of a valued person through death or divorce.

So the normal mix of deterrents and difficulties that limit people getting into a profession (work) and the factors that control the numbers once in the profession do not apply in this sector as yet.

Both submissions aim to advance professionalism by **raising** standards in an attempt to ensure that those appointed have the necessary knowledge, skills, and potential to survive long-term and to deliver the best to their couples and communities.

However, it will take considerable time for those measures to work and particularly to overcome the prevailing view that celebrancy is a nice part-time retirement interest, or hobby, or side earner that anyone can do and anyone can be appointed to do by the government.

It was a change in government policy of the 1980's to appoint only people over the age of 35 that contributed to this attitude. Many of the early celebrants, like people entering the ministry (*one of the oldest professions*), were in their twenties. As a result, 70% of celebrants in 2000 were over the age of 50, and if nothing had been done, by 2010, 70% would have been over the age of 60!

There must be a way, with creative and practical thinking, of establishing a process that

- the national level of government can administer efficiently
- is responsive to local need
- delegates the decision making for advice about appointments to the local level
- chooses the best people for the role based not just on academic performance
- appoints the people who will best serve their community's interests
- **is** decided by people who have a solid understanding of their community's needs

Rural and Disadvantaged Communities:

It may appear that the recommendations relating to Cost Recovery from those seeking appointment would have the effect of excluding from training many appropriate people who do not have sufficient private wealth to secure that training and assessment etc to be appointed.

The CCN Inc. considers that

- there are other ways to address this issue, such as scholarships for rural and remote and Aborigines seeking this work or who are needed for this work by their communities, perhaps even by cost recovery setting aside some funding for such a scheme
- the current system is unfair because it encourages people to spend considerable resources and money from the celebrants' families as well as to invest their time, often for approximately a 5 **year** period, only to find **that** themselves in a system that either they are unsuitable for, or that takes advantage of their hopes and needs.

It would be better if the system could reduce the likelihood of the waste of such family resources and that once marriage celebrants are appointed, did not exploit those people but instead ensured a fair economic return for the marriage celebrant's efforts.

RECOMMENDATION 23

The Attorney General establishes

1. its own appointment panel and criteria to elect the most appropriate people for the vacancies in that region and/or
2. a random draw from the pool of all the suitable applicants for that Region after all other processes have been completed, if the Department considers that the face-to-face interview process recommended by CoCA not practical (*CCN Inc. considers that it can be practical.*)

Rationale

The CoCA recommendation as it stands, being tied to the ratio of the average number of weddings per celebrant per year in a particular region means that

1. the ratio can be increased or decreased as the circumstances in that region warrant.
2. the responsibility for the decision-making is a shared one between the AGD and the local community.

At a ratio of an average 24 weddings per celebrant, given the current ratio would be around 7, this recommendation should also give the AGD a lead time of approximately five years for the attrition rate in each region to bring the ratio higher than the average 24 weddings per celebrant per year.

The CCN Inc. views as crucial the limiting of the numbers of appointments given that there are various factors outside the control of the AGD that influence the demand for appointments, such as

- * High demand for appointment
- * Relatively Stable low level of demand from the public for marriage services.
- * The Vocational Education & Training System

High demand for appointment

In the late 1990's the AGD often referred to the fact that the department received an average of 6,000 inquiries every year from people aspiring to become marriage celebrants for a number of reasons, but predominantly because the role was

- * seen as casual or part-time work
- * highly remunerated
- * not particularly difficult or onerous
- * high status
- * enjoyable
- * a potential post-retirement activity

Relatively Stable low level of demand for the service

Marriage is not a product that marriage celebrants sell, and as such is unlikely to become a marketable product in such a way as to dramatically increase the demand to match the number of appointments. Besides, such an approach undermines the importance of marriage to the stability of society and the raising of children who need the support of loving stable relationships in which to grow.

Even if the definition of Marriage were broadened to include adult couples of either or both genders, the proportion of the population who are attracted to the same sex is minor, and of those, **there** would be an even smaller proportion who would wish to formalize their relationship with marriage. There may be an initial peak in demand, but over time this particular demand is likely to stabilise also.

The Vocational Education & Training System

The CCN Inc. is aware that a crucial missing element in the development of the VET Celebrant Training Courses by the Skills Council, both pre and post 2010, is the detailed criteria upon which the units of the course can be audited.

Whilst this shortcoming can be addressed over time, there maybe other unforeseen factors that affect the level of demand for marriage celebrant **appointments**.

Without a clear rationale or mechanism to adjust numbers of celebrants to community need in a fair and equitable manner and without the possibility of selecting celebrants on the basis of the best person for the role rather than granting appointments to the ones who have waited the longest, the AGD will continue to experience the current difficulty of celebrants with an insufficient number of weddings, and celebrants will continue to have difficulty gaining and maintaining their knowledge and skills related to marriage in a positive manner.

The CoCA submission addresses the issue of the need for an interview process on the principle of the “best person” for the role (*a common practice in many professions*).

1. This “best person” concept supports the idea that everyone should be able to aspire to a career or role without discrimination, but rejects the concept that **this aspiration** translates into a right for a matching position to be available or created to meet every such aspiration, whether that position is in the public interest (in or via government) or private business etc.

Where government has a role, clearly community need and the common good must take precedence.

2. This “best person” concept, however, does not include the view that just because a person aspires to a particular role or accepts responsibility for a particular one, this person should accept all the consequences of that decision, even in the face of poor working conditions and remuneration.

Thus, the government has a responsibility to ensure that the working environment for the people it appoints, such as marriage celebrants, are not subject to unfair conditions and dismissal etc.

The Regional Advisory Committees were designed upon electoral lines - to allow for face-to-face interviews to be conducted within the resources of the AGD.

i.e. five electorates = a Region; all the celebrants in the same Region should be reviewed at the same time; new appointments should be considered as part of the Review cycle and based upon community need.

The CCN Inc. believes that these logistics can be worked out at a practical level.

However, if this view proves not to be the case, with all the other processes in place as recommended, then a random draw by the AGD from the available pool is the fairest method to determine appointments.

Previous experience in providing a range of ceremonies:

The prevailing **mantra** that “the government is interested only in marriage”, seems to dominate the view that government “should” limit its vision of celebrancy only to weddings in terms of “who are fit and proper” people for this work.

The CCN Inc. is of the **view** that people who demonstrate a willingness to do a range of ceremonies needs to be one essential criterion for appointment. The range of ceremonies is not limited to weddings and funerals but also includes memorials, senior birthdays, and wedding

anniversaries.

The Certificate IV prepares people to conduct many ceremonies. Establishing oneself as a Family and /or Funeral Celebrant would give people the opportunity of establishing a celebrancy practice and of getting some practical insights into the actual difficulties of taking on such a role. In this way, people unsuitable for the role will opt out and save government time in **processing** those people.

This recommendation applies the same principle that governments have used to authorise recognised religious celebrants because of their involvement in families' lives in a range of rites of passage (ceremonies).

Making some arbitrary standard of a minimum of twenty ceremonies would test the applicant's motivation and deter people from applying with the attitude that marriage work is a "nice retirement hobby".

Certainly this criterion would be a far more relevant factor than a high annual "professional" fee of \$600, which does not deter people from wanting to become marriage celebrants. Most naively think that \$600 p.a. involves the costs of only one ceremony, not understanding that it is gross and that other costs are also involved.

Nor will that \$600 "professional" fee deter those currently appointed celebrants, unless they are too poor and cannot afford to continue to subsidize their marriage work. This factor has nothing to do with their competence, as even with an average of 35 weddings p.a. per celebrant, in 1999, only 4% **of** were able to earn a full-time basic wage equivalent from wedding work alone (See CoCA Submission). So this \$600 fee is discriminatory in theory and in practice as women still earn less than men in comparable employment, so they would need to subsidize their annual fees to keep their registration current.

Will marriages conducted by un-financial celebrants be considered invalid? This situation opens another can of discriminatory worms!

The ratio of 24 weddings per celebrant per year could be lowered if this principle on limited appointments were adopted.

This criterion of previous ceremony experience was obviously not available when the program commenced in the 1970s because other civil ceremonies evolved from the marriage program. However, celebrancy evolved from the communities' needs for inclusive civil ceremonies that respected all present, whether they had religious views or not.

One of the disadvantages of a "cap" on appointments is the difficulty of retaining knowledge and skills, if they are not being applied for a long period after appointment.

Thus, Recommendation 20 for recent assessment aims to ensure that new appointees have a suitable current level of marriage knowledge and skill, coupled with demonstrated prior **experience** in delivering ceremonies. Applying all these recommendations could mean Regional Advisory Committees would never get to meet!

The ratio of 24 weddings per celebrant pa would allow the profession time to stabilize, and requiring prior ceremonial experience could be sufficient cause to slow the rate of appointments to balance the number of new celebrants with those leaving the marriage sector.

Celebrant pre-training processes (CoCA Recommendation 4)

The CCN Inc. supports the principles outlined in CoCA recommendation 4. However 4.2 *Implement a Suitability Course* does not need to be as complicated as implied by this title.

RECOMMENDATION 24

That a simple process of information for potential celebrants could be implemented **during** a two hour information session, designed and conducted by the MLCS **in** conjunction with the BDMs and CoCA representatives held at the BDM offices or other suitable venues **and** available once or twice per year.

Rationale:

One of the difficulties with the VET system is ensuring that prospective students of the Certificate IV in Celebrancy who aspire to be marriage celebrants are able to make an informed choice on the basis of accurate and detailed information.

It is envisaged that one of the requirements for an assessment under the Fit and Proper Persons Criterion, would be evidence of attendance at such a session.

This session would ensure that all applicants would have access to standardized and unbiased information about the role of the Marriage Celebrant and thus be in a better position to make an informed decision about applying for training. It is expected that the outcomes of this approach would be a drop in the number of people commencing the process of applying for appointment, and also a reduction in the numbers entering training.

This approach should reduce MLCS work and the waste of applicants' resources in training for a role for which they are unsuitable.

Review approaches to Marriage Celebrant Training

(CoCA Recommendation 5)

RECOMMENDATION 25

That, in addition to the CoCA recommendations on the Certificate IV in Celebrancy, the Attorney General refer this recommendation to the appropriate Branch of the AGD or other government departments to advocate for the development of **the** following new VET units to be available for students for a range of Certificate IV courses in the Community Services and Health Sector, including students of the Certificate IV in Celebrancy.

- **UNIT 1 Human Rights, Discrimination, and Citizenship** – Evolution of separation of church and state; Human Rights' history and examples of how belief systems about the meaning of life and causes of human behaviour have and still do impact the treatment of women, people with disabilities, people with mental illness, people vulnerable to life style pressures etc. Rights and Responsibilities of Citizens in a secular multicultural society
- **UNIT 2 Spirituality, Religion, and Community** - Relationship between belief, faith, knowledge, and behaviour; Secular (Civil) Spirituality, New Age and other Forms of Spirituality, Comparative Religion, Cults, Advantages and Disadvantages, Stages of Religious/ Spiritual/Psychological Growth, Examination of spiritual and religious beliefs and their impacts on human rights and society.
- **UNIT 3 Rites of Passage and Stages of Human Growth to Maturity** (*physical, mental, spiritual, social, and cultural*). Symbolism, Dependence, Independence, Interdependence

issues. Their relation to alcohol and other drug use, mental health, violence, etc. Examination of the SA program used in some schools, called The Rite Journey (a unique educational programme designed to support the development of self-aware, vital, responsible and resilient adults) <http://theritejourney.com.au/>

- **UNIT 4 Role of Community Citizenship Celebrant**

Role of a Community Citizenship Celebrant; Australian Constitution; **Basic** structure of Australia's legal system; History and Law as relates to Citizenship; Rights & Responsibilities of Citizenship; Citizenship Ceremonies and Programs; Knowledge of factors affecting the social and cultural development of all citizens; local community structures and their relationships with federal, state and local government; research, liaison and referral skills

- **UNIT 5 Role of Civil Chaplain for schools, hospitals etc.**

The role of civil chaplain; its benefits and limitations; support structures for the role; principles of 'empowerment of people to take responsibility for the well-being of self & others; problem identification and referral; knowledge and understanding of well-being structures; advantages and limits of providing emotional/spiritual support & leadership, crisis management principles; values clarification and analysis; leadership skills, motivational skills.

Rationale:

Civil Celebrancy is a career path for many Community Services and Health professionals, especially women, who need a more flexible employment situation after approximately 15 to 20 years working in direct services. This career change may be due to:

- Burnout
- Desire to make a difference of a more preventative nature
- Need for new challenges
- Physical and emotional stamina for demanding high stress work lessening with age
- Taking on carer or family responsibilities for ageing parents or grandchildren
- Being able to work in "private practice" with the ability to control one's work timetable and coordinate it with other family members.

Celebrancy attracts a high number of people from the health, welfare, education and other community service type sectors and can provide an opportunity for these professionals to continue to utilize their knowledge and skills with a different emphasis.

Discrimination on the basis of race, gender, age, disability, and other factors affects the health and well being of people and their relationships. Nevertheless, the VET system does not have any units within its Community Services and Health Section to provide a structured framework through which people working in a range of roles can be educated about these issues and address how they may affect their working relationships as professionals in a community role.

The Civil Celebrant Program is one upon which the AGD could continue to provide leadership and affirmative action for more family friendly roles in the community development sector.

The CoCA Recommendation 12 builds upon the skills of celebrants, using the Marriage Celebrant program for community education eg *Seminars on Marriage* and community

development purposes. There are already a number of units within the Community Services and Health Sector of the VET system that over time could build towards a Graduate **Diploma** in Celebrancy.

Whilst specifically the Marriage Celebrant program may not need a Diploma level qualification, such units could enhance the professionalism of celebrants by giving them access to work in other government programs that are a natural fit with Celebrancy. For example, the Chaplaincy in Schools Program has recently expanded to ensure that government services do not discriminate against people suitable for that role, based upon religious belief or the lack thereof.

Whilst this alternative role is currently called a “pastoral care” worker, the CCN Inc. can envisage a time when the concept and terminology of a “Civil Chaplain” will not be so radical.

Review approaches to Ongoing Professional Development (OPD)

(CoCA Recommendation 7)

RECOMMENDATION 26

That the Attorney General make provision for independent basic feedback related to OPD for planning and review, in addition to the recording of OPD activities completed by the marriage celebrant. *For example: via the Celebrant Only Section of the Website.*

Rationale:

The management of the OPD by the MLCS has been inappropriate from the beginning for a number of reasons. Basically the MLCS’ primary responsibility relates to the development and review of Marriage Law and Marriage Policy as marriage affects all citizens, and the administration of those celebrants appointed under Commonwealth legislation. As such, the Department quite rightly employs staff with legal and administrative expertise, but these same staff members lack

- Marriage Celebrant expertise that comes with the delivery of marriage service to the public, such as that acquired by Registry Office staff and independent Civil Marriage **Celebrants** who deal directly with such services to the public
- The educational expertise that is acquired by trainers, who have not only theoretical knowledge of the areas they address, but also practical expertise in applying knowledge and skill to the specific area being addressed.

However, a system of OPD that was designed around all the difficulties with the training of the post 2003 appointees and the major change to **the faulty model** upon which marriage celebrancy was based does not make use of the best resources that are available for OPD. Australia has many opportunities for knowledge and skills development through TAFE, private colleges, community colleges, CAEs, universities, continuing education etc.

A well-designed ongoing professional development program for a profession should not require micro management at the AGD level. Rather the AGD needs to set the objectives and delegate to the professional and approved OPD bodies the responsibility to meet those objectives adequately.

The new MLCS portal will give the MLCS an independent mechanism to receive feedback about the OPD activities that are approved and the quality of their delivery. With much higher standards of appointment, the need for this style of management should be removed.

Upgrade to MLCS Web and IT systems (CoCA Recommendation 8)

RECOMMENDATION 27

That the Attorney General requires all marriage celebrants to complete an annual return as regards

- their delivery of marriage services
- their evidence of their Duty of Care in the provision of their Marriage Services
- their compliance with any other responsibilities they may have under the Marriage Act and Regulations and associated laws.

Rationale:

The CCN Inc. considers that the MLCS website Celebrants Only section should

- allow the collection of statistics to assist the MLCS plan and review the delivery of marriage services in Australia via an Annual Statistics Survey
- encourage increased professionalism via an Annual Duty of Care Survey in addition to assisting the AGD in meeting responsibilities as regards Compliance for **Commonwealth appointed marriage celebrant program.**

A number of suggestions are made in Appendix 9 regarding possible data for collection and annual surveys.

Support for Celebrant Associations and other Stakeholders (CoCA Recommendation 11)

RECOMMENDATION 28

That Cost Recovery measures include the provision for some funding to support the State Registries of Births, Deaths and Marriages in their involvement with the “Expert Resource Team” and the provision of Ongoing Professional Development, as required and as appropriate, for State registered marriage celebrants.

Support for Public Information on Marriage (CoCA Recommendation 12)

“The right words delivered at the right time can change your life. This, poets of Australia, is what the public needs, poems that can change lives”. - Kerry Cue, author and journalist.

The CCN Inc. considers that the government could initiate various simple strategies as tools for marriage celebrants to expand their community development and informal community education roles, and thus provide support for marriages and families.

Recommendations 24, 25, 26 and 27 are some examples of such tools that could enhance marriage and related relationships and the professional role of marriage **celebrants.**

RECOMMENDATION 29

That the Attorney General facilitate the availability of blank decorative Wedding Anniversary Certificates with the Commonwealth Australia (*similar in style but not security to Form 15*) to be available for purchase by all marriage celebrants via either Canprint or the State Registry Offices.

Rationale:

Modern **media** do little to promote and reinforce concepts of strong committed loving relationships and positive messages about marriage. Unfortunately, the media **emphasize the negatives, such as conflicts, wars, accidents, crime, harms in a variety of forms including drugs, alcohol, and sexual behaviour outside the context of loving relationships, i.e. domestic violence, divorce etc.** This negative emphasis **appears** to have a greater proportion of media time than the reverse.

Recent media reports highlight the difficulty for married couples to raise children in today's society.

There is little being done to highlight and reinforce the positive aspects of marriage and to give credit to those 50% of married couples who do stay married and who manage to address a variety of life's challenges successfully.

Whilst the "Letter from our Head of State – The Queen" acknowledges the value of long-term marriages, sixty years is a big reach for most couples these days. With couples marrying later, achieving a sixty-year marriage is increasingly unlikely.

Formally acknowledging a Wedding Anniversary with "Congratulations" from an Authorised Marriage Celebrant, civil or religious, for achieving a marriage occasion (*however long, such as a Diamond Anniversary or short, such as a Paper Anniversary*) and recorded **on a Commonwealth-crested** decorative certificate would be a tool for emphasizing the positive contributions that married couples offer to our society. Such certificates could function as the centrepiece for meaningful and personalised family events.

It is envisaged that such certificates would only be used for couples that provide a Registered Copy of their Marriage.

The CCN Inc. suggests that, just as the Civil Marriage Celebrant Program started from small beginnings, a simple strategy such as this could also have broader effects in the long term.

RECOMMENDATION 30

That the Attorney General facilitates the process of dialogue between the MLCS with other relevant AG and government departments to improve the flow of **information** on marriage related issues to all marriage celebrants.

Rationale:

Code of Practice: 3 Recognition of significance of marriage

A marriage celebrant must recognise the social, cultural, and legal significance of marriage and the marriage ceremony in the Australian community, and the importance of strong and respectful family relationships.

It is envisaged that this objective could be achieved via the MLCS website with information provided both in the Celebrants Only section and on the Public area.

Marriage celebrants are not strategically connected to other sources of information and research on marriage and family life. As community celebrants work with families at various stages of their life cycles, the better informed marriage celebrants are, the more likely they will be to pass on useful information to their couples, families, and communities.

This role is not to be confused with a counselling or formal educational role.

Perhaps for celebrants the poet Kerry Cue's words could be slightly adapted to:

"The right words at the RITE times can change lives".

Increasing the chances of having the "right" words on hand and being in people's **lives** for once in a life-time occasions, even as **simple as a Baby** Naming or a Marriage interview, is an objective of this recommendation.

RECOMMENDATION 31

That the Attorney General facilitates the development of a Coming of Citizenship Age Pack to be utilised by suitably trained marriage celebrants to be available via Canprint and to include

- an appropriately worded and designed Coming of Citizenship Age Certificate
 - a copy of the Australian Constitution (and /or a Summary thereof)
 - an Electoral Voting Pack, including a Summary of the Australian Voting system
 - a Citizenship (Human) Rights and Responsibility Booklet
- any other material as deemed appropriate by government for young adults.

Rationale:

The success of a marriage depends **on** a large number of factors, many of which relate to the ability of the parties to the marriage to function as adults who are able to respond to the needs of another, whilst looking after their own needs and being responsible for their own behaviour, and who are mature and flexible to the changes that life imposes on everyone.

Being able to marry without parental consent is only one of the markers of the status of "adult" in our society. There are a number of other rights available to adults though they also carry corresponding responsibilities.

Australia lacks a positive rite of passage through which to express its vision and expectations of

its young people as they join the adult community. It is envisaged that suitably trained marriage celebrants would be able to participate in the development and delivery of

- family based 18th and or 21st birthday ceremonies using the “kit” as proposed here and well as
- Community based annual “Citizenship Affirmation” ceremonies on / or near Citizenship Day, the 17th of September each year.

The CCN Inc. has approached government departments and personnel in relation to this proposal – the Attorney General’s via a submission to the Human Rights Consultation, the Commonwealth Health Department, and more recently the Policy Advisor to the Commonwealth Minister for Social Inclusion.

The details of such a proposal are beyond the scope of this submission but have been included to demonstrate that opportunities exist to associate with a Professional model of Celebrancy, rather than narrowly focusing just on marriage celebrancy and its registration.

Human Rights - person’s ability to respect the rights and freedoms of another person and to be responsible to protect those rights - is a fundamental aspect of all relationships, and the sum total of those relationships determines the quality of a community, and in turn a country.

A project such as this , coupled with appropriate units in the Community Services and Health Sector of the VET, would be a small but significant catalyst for other projects and initiatives that in one way or another affect marriages and their wider families.

Further reading:

The following links are included to show the CCN Inc.’s ongoing interest and support for the community development concept of celebrancy, especially civil celebrancy, as a profession.

The practical application of this concept is subject to change and needs to be viewed as a general guide only. It also needs to be acknowledged that other stakeholders would need to be involved in the process of planning such approaches.

LINKS:

ACCN (Note: now CCNA a division of CCN Inc) submissions to the Human Rights Consultation - Raising community awareness of human rights issues at a domestic level.
<http://www.civilcelebrationsnetwork.org.au/submissions/331-final-hrc-submissions>

National Preventive Health Taskforce
<http://www.civilcelebrationsnetwork.org.au/submissions/687-national-preventive-health-taskforce-submission>

CCN Inc Response to the School Chaplaincy Report
<http://www.civilcelebrationsnetwork.org.au/submissions/706-school-chaplaincy-report>

Social Inclusion submission
<http://www.civilcelebrationsnetwork.org.au/submissions/833-social-inclusion-submission>

APPENDICES

APPENDIX 1: Adequacy of Regulation Impact Statement

The Office of Best Practice Department of Finance assessed the proposed change in the Regulations of the Marriage Act as "to have more than a minor regulatory impact on the marriage celebrants' industry" and on 60% of the marrying public.

Reference:

Department of Finance 2nd June 2011 Marriage Celebrants Program Better Management Through Fees Regulation Impact Statement.

Therefore, the "Professional Celebrant Fee" will have a significant impact on the marriage celebrants' industry and on 60% of the marrying public.

The CCN Inc. considers Regulation Impact Statement was inadequate for a number of reasons including misleading information or based upon faulty or discriminatory assumptions.

1. Misleading information:

1.1 This Regulation Impact Statement (RIS) claims only a 10% reduction in the number of marriage celebrants as a result of the introduction of the "Celebrant Fee".

Analysis of the information in the RIS (i.e. a proposed fee of \$600 p.a. to cost recover a \$4.2 million) assumes only 7,000 celebrants paying the fee.

That is a reduction of 30% (not 10%) of Commonwealth appointed marriage celebrants as claimed in the RIS, meaning either the RIS is inaccurate as to the percentage of celebrants who will have to leave, or assumes 20% of CAM celebrants being exempted from paying any fee at all.

1.2 How large is the problem of lack of Compliance by Commonwealth Appointed marriage celebrants?

|

All the statistics show that except of a tiny minority, independent civil marriage and minority religious celebrants already subsidise the Government's Commonwealth Marriage Program, and now these marriage celebrants and consequently their couples are being asked to pay the system an extra \$ 4.2 million each year!

Reference:

<https://www.accn-celebrants.com.au/whats-new/824-20111008-marriage-celebrants-statistics-foi>

Table 3: Numbers of statutory complaints in each of the last four years

Statutory complaints for calendar year ending: -	Statutory Complaints
31-Dec-07	11
31-Dec-08	7
31-Dec-09	20
31-Dec-10	14
*incomplete - Year to 30-Aug-11	14

Table 2: Increase in number of Commonwealth registered celebrants over 4 years

	31-Dec-06	31-Dec-07	31-Dec-08	31-Dec-09	31-Dec-10	2011
Commonwealth-registered Celebrants at 31/8/2011	3736	4620	6809	8546	10047	10274**
% change in Commonwealth-registered celebrants over previous year	n/a	24%	47%	26%	18%	n/a
** As at 31 August 2011						

2. Faulty or discriminatory assumptions

2.1 Recognised Religious celebrants perform better than Commonwealth Appointed marriage celebrants

Religious celebrants The RIS claims that the validity of marriage is threatened by a lack quality and professionalism of services provided by Commonwealth appointed marriage celebrants because many marriage celebrants:

1. have nil or little training in legal and compliance requirements
2. fail to do the specific, improved “Ongoing Professional Development” by providers selected by an open and rigorous panel
3. fail to comply with Sections 45 and 46 of the Marriage Act as strictly as determined by the MLCS
4. have little marriage experience, i.e. average 6.6 weddings p.a.
- supply poor paperwork to the state Registry Offices.

If this rationale is true, then one can seriously question the competence and compliance of all Recognised Religious marriage celebrants, and thus, the validity of 30% of marriages performed by Recognised Religious marriage celebrants who:

- have no specific training in the Marriage Act and its Regulations required for appointment
- are not required to do the specific, improved, “Ongoing Professional Development” by providers selected by an open and rigorous panel
- do not have to apply Sections 45 and 46 as required by Commonwealth Appointed celebrants
- reportedly provide equally poor paperwork to the state Registry Offices of the Marriage Act
- perform an average of less than 2 weddings p.a. [i.e. approximately 25,000 religious celebrants who perform 35% of marriages (approx 41,200) of the 118,756 marriages conducted in 2008]
- are not required to adhere to a Code of Practice.

2.1 The RIS allows for the possibility that certain Commonwealth appointed marriage celebrants to be exempted from the fee.

That is, that there are two distinct groups of CA marriage celebrants – 70% of whom are city based civil celebrants who can afford \$600 p.a. and a smaller group 20% of rural, remote, and non-aligned religious celebrants who can not afford the fee, in addition to the 10% who will leave.

A community service model does allow for fee exemptions or low fees, which is the model applied to Recognised Religious Celebrants. However, this approach is extremely unfair if a “business” model is applied to only one sector of marriage celebrants, i.e. *independent civil city based marriage celebrants, or only Commonwealth Appointed Marriage celebrants.*

2.3 The celebrants who can afford to pay the fee must be doing more weddings and thus be better celebrants.

Income information in the RIS re the fee charged for marriage services would indicate a very conservative national average of \$500 per wedding. Based upon the RIS stated average of 6.6 weddings p.a., the average GROSS annual income of a commonwealth appointed marriage celebrant would be \$3,300.

These figures indicate that Commonwealth Appointed Marriage Celebrants are overall operating on a “community service” model and are the group least capable of paying an annual Registration Fee. Most Recognised Religious Celebrants have a stipend and other means of support, and Registry Office Celebrants, being employed, are guaranteed a full-time wage

2.4 All couples should be able to afford the cost of increased fees being passed on by the CA marriage celebrant.

Reference RIS Page 13

This option would likely impose some additional costs on marrying couples as celebrants would likely pass on the cost of the fee in the form of higher charges. The increase is likely to be small in the context of the overall cost of getting married. The costs of getting married vary widely but appear to range from \$5,000 to \$30,000 or more.

Reference RIS Page 15

It is also appropriate that marrying couples who utilize the services of celebrants contribute in a reasonable way towards the proper regulation of the Program through the payment of the celebrant who solemnizes their marriage.

The process of getting married should not be confused with the associated reception and honeymoon.

Originally the “wedding breakfast” was a feast provided by the wealthy parents of the bride in a time when marriage was more the equivalent of a company merger between two family businesses. At that time the professions of law and education were in their infancy and embedded in the role of the church – a time before the separation between church and state, as we know it today.

In fact, in the past the church was not interested in the unions of commoners, priests only becoming involved around one hundred years after the beginning of civil marriage.

Marriage in Western tradition began as a civil function, with the declaration by the couple before their community of the intention to live together as man and wife. The wedding breakfast was a community meal, not supplied by the wedding couple. The possibility of an expensive honeymoon or any extended time of holidaying was impossible for commoners who had little or no private wealth or resources to support such activities.

The cost of getting married, as indicated by the RIS, upwards of an average of \$30,000, includes all the expenses associated with the reception and honeymoon.

Issues of discrimination, disability, age, sex and race directly impact upon a person’s ability to gain access to education and employment, and thus indirectly impact the person’s earning capacity and the ability to pay for expensive receptions and honeymoon.

An assumption that everyone should be able to afford high fees for marriage services because everyone is paying high fees for these associated activities is out-dated, and this attitude in practice discriminates against those people who already face hardship.

The “right to marry” has been identified in the UN Declaration of Human Rights as an area for protection and support by a civilised society.

2.5 Commonwealth Appointed Marriage Celebrants are running a business; thus, they should be able to afford to pay a fee.

2.6

Income information in the RIS re the fee charged for marriage services would indicate a very conservative national average of \$500 per wedding. Based upon the RIS stated average of 6.6 weddings p.a., the GROSS annual income of a commonwealth appointed marriage celebrant would be \$3300.

These figures indicate that Commonwealth Appointed Marriage Celebrants are overall operating on a “community service” model and are the group least capable of paying an annual Registration Fee.

Most Recognised Religious Celebrants have a stipend and other support and Registry Office Celebrants being employed are guaranteed a full-time wage.

3 The options considered in the RIS were the only options to be considered

The following options were considered in this RIS:

Option 1: Maintain the status quo

Option 2: Provide increased budget funding to properly regulate the Program

Option 3: Introduce a Fee Scheme and Improved Regulation

Option 4: Pass responsibility for regulation of celebrants to the States and Territories

Option 5: Pay celebrants to leave the industry

Option 6: Re-impose a cap on the number of marriage celebrants to be newly registered in each year.

Not considered

Option 7: Updating the Marriage Act to simplify the aspects creating the most work for the Marriage Law and Celebrant Section and remove, wherever possible, the aspects that discriminate against independent civil and minority religious celebrants AND the couples being married by them, where compliance is required.

Option 8: Require a pre-appointment literacy, knowledge, and skills assessment for every new marriage celebrant to ensure that all new celebrants are well trained and suited to the role, paid on a cost recovery basis by all people wanting registration as marriage celebrants.

Option 9: Require all current celebrants to be assessed by the pre-appointment assessment process as part of Ongoing Professional Development within the next five years to encourage increased skill levels.

Option 10: Strengthening Conflict of Interest Provisions to ensure that all marriage celebrants are not appointed on a strictly “business model” of marriage celebrancy for independent civil marriage celebrants.

Option 11: Changing the Marriage Act to require all marriage ceremonies to be performed by civil marriage celebrants in Registry Offices, as is the situation in France, thus allowing religious celebrants to perform "Marriage Blessings" without the burden of meeting the legal requirements of notice, witnessing, and registration of the marriage.

Option 11 This would mean totally dismantling the Civil Marriage Celebrant Program, based upon the concept of independent civil celebrants in private practice, initiated as a world first by Australia.

Option 12: Changing the Marriage Act to require all couple to apply for a “Marriage Licence” from their state’s Registry Offices, similar to the situation in NZ, thus removing all the Lodgement of Notice requirements from all but State Registry Office celebrants. Option 12 would mean that the

only tasks required of all other classes of marriage celebrants would be the witnessing and registration of marriages.

Consequences of these additional options.

Options 7, 8, 9 and 10 would either reduce the workload of the Marriage Law and Celebrant Section and/ or fund the work involved in appointing new marriage celebrants and actually increase the professionalism of independent marriage celebrants.

Option 11 would be too difficult to negotiate with the religious community because of historical precedence and the political community because of its possible impacts at election times. Also, this strategy is similar to Option 4, which was considered as not viable in the RIS.

This approach would send a negative message about the social value of all marriage celebrants, religious and civil, and about the role of ceremony and community support in times of life transitions.

It would also undermine the opportunity for the government to utilize marriage celebrants and celebrants generally, both religious and civil, to assist in other government objectives as agents for community education and/ or community development.

Option 12: Likewise, Option 12 would devalue the role of celebrants in the Australian community. It would also mean:

- i. a massive increase in work load of State BDM staff in processing Notices for approx. 114,100 marriages each year (120,000 x 95%)
- ii. extra cost, inconvenience, and burden by forcing approx 230,000 people wanting to be married to access services via the very limited number of Registry Office outlets.

4 The solution to handling the requests from celebrants is to increase the staffing of the MLCS

The nature of many of the 18,000 inquiries received and responded to by the Department each year demonstrates a lack of understanding by celebrants of their legal obligations.

A number of explanations could apply to the high level of calls and the nature of those inquiries.

- The entry criterion on one VET unit between 2003 and 2010 was low, nowhere near a professional standard of an academic qualification required for entry into a profession.

This low standard means that people without sufficient literacy, comprehension, and other skills have been appointed as celebrants. This fault lies in the system, not in the individual celebrants, so it is not fair to introduce a fee applied to all, without addressing the initial cause of the problems..

- Problems are inherent in the VET system due to its ability to suitably deliver and audit the RTOs who are delivering the course. Two major problems are that

1. the VET course between 2003 and 2010 allowed celebrants to be trained by people with no experience conducting marriages, and

2. the assessment criteria for detailed auditing of the course were not administered by the Skills Council, making auditing of RTOs who were delivering poor training harder to police. CoCA will be contacting the Skills Council to follow up on the process of addressing this major flaw.

- The Marriage Law and Celebrant Section instructs that all queries by marriage celebrants be referred to them, even though prior to 2003, the BDMs with assistance from Marriage Celebrant associations performed this role.

This instruction in itself increased celebrants' anxiety about their performance and in turn increased the number of requests for reassurance from the Department.

It also undermines the celebrants' need to belong to a celebrant association when the MLCS offers that service. Thus, in turn the increased learning that celebrants gain by being members of a supportive network is also threatened when celebrants feel that the fact that they are asking questions, even basic ones, may be used against them.

- The AGD allowed exemptions from OPD of celebrants who had recently completed training, even though these people were most likely in need of refresher work.
- **Increasingly narrow interpretations of Sections 45 and 46 meant celebrants becoming more anxious about their work and their appointments, and thus requiring more reassurance.**

5. Increased Compliance will guarantee increased professionalism

There is no guarantee that compliance with the above, as assessed by the Department in a one-off review every five years, will translate into practical applications by marriage celebrants in the on-going performance of their duties.

There are four main criteria for compliance.

1. comply with administrative requirements (give change of contact details within thirty days)

This memory test may highlight celebrants with dementia, celebrants who are stressed or depressed, or celebrants with a less than professional attitude' in general. However, this criterion could apply to any occupation or profession.

2. do five hours Ongoing Professional Development (OPD) per year

As five hours p.a. of OPD activity is untested, there is no guarantee that the celebrants present will increase their professional knowledge and skills. Many medium to long-term celebrants already have the knowledge presented in certain OPD activities. Whilst theoretically there are many options for OPD, not all are available as face-to-face activities in the celebrant's local area. Even where the topics would represent increased knowledge, actual acquisition of that knowledge by individual celebrants depends on their ability to understand and absorb the information, their concentration, and motivation to act upon that information.

Where increased knowledge has been achieved, this knowledge may not be acted upon for a number of reasons.

It is not possible for the current limited OPD program (only three OPD providers) to offer the full range of educational opportunities matched to the individual learning needs of over 10,000 adults from diverse backgrounds and with prior educational and training standards.

Note: *The specific, improved, "Ongoing Professional Development (OPD)" by providers selected by an open and rigorous panel has failed to improve the legal compliance standard of Commonwealth Marriage Celebrants.*

- *The OPD system that was implemented was not what was recommended by celebrant associations.*
- *Nor were any representatives of Marriage Celebrant Associations or the peak body CoCA (Coalition of Celebrant Associations) allowed to participate in the selection of the OPD providers*
- *There is no independent evaluation of the OPD training provided by the OPD trainers or their organisation*

- *No Units of the Certificate IV in Celebrancy, either face to face or by Prior Learning, are available as OPD options, even though they would require more hours of work and would be assessed.*

• **adhere to sections 45 and 46 of the Marriage Act as strictly as the Marriage Law and Celebrant Section (MLCS) of the AGD requires.**

For thirty years, independent civil and minority religious marriage celebrants' marriages were not considered to be invalid because of failure of those celebrants to adhere to a strict "Words that mean the same as" standard rather than "Words to that effect", as now required by the MLCS.

- Nor were civil marriage celebrants' marriages considered invalid when the Attorney General gave an exemption to such celebrants from the need to use Section 45 and 46.
- Recognised Religious marriage celebrants are given full flexibility in their interpretation of Sections 45 and 46.

Confusingly, Marriage Law and Celebrant Section (MLCS) of the AGD states that they "cannot provide legal advice", yet they threaten to de-register Commonwealth appointed Marriage Celebrants if they fail to do as the MLCS dictates as regards interpretation of Sections 45 and 46.

This practice is discriminatory.

As noted above, adherence to the Sections 45 and 46 as required in writing to the MLCS does not necessarily translate into all the specific marriage ceremonies as conducted by a celebrant.

The 2003 changes to the Marriage Act and Regulations brought in extra compliance criteria, including a Code of Practice, only for Commonwealth appointed marriage celebrants.

These additional legal requirements placed upon only one group of marriage celebrants by the 2003 changes have increased discrimination against civil marriage celebrants and independent minority group religious celebrants, their couples, and the validity of their marriages.

The Marriage Act 1961 as amended covers marriage of all Australian citizens, and thus, it should apply equally to all in the spirit of the law and its administration.

Thus, the requirements of marriage celebrants who deliver those services to the Australian community should not discriminate among the different types of marriage celebrants.

Where flexibility in interpretation is given to one group, it needs to be applied equally to all. Where compliance with a Code of Practice, OPD, and other factors are mandated, then this compliance should apply to all marriage celebrants.

6. Comparison with migration agents unacceptable

Reference RIS page 15

Similar regulatory environments, such as those applicable to migration agents, impose significant fees for regulating their program. Migration agents, like marriage celebrants, are registered and centrally regulated to perform an essential role in the community. It is a role that carries significant legal responsibilities, for the performance of which they are able to charge their clients.

Migration Agents are highly trained, have full-time employment and the capacity to earn up to \$10,000 per application. See table below.

The motivation of people to use the services of Migration Agents is much higher than the motivation of people to be married. Marriage has a much lower status than it did a hundred years ago.

Comparing marriage celebrants' roles and capacity to pay such high fees with that of Migration Agents is also unacceptable.

Agent Fee Data - 1 March 2011 - 30 June 2011		
Permanent Residency Services	Employer Sponsored Migration	\$2,650 - \$5,500
	General Skilled Migration	\$1,500 - \$4,000
	Business Skills Entry	\$4,000 - \$10,000
	Partner Migration	\$1,500 - \$3,600
	Child Migration	\$1,450 - \$4,000
	Parent Migration	\$1,500 - \$4,000
	Other Family Migration	\$1,500 - \$4,000
	Special Migration	\$2,000 - \$5,000
	Humanitarian Offshore	\$1,000 - \$3,300
	Onshore Protection	\$1,000 - \$4,000
Temporary Residency Services	Students	\$400 - \$1,800
	Temporary Business	\$1,750 - \$4,500
	Temporary Non-business	\$500 - \$3,000
Other	Review Application	\$1,200 - \$4,400
	Other	\$440 - \$3,000

TABLE: From Office of the Migration Agents Registration Authority.

REFERENCE

<https://www.mara.gov.au/Consumer-Information/What-does-it-cost-to-use-an-Agent-/What-does-it-cost-to-use-an-Agent-/default.aspx>

7. Wrong model for development of professionalism

An open market system, with the notion of a civil marriage celebrant as a small business operator, applied to the legal role of an Appointee of the Commonwealth as a marriage celebrant with a stated aim of this new system of bringing increased professionalism to the profession of celebrancy, has failed to meet the high expectations of the changes as proposed and announced in 2002 as evidenced in the arguments mounted by the Attorney General Department.

The simplistic notion that civil marriage celebrants are primarily small business owners who are predominantly motivated by money has been shown not to be true.

- The outcome of the 2003 changes confirms the concerns that the Celebrant Associations expressed in the pre-change Consultation Period; these concerns were largely ignored by the government at that time.
- In many ways, such an approach can be seen to reinforce old prejudices that civil or secular people's motivations are less caring and ethical than religious people.
- As such, this approach aligns civil marriage celebrants with the wedding industry and thus with the commercial and superficial aspects of the wedding, rather than with the underlying primary rationale for the wedding *i.e. the marriage itself*.
- The proposal to charge such a high fee to conduct civil marriages further stigmatizes and discriminates against civil marriage celebrants.
- If it is acceptable for religious celebrants to be authorized to celebrate marriage as one of the rites of passage in their communities, then it should be equally acceptable for civil celebrants to be authorized to celebrate marriage as one of the rites of passage in their communities.

7.1 Low entry criteria as the government's mistake

The "Open Market" approach since 2003 has delivered an increase of 7,183 celebrants, as compared to the 3,317 marriage celebrants still remaining who were appointed under the needs based system. Only a small number (approximately 100 as assessed by the Attorney General's website) have been appointed under the new Certificate IV in Celebrancy. Thus, under the new appointment system, the number of Commonwealth appointed marriage celebrants has more than doubled.

Predominantly, the concerns expressed by the AGD are about the 7,000 Commonwealth appointed marriage celebrants who were appointed between 2003 and 2010, and who completed ONLY ONE VET UNIT for appointment.

These concerns have been made worse by

- increasingly dictatorial and inflexible approaches by the AGD to Sections 45 and 46, to OPD, and to management of requests for information
- reluctance by the AGD to implement suggestions provided by experienced marriage celebrants and the celebrant associations.

"The level of qualification required for registration has been significantly increased from a single unit of training to a full Certificate IV in Celebrancy. The latter came into effect on 3 February 2010. The increase in the level of qualification has, to date, had some marginal effect in raising the standard of training of applicants for registration but has not sufficiently addressed the fundamental problems of ensuring celebrant have an appropriate understanding of obligations and compliance with obligations outlined above. The completion of the Certificate IV in Celebrancy is considered to be a necessary condition to ensuring the professionalism of celebrants, but it is not of itself a sufficient condition. Appropriate monitoring and enforcement of the relevant standards are also required".

7.2 The Attorney General's Department has not acted upon advice from the Celebrant Associations from the commencement planned changes in the late '90s to 2000's.

The mistrust of advice from experienced celebrants appears to have been interpreted as a conflict of interest on the part of existing celebrants who want to protect their interests, based upon a business model, yet it was the government who assumed this new direction in the first place.

- Marriage celebrant associations recommended a FULL Certificate IV in Marriage Celebrancy with eleven VET units.

This course is comprised of one marriage legal unit and ten business units and has been designed upon the AGD's insistence that Civil Marriage Celebrants are small businesses and thus unworthy of protection and that open market forces would determine the quality of celebrants' work.

Also, under the previous needs based system, there had been little concern about the legal and related paperwork of Commonwealth appointed marriage celebrants. In fact, the BDMs had routinely expressed the opinion that civil marriage celebrants' paperwork was of a far higher standard than that of the Recognized Religious Celebrants.

- The AGD reduced the entry point criteria to ONLY ONE VET unit, presumably on the basis that the AGD could not require Independent religious celebrants to do business units.

However, the proposed amalgamation of separate categories of civil, non-aligned religious, and special needs based Commonwealth appointed marriage celebrants was not made available by the AGD to the Industry Reference Group who recommended the training to the AGD, or this information could have been factored into the initial Training Recommendations.

- The VET system itself creates many problems that minimize the ability of celebrants to deliver a consistent high quality standard of knowledge and skills as the result of VET training. Major

problems have been:

- no requirement for trainers to have experience in the field in which they are training. The completion of a Certificate IV in Workplace Training is deemed sufficient, and if experience is lacking, the trainer can be paired with someone who has to make up the gap. There are numerous examples of trainers without marriage celebrant experience, trying to teach this course.
- no requirement that the trainer have civil marriage celebrant experience to be a trainer, even though the majority of trainees will apply to conduct civil, rather than religious, ceremonies, nor was there any specific level of experience required of trainers by the AGD.
- literacy and numeracy skills requirements, though requested, were not accepted because the VET system does not want to set up barriers for people starting VET courses
- Whilst the Certificate IV in Celebrancy commenced in 2010 increased the number of Marriage Specific units to four, the AGD requires only that trainers have marriage experience of three weddings in two years. This low requirement is despite recommendations by celebrant associations that all trainers have conducted a minimum of twenty-five weddings.
- literacy and numeracy skills requirements, though requested, were not accepted because the VET system does not want to create barriers for people starting VET courses
- Most Registered Training Organisations (RTOs) are commercial bodies that aim to be self-supporting whilst delivering an acceptable standard of training. Nevertheless, for some, making a profit is their major or only priority.
- For some RTOs, providing training in Marriage Celebrancy has been seen as a "cash cow". Until recently, Marriage Celebrancy was viewed as a desirable profession, involving part-time, weekend work, and the un-informed thought that most celebrants could earn a high income.
- The fragmented nature of the VET system makes feedback and complaints extremely difficult to deliver, without some independent assessment of the outcomes of the course graduates by the various RTOs.

7.3 The Open Market approach since 2003 has delivered an increase of 7,183 marriage celebrants, compared to the 3,317 marriage celebrants still remaining who were appointed under the needs based system.

Only a small number (approximately 100 as assessed by the Attorney General's website) have been appointed under the new Certificate IV in Celebrancy. Thus, under the new appointment system, the number of Commonwealth appointed marriage celebrants has more than doubled.

Predominantly, as noted before the concerns expressed by the AGD are about the 7000 Commonwealth appointed marriage celebrants appointed between 2003 and 2010, who completed ONLY ONE VET UNIT for appointment.

These concerns have been made worse by the AGD's increasingly dictatorial and inflexible approaches to Sections 45 and 46, to OPD, and to management of requests for information.

8 No overall increase in weddings or experience

The Regulation Impact Statement states: *The benefit of this option to marriage celebrants both individually and as a sector is that the celebrants who continue will develop better experience through the opportunity to conduct more ceremonies thereby improving their level of professionalism and the overall performance and the standing of the sector. They will also receive improved standards of regulation by the Department.*

(Application rate of 1,800 p.a. - Figures provided for 2011) as the Department states that appointment

criteria of the new full Certificate IV in Celebrancy “*has not sufficiently addressed the fundamental problems of ensuring celebrants have an appropriate understanding of obligations and compliance with obligations outlined above.*”

A 10% decrease in numbers of celebrants, being replaced by more than 10% of new celebrants, and thus totally inexperienced, as implied by the RIS will not

- reduce the overall number of non-complying celebrants, nor
- result in any significant increase in experience.

Even if all independent religious and civil country /remote celebrants were removed from the equation,

- an increase of 30% raises the number of weddings per year from 6.6 to only 8.8 weddings per year per celebrant i.e. an increase of less than one per month per celebrant

will not mean that the celebrant profession has gained significantly more experience to guarantee proper legal understanding and compliance as claimed.

In fact, in 1999, the average number of weddings per celebrant was 32 weddings p.a.

Even at this high rate, only 4% of celebrants were doing two or more weddings per week i.e. able to make an average weekly wage from civil marriage celebrancy.

To achieve this ratio of weddings per celebrant would require reducing the number of civil marriage celebrants to 2,250 from the current 10,400 celebrants, i.e. getting rid of approx. 80% of current celebrants.

Beneficiaries of Marriage Act

Reference RIS Page 12

These requirements are necessary and appropriate for the authorisation and monitoring of private citizens who perform significant legal responsibilities where failure to properly perform those responsibilities can have a significant negative impact on members of the public.

Reference RIS Page 15

Registration under the Program provides celebrants with the authority of the Government to perform a legally significant and socially important function and to charge marrying couples for the performance of this function. It is appropriate that the beneficiaries of the Program - the celebrants registered under it - provide the funding to properly regulate it.

This submission challenges the statements in the RIS that the celebrants are the beneficiaries of the Program.

- Marriage celebrants deliver a service to the Australian public on behalf of the government.
- Therefore, the beneficiaries are the marrying couples and the Government.

The RIS shows that civil marriage celebrants at 6.6 weddings per celebrant p.a. are making a gross income of less than \$3,300 if one over-estimated the average wedding fee charged by celebrants at \$500.

In fact, one could argue that

- currently independent marriage celebrants are providing a charity service to the public.
- as recognised religious marriage celebrants are supported by their churches and staff doing weddings in Registry Offices are employed, those two categories of celebrants are better placed

financially to pay a fee if one were required.

- Rather than being the beneficiaries of this program, Commonwealth appointed marriage celebrants under the current model of celebrancy are in fact subsidizing the Marriage Celebrant Program.

Given the importance of a stable marriage to society and the enormous costs to government when it fails, one could argue that

- this program should always be funded by tax payers' funds
- the best possible models should be used to ensure choice by the public
- uniform standards should be applied to all celebrants - civil and religious

9 Significant impact on the marrying public

\$4.2 million on cost recovery basis is required to remove 10% of celebrants who do not comply with their obligations.

This 'celebrant fee' means an extra cost averaging \$91 per wedding for each couple who want a civil or minority religious marriage performed by an independent celebrant of their choice is required to fully fund the Marriage Law and Celebrants Section (at "Professional Registration Fee" of \$ 600 p.a. for an average of 6.6 weddings).

People become independent marriage celebrants for many reasons; very few choose to do it for purely economic reasons as evidenced by the number of marriage celebrants continuing in the role, despite an average of 6.6 weddings per year.

6.6 weddings p.a. = an average gross income from weddings of less than \$3,300 pa.

Many marriage celebrants fund their wedding work from other employment income, pensions, super or private resources.

A high "professional fee" will advantage the rich, well-located celebrants who have good marketing skills and resources, regardless of their legal and ceremonial skills as celebrants.

Such attributes (*the rich, well located celebrants with good marketing skills and resources*) are not required of Recognised Religious Celebrants, nor of Registry Office staff performing weddings for which they too receive remuneration.

10. Fee massively disproportionate to income

The Regulation Impact Statement identifies the average number of weddings per celebrant per year and their fees: "Anecdotal information available to the Department indicates that a fee of \$250-\$300 per marriage is not uncommon and that a large number of celebrants charge considerably more than that".

The "*a large number of celebrants charge considerably more than that*" statement is not true given the competitive nature of the marriage celebrant industry.

Even at \$ 500 per wedding, the GROSS income per celebrant is \$3,300 p.a.

- \$ 600 per celebrant for a "Professional Celebrant" Fee is a huge percentage (18%) of Gross Income
- Added to OPD average of \$200 p.a., Insurance average of \$150, and Copyright Licence average of \$50 p.a., this fee will increase celebrant's costs to act professionally to an average of \$1,000 per celebrant, or 28.5% of Gross income

These expenses constitute obviously unacceptable and prohibitive fees for the average Marriage Celebrant.

Even professional people with full time employment, such as teachers, have registration fees of around \$100 p.a., which by comparison are much lower.

Conclusion:

The essence of the argument of the RIS is that the Marriage Law and Celebrant Section (MLCS) needs more staff to deal with its Compliance requirements.

However, most celebrants who have worked over the last decade or more see these issues differently.

There is the old story of a high cliff with no fence overlooking a magnificent valley.

Lots of people go too close and fall over the cliff.

More and more ambulances and staff are needed to pick up the injured people to take them to hospital.

Now the ambulance service wants more funding for more ambulances and staff to deal with the problem.

Is not the sensible and more cost effective solution to build a fence to stop so many people from falling over the cliff?

We can solve this problem in the following ways:

- Improving the standards of people entering the field would reduce incoming numbers and staffing as better-trained celebrants will require less work by MLCS.
- Encouraging existing celebrants to leave the field based on their level of competence, not on their personal wealth or other income
For example, assessments of Compulsory OPD would allow the MCLS to give celebrants feedback and encourage them to improve their skills or to resign.
- Allowing more flexibility with OPD so that more celebrants are encouraged to attend.
- Requiring celebrants to have appropriate insurances and copyright licence cover.
- Reducing the problems associated with the Marriage act itself

The recommendations by celebrants are based on celebrants' working knowledge of the aspects of the Marriage Act and the Marriage Celebrant Program that cause the main problems.

Further Reading:

Is marriage celebrancy a profession? Rona Goold

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/750-biting-the-bullet>

Appendix 2: Most Appropriate Model upon which to achieve RIS aims

A strategic approach to the development of "professionalism" of marriage celebrants

In the Budget, delivered on 10 May 2011, the Government announced a measure to improve the Marriage Celebrants Program. The Attorney General's announcement stated the aim:

"to strengthen the professionalism of marriage celebrants and to benefit marrying couples, marriage celebrants, and the community".

Reference:

http://www.ag.gov.au/www/agd/agd.nsf/Page/Marriage_MarriageCelebrantsProgramReforms#about

The Regulation Impact Statement (RIS) states:

"The Government's objective is to effectively regulate the Program, thereby improving the compliance and professionalism of marriage celebrants to the benefit of marrying couples and society more generally". Reference: RIS page 8.

In considering the "strengthening/ improving the professionalism" of marriage celebrants, one needs to clarify the meaning of these terms.

The term "professional" tends to be applied generically to an array of activities that once would have been considered trades or service jobs, e.g. being a "professional plumber" or a "professional" baby sitter, where the term simply means competent and skilled at the task, or denotes the difference between a paid and unpaid occupation e.g. "professional" boxer, "professional" fund-raising.

So, does the RIS use the term "professionalism" here to mean simply "competent" or "skilled" and "receiving money" in delivering marriage services?

If so, that definition would apply to all classes of marriage celebrants.

Or does this expression assume a profession called "marriage celebrancy" or recognise that there is a profession associated with providing marriage services to the community and that strategies to improve the "professionalism" of the role need to be taken in the context of the profession through which those services are provided?

The CCN Inc. argues that to strengthen or to improve the "professionalism" of marriage celebrants, the underlying model needs to be identified to develop the best strategies, not just for the government's immediate concerns but also for the needs of the Australian community in the long term.

On whose behalf do celebrants provide marriage services to the community? -

The CCN Inc. considers anyone authorised to conduct marriages in Australia as providing a government service under an Act of Parliament, whether the service is done in-house (BDMs) or outsourced (to religious institutions or religious celebrants or independent civil celebrants).

The celebrant's motivation is not the issue; whether the celebrant's motivation is to:

- * make a living (employment)
- * do community service (vocation)
- * make a profit (business)
- * serve God (religious expansion)

the delivery of marriage services is still a government service to the Australian community.

As such, there needs to be a level playing field:

One country, one law for marriage, one set of principles for all who deliver that service to the public.

So what is the most appropriate model of marriage celebrancy upon which to develop the most effective strategies to meet the aim of "improving professionalism"?

A. Civil Marriage celebrancy as “just a business” is not an appropriate model for the following reasons:

- Marriages are once-in-a-life-time events - thus unique services that cannot be sold in exactly the same way on a regular basis to customers time after time.
- The "open market" alone cannot regulate the numbers of celebrants.
N.B. Usually, other factors limit the number of people entering a business sector, such as community demand, length of education, set up costs, other legislation affecting those sectors.
- The motivation of most celebrants for doing marriage work is not primarily “to make a profit”.
However, being able to charge an hourly rate for one’s work should not be viewed as a conflict of interest, especially as this criticism does not apply to registry staff or religious celebrants.
- There are altruistic and other community service motives involved.

B. Civil Marriage celebrancy as a profession is not an appropriate model for the following reasons:

- Marriage celebrant work alone does not require an extensive period of education compared with other professions.
- In most professions, the expectation is that someone would train early or earlier in life to be able to apply that complex body of knowledge and skills over a long period of service to the community in a variety of situations and to be capable of absorbing and applying new developments as the profession evolves.

. That is, a profession is not an activity associated with a post-retirement plan to have something to occupy one’s time, *i.e.* something nice to do when retired, bring in a little extra cash or give one a little post-retirement status. The marriage celebrant is not the same as someone who has trained and worked as a professional and who then decides at various times in the life cycle to work part-time.

- The role of the marriage celebrant does not involve the equivalent of a full-time occupation of the complexity normally associated with a profession.
- The demand for marriage services by the Australian marrying public cannot support people earning a full-time professional net salary income while the government continues to appoint unlimited numbers of marriage celebrants.
-
- Marriage celebrants do not enjoy high status and rewards like other professionals do.

Marriage celebrancy should be seen as a part of an evolving profession of Civil Celebrancy in that wedding ceremonies are only one of a range of ceremony options that celebrants may offer their community.

This aim is not necessarily shared by all people who are currently marriage celebrants, nor is it a reality as yet. However, the government needs to allow for this possibility, given that marriage is affected by the birth of children and the death of family members.

C. Civil Marriage celebrancy as para-legal work is not an appropriate model for the following reasons:

- Whilst legal aspects are an important component of marriage, the ceremony is a more significant service being offered by Recognized Religious and Independent marriage celebrants, in contrast to registry office services.
- The long term public commitment a couple makes in marriage is a personal, psychological, family and social activity, requiring knowledge and skills unrelated to law, in addition to the legal component.

- The Code of Practice requires ceremonial aspects to be offered as part of the legal role for Section 39C celebrants.

However, should the government remove all ceremonial aspects and withdraw the rights of religious celebrants to perform marriages on behalf of the government, then a paralegal work model would be possible. This model has been adopted in France.

Such a re-definition is unlikely to be acceptable to the Australian community that has embraced an alternate to a religious ceremony model, whilst upholding the basic principle of a 'fair go'. *i.e.* *freedom of choice*.

CCN Inc. does not recommend this option for consideration.

D. Civil Marriage celebrancy based on the Migration Agents model is inappropriate.

There are more differences than similarities between these two roles. Migration agents have

- much higher educational standards
- stricter appointment criteria
- opportunities for full time employment
- high annual remuneration
- fee structures as much as ten times higher than the fees for marriage services
- the bulk of their work related to legal matters

Thus, basing a 'professional celebrant fee' on the model of Migration Agents is a flawed comparison.

E. Civil Marriage celebrancy as part of the profession of Civil Celebrancy as community (development) work is appropriate model, as it

- has public service and altruism components
- has appropriate levels of training for the task
- has expectations of professionalism, even if not a full profession.
- includes training already set within the Community Service and Health sector of the national Vocational Education & Training system
- puts religious belief to one side,
- a community work model is also the best fit model that applies to the majority of marriage celebrants, whether they be recognised religious, or independent civil, or minority religious celebrants.

There are many professionals in medicine, law, social work, psychology, nursing and education, employed by government bodies, private non-profit and for profit agencies.

Some of these services are now being offered by individual professionals setting up in “private practice”.

Whilst there may be certain legislation that covers parts of their activities, their full roles are not dictated by law.

For example, teachers may be required by Mandatory Reporting legislation to perform certain tasks related to that law. However the law does not try to redefine teachers as 'child protection' workers, just because the law is concerned only with that part of their work.

Recommendation:

Therefore, the CCN Inc. recommends that the most appropriate model upon which to improve the “professionalism of marriage services” is Model E.

Appendix 3: CCN Inc. Model of Celebrancy

Summary:

<http://www.askacebrant.com.au/national-e-magazine/articles-for-celebrancy/688-accn-role-of-celebrant>

The Celebrants & Celebrations Network Australia (CCNA) views the role of the modern Australian civil celebrant as a complex and evolving one.

The independent civil celebrant in a democratic society has a unique opportunity to:

- inspire individuals, couples, and families to build more harmonious supportive relationships
- provide a framework through which individuals, couples, and families can be supported during times of major changes in their lives
- acknowledge times and roles past, articulating achievements, in learning from mistakes and moving on from failures and successes
- provide a vision of future roles and relationships, offering guidance to encourage and support change for optimum health of all concerned
- inform and informally educate on issues related to marriage, family, and community life, loss and grief, managing change and "civilized" behaviour in a modern day context, and supporting human/citizens' rights and responsibilities

Historically the role of religious celebrants in relation to their congregations has been one of family and community worker. In some cases, religious celebrants have played the roles of teacher, educator, psychologist, counsellor, social worker, community developer, and human rights activist.

Much of the intent of the religious celebrants' work is to support human beings in finding the "right" relationship with themselves, with others, with their community and their world, including their God, however that is defined by the specific religion.

For some religions, that "God" is not conceived of as a single being, nor even personified at all. The "God" may be the "good", i.e. a set of principles for right living, for living the "good" life, or "God" may be "love", i.e. the desire for the best for another being's health and welfare physically, mentally, emotionally, socially, and spiritually.

People's needs for love, affirmation, respect, inspiration, support, relationship, community, and opportunities to mark important life occasions have not disappeared despite the widespread decline in religious affiliation.

Rather, the evolution of civil celebrancy, in the ongoing growth in the type and context for civil ceremonies, is a reflection of this need.

For civil celebrants the challenge is to:

- find the common ethical relational threads under-pinning religious teachings that uphold the dignity of all human beings and living things
- be able to articulate these threads in a language that does not discriminate on the basis of religion or creed, or no religion at all, and
- inspire individuals, couples, families, and communities to live up to their fullest and best potential, and to be able to serve their communities with creativity, sensitivity, humility, and understanding.

Australia is one of the world leaders in the development of civil celebrancy.

Details:

What is a civil celebrant ?

The CCN views the role of the modern Australian civil celebrant as a complex and evolving one.

The easiest way to understand the definition of a modern civil celebrant is to start by considering how the role of celebrant (or priest) has evolved.

In essence, this approach involves looking at the history (and her-story) of religion.

In earliest times, the celebrant was called a "shaman" (expressed negatively as a 'witch-doctor'). The shaman's role was to intercede with the mysterious forces of nature to ensure that Mother Nature would bring positive benefits to the group. This intercession would thus provide a sense of security in the unpredictable world where people's knowledge and understanding were limited by their powers of observation.

Most of the earliest religions are believed to be based on the feminine principle, being more Goddess centred than God centred. Presumably this related to the mysterious and awe-inspiring power of females to bring forth new life.

As human communities settled with the cultivation of crops and husbanding of animals, the role of priest broadened and became a structured part of society. The people built permanent shrines or temples, and that development increased the number of people associated with the shaman - priest.

Gods were viewed as gods of place, each area having its own. Nomadic tribes developed concepts of gods that travelled with them.

Belief systems were refined and initially transmitted via stories and songs, and then eventually documented in written form.

The eighteenth century assumption of the masses that the religion on offer was how it had always been has been challenged in a variety of ways by recent scientific study of religious texts and artefacts.

For example, the Old Testament (or Hebrew Bible) was not a unified document until after the fall of Jerusalem in 70 AD. Fearing that their religion would be fragmented and lost, the Jewish people decided to bring together one official version of their testament. At that time, there were many different versions of the books, some of which were included, some not, in what is known today as the Hebrew Bible, which Christians call the Old Testament.

As evidence has challenged the literal/ historical interpretations of religious texts, much more emphasis has been placed on symbolic interpretations: how the text plays a role in teaching and reinforcing social norms and providing a psycho-social understanding of humans' relationship with the universe and their place in it.

Developments especially in the psychology and psychiatry fields have brought more understanding of humans' inner worlds and thus more ability to see the connections between religion and other areas of life. Jungian psychology is one approach to understanding the relationship between the conscious and unconscious use of symbols as "tools of translation".

Perhaps a useful clue is found in the meaning of the word "pontiff", which meant "bridge", because the traditional interpretation of the priest's role was as the bridge between man and God. In modern terms, part of the celebrant's role is to bring into consciousness things that people may prefer to leave out of awareness as a defence against the unknown and against change.

So from the beginning of recorded history, the role of the celebrant has been an important one in the daily lives of people in communities, whether those be large or small.

As humans evolved, their capacity for awareness of self and the world around them and their ability for creative and logical thought and complex communication increased, and people commenced to:

- look for patterns in relationships between our own species and other species and the surrounding environment
- ponder the questions of How and Why with the aim of improving survival to
- be able to answer the next order of questions of When , Where, and What with some level of predictability and security,
- or at least to try to avoid devastating results of natural disasters.

The human brain is complex as are the brains of many other species of animals, and modern science is discovering more and more that even simple organisms have very complex mechanisms for survival, reproduction, and for daily living.

Perhaps humans are rather arrogant to think that they are the only ones with these capacities for self-awareness, creative and logical thought, and communication.

Certainly, humans appear to have a capacity to over-ride their basic instinctual programming via the use of social, and cultural programming and education.

In a way, humans have been developing and refining a scientific approach to solving fundamental problems of life from early times. The first step is "observation", followed by a "guess or a hunch" about "why" or "how" that thing or process was the way it was. The next step would be further observation to see if the theory (guess) was supported by observation. With only the five basic senses (sight, touch, sound, taste, smell) as tools of observation, the guesses and observations made were extremely limited.

And so it seems that primitive humans interpreted the unknown by projecting their thoughts and feelings of their known world of human relationships onto the outer world. Objects that today we may see as gender neutral were considered "male" or "female" if their qualities seemed similar to or symbolic of the qualities of particular genders. Evidence of this phenomenon can be found in certain languages, such as French, where nouns are all assigned a gender.

The most powerful and mysterious objects to the ancients were our Sun and Moon, and the most powerful processes were the birth of new humans and death, where the life force could exist one minute, but be gone the next.

As life seemed to require the existence of the pair of the Sun and Moon, and their powers seemed so immense compared with those of humans, they became the earliest gods and goddesses.

The Sun and the Moon were mostly viewed as the "parents" of the world, the Sun being male and the Moon being female, or the Sun being male and the earth being female (Gaia).

The ancient Egyptians viewed this pair as the Moon Goddess (Iris) and her Resurrecting Son (Horus). Each day the son would journey across the sky, to die at the end of the journey. The son was re-created each night by the mother Moon, to be re-born each day, and then to repeat the cycle again.

Pleasing these "parents", or as societies evolved, this "king and queene", to ensure the continuance of the natural order and to avoid disasters, the role of the "priest", the bridge between the known and the unknown worlds, became crucial.

Roman and Greek mythology shows a much greater level of complexity in the understanding of the unknown world. The godhead was represented primarily as a family and society in which various gods and goddesses had responsibility and control over various aspects of human life. This personification of various characteristics of human nature, their relationships with each other, their stories that show the effects of certain characteristics when dominant, are more sophisticated ways of attempting to educate people about their natures.

The path to psychological maturity can be explained and applied in more modern terms. For example, the sequence of the Major Arcana in the Tarot deck represents the 'journey of the soul' from birth - the Fool (Naive One) - to ego death - the Hanged Man - to atonement - the World (Wholeness or "At-one-ment").

Whilst religious celebrants have always had tools in religious language with which to communicate their understanding of these "things of the spirit", civil celebrants have not had access to any equivalent terminology until recently.

Civil celebrants need to look behind the literal interpretations of religious thought and dogma to the tasks that the religious celebrants undertake and to their effect on the people and groups with whom they work to find a common modern language within which to communicate to people of different religions and those of no religion, and to express in modern terms the role of a civil celebrant.

Further Reading:

Articles

A selection of articles from CCNA (ACCN) National Celebrant e_Magazine

Many Voices – One Goal:

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy>

Our Early Years – Lyn Knorr

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/139-our-early-days>

The Funeral Celebrant - A New Profession? Pam Vetter

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/140--a-new-profession->

The Family Celebrant - A Celebrant for All Occasions - Pam Vetter

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/198-the-family-celebrant>

Kath Buttriss NSW pioneer – Keith Lamond

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/245-kath-buttriss-nsw-pioneer>

On Popular Poetry - *Right words at the rite time?* - Kerry Cue

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/247-right-words-at-the-rite-time>

Citizenship and civil celebrancy? Breaking Pattern of Citizen Inane - George Williams

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/265-future-of-celebrancy>

The new civil celebrant? ACCN submission to Human Rights Consultation - Rona Goold

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/313-the-new-civil-celebrant>

Civil - Spirituality for everyone – Rona Goold

<http://www.askacelebrant.com.au/national-e-magazine/articles-for-celebrancy/531-civil-spirituality>

Becoming a Celebrant

<http://www.accn-celebrants.com.au/celebrant-becoming-one>

Considering becoming a marriage celebrant? (*Net hourly rates*)

<http://www.accn-celebrants.com.au/becoming-a-celebrant>

Being a Celebrant

<http://www.accn-celebrants.com.au/celebrant-being-one>

APPENDIX 4: CoCA Revised Code of Practice

Previously presented to the Attorney General's Department

EXTRACTS FROM COMMONWEALTH GOVERNMENT

Code of Practice

Attorney-General's Department

Robert Garran Offices, National Circuit, BARTON ACT 2600 Tel: (02) 6250 6666 Fax: (02) 6250 5900

HIGH STANDARD OF SERVICE:

A marriage celebrant must maintain a high standard of service in his or her professional conduct and practice.

Therefore your celebrant will recognise the social, cultural and legal significance of marriage and the marriage ceremony in the Australian community, and the importance of strong and respectful family relationships.

Marriage is a fundamental and central institution of Australian society and weddings mark a special day in the lives of those involved. Adherence to this Code of Conduct will ensure that your marriage will be valid and all parts of the legal documents will be accurate and appropriate. Your Celebrant also has a duty to ensure that the information supplied by you conforms to the requirement of the Marriage Act and Regulations. In addition the safety and health, of you, your guests and others associated with your wedding is of paramount importance. Your Celebrant has the right not to conduct or to ask that you postpone your ceremony should there be any danger or failure by you to comply with the requirements of the law. To help ensure that high standards are observed the Registrar of Marriages will hear any complaints you may have relating to the failure of your Celebrant to meet the obligations under the law and may take disciplinary action and/ or hear any complaints your Celebrant may have relating to your failure to meet the obligations under the law.

GENERAL REQUIREMENTS FOR MARRIAGE CEREMONIES: The marriage celebrant must respect the importance of the marriage ceremony to the parties and the other persons organising the ceremony. To that end, the marriage celebrant must do the following:

- (a) give the parties information and guidance to enable them to choose or compose a marriage ceremony that will meet their needs and expectations;
- (b) respect the privacy and confidentiality of the parties;
- (c) maintain appropriate facilities to interview parties and provide office facilities, including facilities for the secure storage of records;
- (d) within a reasonable time before the marriage ceremony: (i) *confirm all details with the parties; and (ii) ensure the return of all personal documents belonging to the parties (unless it is necessary to keep the documents for the ceremony); and (iii) sign any necessary declarations;*
- (e) if requested by the parties, conduct a marriage ceremony rehearsal;
- (f) ensure that his or her personal presentation is of an appropriate standard for the marriage ceremony, and respect the expectations of the parties in relation to the ceremony;
- (g) make efforts to ensure that the marriage ceremony is audible to all those present (using audio equipment, if required);
- (h) ensure accuracy in the preparation of documents, and in the conduct of the marriage ceremony;
- (i) arrive at the venue for the marriage ceremony no later than the time agreed with the parties; however the Celebrant may depart the venue if one or both the parties fail to attend, within a reasonable period, as agreed;
- (j) if the marriage celebrant has agreed to perform more than one marriage ceremony on the same day: *i) ensure that the parties to each marriage receive a level of service that meets their separate and special requirements; and*

(ii) be available at the venue for each marriage ceremony at least 20 minutes before the agreed commencement of each ceremony (unless, in the case of consecutive ceremonies, the ceremonies are to be held at the same venue);

(k) Will solemnize marriages according to the legal requirements of the Marriage Act 1961 (Cth); and observe the laws of the Commonwealth and of the State or Territory where the marriage is to be solemnized; and avoid unlawful discrimination in the provision of services. > ensure that all relevant documents are completed and sent to the appropriate registering authority within 14 days after the marriage ceremony, as required by section 50 of the Marriage Act 1961;

(l) in relation to the provision of marriage services, accept evaluative comment from the parties, and use any comments to improve performance

(m) Maintain an up-to-date knowledge about appropriate family relationships services in the community; and inform parties about the range of information and services available to them to enhance, and sustain them throughout, their relationship.

(n) May provide you with a Service Agreement that will incorporate the Celebrant's duties under the law or, he or she may provide this document as his or her Service Agreement. Every wedding is unique and therefore you should ensure that the Agreement meets your needs. Any clause is invalid to the extent that it is inconsistent with this Standard

(o) Will provide information about how to notify the Commonwealth Attorney-General's Department of any concerns or complaints you may have regarding the marriage services provided by the marriage celebrant.

Appendix 5: TIME FOR NOTICE of Intended Marriage in Other Countries:

This table provides a representative sample of other countries' required time periods for intended notice. However, not all countries of the world are included due to time constraints in doing the tedious up-to-date research on a volunteer basis.

Country	Notice Time	Notes
CANADA		Canadian Provinces (i.e. states) A Marriage Commissioner is a Civil Celebrant:
Alberta, British Columbia New Brunswick, Northwest Territory, Nunavut, Ontario and Prince Edward Island	No waiting period	
Manitoba Saskatchewan, Yukon	24 hours	Between issuance of license and ceremony.
Newfoundland and Labrador	8 days	4 days between application for and issuance of license and a further 4-day wait between the time the clergy or marriage commissioner receives the license and when the ceremony takes place.
Nova Scotia	5 days	Between application for and issuance of license.
Quebec	20 days	Between issuance of license and ceremony for purposes of publication of banns, an old tradition that simply entails posting a wedding announcement at the prospective venue for your ceremony. A Court Clerk or your wedding officiant will assist you.
USA		United States wait between getting Marriage License and the actual ceremony within each State's jurisdiction
Alabama; Arizona; Arkansas; California; Colorado; Connecticut; Georgia; Hawaii; Idaho; Indiana; Kentucky; Montana; Nebraska; Nevada; New Mexico; North Carolina; North Dakota; Ohio; Oklahoma; Rhode Island; South Dakota; Tennessee; Utah; Vermont; Virginia; West Virginia; Wyoming;	None	
Florida	No waiting period	For Florida residents who have both completed a state sanctioned marriage preparation course within the last 12 months.
Florida	Three-(3) day waiting period	For Florida residents who have not taken the course.
Illinois; New York; South Carolina;	24 hours	
Delaware	24 hours (non-residents 4 days)	If both of you are nonresidents, there is a 96 hours waiting period.
Maryland;	48 hours (i.e. 2 days)	
Alaska; Iowa;	Three (3) business days	
Kansas; Maine; Massachusetts; Michigan; Missouri; Missouri; New Hampshire; Oregon; Pennsylvania; Washington;	Three (3) days	
Louisiana; Mississippi; New Jersey; Texas; New Jersey;	72 hours (i.e. 3 days)	Out-of-state couples can get married in New Orleans without the 72-hour wait.
District of Columbia; Minnesota;	Five (5) days	
Wisconsin;	Six (6) days	
Sweden	No wait	But local laws on Certificate of no

		impediment apply
Costa Rica	No wait	(If not previously married or if not pregnant)
Italy		
	No wait	Non-residents
	2 Sundays for Banns	Residents of Italy
Dominican Republic	No wait	
Denmark	Depends	On locales (Kommune) rules & documentation
Dominica (Caribbean Island nation)	2 days	
New Zealand	3 days	
Mexico	2 or 3 days wait	Depends on state laws, if divorced year wait
UK Isles		
Guernsey	one day	
Isle of Man	3 days	
Jersey	7 days	
Bahamas	24 hours	
Belize		
	1 day	
	3 days	If non-resident
Philippines	10 days	Local jurisdictions
Belgium	10 days	
Bermuda	15 days	
UK		
England, Northern Ireland, Scotland & Wales	15 clear days	
Spain	21 days wait	
Australia	1 month	
Russian Federation		
	32 days	
Ireland		
Republic of Ireland	3 months	
Germany	Up to 6 week wait	Up to local jurisdiction
Egypt		
	None listed	
	3 Months	If Divorced
	4 months 10 days	If widowed
Greece	Local paperwork times	Can use non-Greece Marriage licence / notice
Lebanon	Up to local jurisdiction	Very complicated, no Civil weddings
Slovenia	Each locale	Has own requirements

As one can see, our present Australian month (and a day) wait time is at the extreme long end of waits after notice (or marriage license) has been given. Note also that virtually all of our civil couples have been living together (or dating) for over a year (unlike other religiously or culturally conservative countries):

Charles Foley HCN Delegate
CoCA Online Forum 31 October 2011

Appendix 6: Revised Form 13A



Commonwealth of Australia

Commonwealth Government Statement of Marriage From 13A

Marriage according to Australian law, is the union of a man and a woman, to the exclusion of all others, entered into voluntarily for life. (Marriage Act 1961).

All marriage celebrants, whether religious or civil, are appointed under the Marriage Act of Australia and as such are required to perform certain duties on behalf of the Attorney General, including reminding couples intending to be married of the solemn, the serious and special nature of the relationship into which they are about to enter.

The Australian Government on behalf of the Australian community requires all couples notifying intent to marry to be aware that:

1. Marriage is a legally binding contract into which couples enter.
2. Marriage has important family, social, financial, personal and other consequences.
3. Couples are expected to financially, emotionally and socially support each other and any children of their union to the best of their abilities.
4. The Australian Government expects couples to continue to build and maintain their relationship and family life in harmonious and respectful ways.
5. Marriage still requires parties to the marriage to be responsible to uphold all other laws of the commonwealth, its states and territories.
6. Marriage may affect inheritance, property and custody rights so parties to the Notice of Intended Marriage are advised to seek legal advice as regards their specific needs in relation to these matters.

We the undersigned verify that our celebrant _____

Authorised No: _____ who is a member of
_____ Church / Association

Suburb/ Postcode: _____ and phone _____ has:

1. read and explained the above information to us both
2. explained the range of Pre-Marriage Education and Relationship Building programs available locally and given us information about our local agencies
3. explained how we may comment, should the need arise on the quality of the service we receive from our celebrant.

_____ <i>Signature</i>	_____ <i>Signature</i>	_____ <i>Signature</i>
_____ Name (Print)	_____ Name (Print)	_____ Name (Print)
_____ Date	_____ Date	_____ Date

Feedback & Concerns about Celebrants may be directed to:
The Church or Celebrant Association listed above or

Formal Complaints may be directed to:
Attorney-General's Department
Central Office 3-5 National Circuit
BARTON ACT 2600

Further Marriage Information: MLCS website address

Appendix 7: NSW Birth Certificates – Example of Requirements of Proof of Identity

Reference:

<http://www.bdm.nsw.gov.au/births/birthsCertificate.htm>

All Birth Certificates issued by this Registry are for births or adoptions that occurred in NSW. For births registered in other parts of Australia, please contact the [Registry Office](#) in that state or territory.

Applications must be accompanied by Proof of Identification to ensure your privacy is maintained and information is only released to those entitled. Exceptions are [Family History Certificates](#) which are for a birth from over 100 years ago – these are available to anyone, and have no identification requirements.

Who Can Apply

If you **are** the person named on the certificate or a parent of the person, please provide:

- at least three (3) forms of your [identification](#)# with your application.

If you **are not** the person named on the certificate or their parent, you must satisfy **one** of the following conditions:

1. Provide written authority **and** identification from the person named on the certificate or one of their parents, plus your own identification.
2. Show Power of Attorney relating to the person named on the certificate or one of their parents.
3. Be a solicitor/welfare group acting for the person named on the certificate.
4. Be a legally appointed guardian of the person named on the certificate.

Solicitors Applying for a Certificate

Where solicitors apply for certificates on behalf of clients, they must provide:

1. a letter on company letterhead stating the reason required ("legal" is not sufficient; a specific reason is needed i.e. Probate, Estate Administration, etc), together with the name of the client for whom the solicitor is acting.
2. The letter must be accompanied by:
 - a completed application form, and
 - a certified* copy of your Law Society ID Card or Practising Certificate.
3. Solicitor's name must be written in the Applicant's Details section. Payment must be made with a company or trust cheque, or company credit card.

* **Photocopies must be certified as true copies of the original by a Qualified Witness** (e.g. Justice of the Peace; Notary Public; Legal Practitioner with current Practising Certificate; person authorised to administer an Oath under S.26 of the Oaths Act 1900).

Proof of Identification

<http://www.bdm.nsw.gov.au/births/proofOfIdent.htm>

To protect your privacy, the Registry requires proof of your identity. All certificate applications must be accompanied by identification.

- If you **are** the person named on the certificate, or a parent of the person named on the certificate, the birth certificate can be issued to you.

If you DO meet the above criteria, please provide:

1. Three (3) forms of your own identification (see below).

If you DON'T meet the above criteria, please provide:

1. A letter giving permission from the person named on the certificate or their parent. Include their address, daytime telephone number and signature.
2. Three (3) forms of identification from the person giving permission (see below).
3. Three (3) forms of your own identification (see below).

Identification

Please provide at least three (3) forms of identification, one of each from Categories 1, 2 and 3. If you are unable to provide identification from Categories 1 and 2, you must still provide at least three (3) forms of identification. At least two (2) of these must be from Category 3.

All documents except foreign passports must be current.

Photocopies must be certified as true copies of the original by a Qualified Witness* (e.g. Justice of the Peace; Notary Public; Legal Practitioner with current Practising Certificate; person authorised to administer an Oath under S.26 of the Oaths Act 1900).

Category 1	Category 3
<p>If born in Australia:</p> <ul style="list-style-type: none"> • An Australian Birth Certificate <p>Record of immigration status:</p> <ul style="list-style-type: none"> • Citizenship Certificate • New Zealand Citizenship Certificate together with passport • New Zealand Birth Certificate 	<ul style="list-style-type: none"> • Medicare Card • Credit or Debit Card • Centrelink or Department of Veterans Affairs Card • Security/Crowd Control Licence • Tertiary Education Institution ID Card
Category 2	Category 4
<ul style="list-style-type: none"> • Australian Driver's Licence • Australian Passport • Firearms Licence • Foreign Passport 	<ul style="list-style-type: none"> • Recent utility account with current residential address • Bank statement with current residential address

If you are unable to comply with these requirements, please [contact us](#) (NSW BDM) for further advice.

Appendix 8 Example of Revised Notice of Intended Marriage

Are the parties related to each other? Yes No

If yes, state relationship

Signature of bridegroom

Signature of bride

Signature of witness*

Signature of witness*

Qualification

Qualification

Date: / /

Date: / /

* This notice must be signed in the presence of any of the following:

(a) if a party signs the notice in Australia - an authorized celebrant, a Commissioner for Declarations under the Statutory Declarations Act 1959, a justice of the peace, a barrister or solicitor, a legally qualified medical practitioner, or a member of the Australian Federal Police or the police force of a State or Territory;

(b) if a party signs the notice outside Australia - an Australian Diplomatic Officer, an Australian Consular Officer, an employee of the Commonwealth authorized under paragraph 3 (c) of the Consular Fees Act 1955, an employee of the Australian Trade Commission authorized under paragraph 3 (d) of the Consular Fees Act 1955 or a notary public.

PARTICULARS TO BE COMPLETED BY AUTHORIZED CELEBRANT PARTICULARS TO BE COMPLETED BY AUTHORIZED CELEBRANT

Date notice received by celebrant

Date marriage solemnized

• Celebrant Number

• Celebrant Signature

Rites used

Place marriage solemnized

	Bridegroom	Bride
Birth certificate(s) produced	<input type="checkbox"/>	<input type="checkbox"/>
Registration Number	<input type="text"/>	<input type="text"/>
Overseas passport produced	<input type="checkbox"/>	<input type="checkbox"/>
Overseas passport number	<input type="text"/>	<input type="text"/>
Statutory declaration(s) regarding birth produced	<input type="checkbox"/>	<input type="checkbox"/>
• ID Number and Type:	<input type="text"/>	<input type="text"/>
• ID Number and Type:	<input type="text"/>	<input type="text"/>
• ID Number and Type:	<input type="text"/>	<input type="text"/>
• Form 13A completed and given to the parties	<input type="checkbox"/>	<input type="checkbox"/>

*Strike out words not required †Strike out if inapplicable

	Bridegroom	Bride
*death		
†Evidence of *nullity	<input type="checkbox"/>	<input type="checkbox"/>
*dissolution		
If dissolution or nullity, Court location	<input type="text"/>	
• Note: Record Document Numbers	<input type="text"/>	

†For marriage of a party under 18 years:

- consents received
- court approval

†Approval for shortening of time received

• Change of Name Form Verification enclosed

Celebrant's number

Celebrant's signature

Official use only

Appendix 9 Example of Information to be collected for the Data Base of an Upgraded MLCS Website

To collect:

DATA BASE

*Title:

*Name

Address:

*Postcode:

*State:

Electorate:

Region:

Other Contact Info:

Phone:

*Mobile:

Fax:

*Email:

Email:

*Website:

Drivers licence number:

*Class of celebrant:

Recognised Religious

Services Chaplains

Independent Religious MC

Independent Civil MC

*Professional Support

Celebrant Association

Religious Organisation

Background Information:

Date of Birth:

Gender:

Highest level of education:

Give details

Previous employment for more than 2 years:

Sectors:

Give details:

Celebrant Training

None

Pre-2003

2003-2010

Give details:

RTO

Give details:

Referees:

Annual Returns

Wedding Statistics

No weddings in for each quarter

No in language other than English

No at home venue

No within 30kms radius from home

No within 100kms radius from home

No over 100 kms

Any change of contact information? Yes / No

If yes then please change

COMPLIANCE:

1. Contact Details.

Any change of contact information? Yes / No

If yes then please change

The celebrant could be responsible to update their own details

2. OPD Compliance

Celebrants to record OPD completed.

Send in forms for confirmation? Or upload scanned documents

The ML&CS needs to publish a list of approved OPD activities on the new website - with CODES like what was done prior to 2010.

The Celebrant made responsible to put in the CODE of the educational activity done, and send in evidence of Compliance with OPD.

Section 45, 46, 47 – not required, as changes to the Act will remove difficulties.

3. Evidence of duty of care

Every authorised marriage celebrant is to demonstrate a certain level of duty of care to the marrying public and specifically to those couples they marry, i.e. be required to answer a set of questions that relate to this issues.

For example:

- Membership of a celebrant association, network, organisation, institution etc.
- Professional Indemnity Insurance cover Y / N
- Public Liability Insurance cover Y / N
- Copyright Licence cover Y / N
(to cover any materials of which they are not the author and/ or for materials for which they have not gained the specific approval from the author for the use of the material in whatever format that it is intended to be used e.g. stored in a computer, emailed to others, printed in memento copies or celebrant's ceremony planners, printed in couple's programs for guests etc.)
- Arrangements for extreme weather conditions Y / N
- Couples provided with celebrant's Terms and Conditions Y / N
- Couples provided with Invoices Y / N
- Couples provided with Receipts Y / N
- Code of Practice Y / N
- Complaints procedures Y / N
- etc

The MLCS Website

Having an upgraded Marriage Website should allow for comprehensive section for:

- Celebrants Only
- The General Public

Both Sections could be utilized by the Attorney General's Department and other Government Departments to include any relevant information that would assist in increasing marriage celebrants' general and specialized knowledge about issues and factors that affect marriage, children and family life.

Topics could include Getting Married, Marriage, Marriage Related Services, Divorce, Divorce Related Services, Relationship Education and Parenting, with links to relevant websites etc.