Australian Marriage Celebrants Incorporated is an association member of the Coalition of Celebrant Associations (CoCA) and fully supports CoCA's separate submission to this Senate Inquiry. AMC also submits the following remarks, to the Senate Inquiry, on the proposed Marriage Amendment Bills 2013.

Marriage (Celebrant Registration Charge) Bill 2013

Australian Marriage Celebrants Inc. (AMC) is an Australia-wide association of registered marriage celebrants. AMC is one of the largest, if not the largest, marriage celebrant association in Australia. AMC members are all registered marriage celebrants, whilst other associations include funeral, name giving and general celebrants amongst their number.
AMC's primary objective is to promote and advance the highest professional standards within the Australian celebrancy industry, and provide its members with the ongoing support, training and expertise to achieve these goals.

3. Object of the Act

AMC is strongly against the proposal to impose a discriminatory annual registration charge on Commonwealth registered marriage celebrants (religious, State & Territory celebrants being exempted) for the claimed purpose of funding the administration of the program by the Marriage Law & Celebrant Section (MLCS) of the Commonwealth Attorney-General's Department (AGD). It's not simply the imposition of the proposed charge, but AMC is concerned also by the potentially serious wider effects of the charge and the manner proposed in which to make it.

AMC understands, from discussions with its own members and comments from marriage celebrants generally, that ONE feature of the proposed annual registration

charge appeals to many celebrants. That is the effect on the current enormous oversupply of marriage celebrants (occasioned by poorly thought out changes, described as 'reforms' introduced, contrary to the advice of celebrants and their associations, by the AGD in 2003).

Many celebrants and associations fail to look beyond the imposition of an annual registration fee to the wider implications. Instead they see the fee as a means of reducing competition by pricing many celebrants out. This is not said to be the reason or rationale behind the proposed annual fee. The reasons advanced for the fee is to recover administration costs for the MLCS.

6. Imposition of celebrant registration charge

The imposition of an annual registration fee has the effect of changing previous lifetime appointments into annually renewable appointments, celebrants would become, 'yearly contractors'. The serious aspects of this are:

a. Skills & knowledge of longer term experienced celebrants will be lost if those celebrants resign because of the additional burden of annual registration fees further depleting their meagre, if any, returns on their investment in operating a marriage celebrancy practice.
b. Substantial inconvenience and concern placed on celebrant clients where their chosen celebrant, the one with whom they have built trust and confidence, decides or is forced to resign, leaving them with the task of finding a satisfactory replacement celebrant in a very short period of time. As a matter of pertinent interest, the Attorney-General who introduced the marriage celebrant program in 1973 said – 'there should never be so many celebrants that they cannot develop the skills, experience and knowledge they and their clients need'.

c. A concerning aspect of changing lifetime appointments into annually renewable appointments is a constant turnover of celebrants – experienced celebrants being replaced by those with little experience.

The worry to marrying couples at an important and stressful time of their lives in addition to the loss of long term celebrant skills and experience is of immense concern.

7. Amount of charge & 8. The statutory limit

The Bill permits the Minister to determine the annual fee for each year and while the initial fee has already been advised as $240 for the year commencing 1 July 2013, the statutory limit is shown in the Bill as $600 per annum adjusted by the consumer price index. Celebrants were **not** advised of the statutory amount of $600 during preliminary consultations, but only of the $240 per annum thought to be the ongoing fee for the years to follow.

There are now around 11,000 Commonwealth marriage celebrants and currently a further 1,000 being added every two years. On these numbers the revenue derived by the MLCS/AGD would be $2.64 million per annum in the first year and when the fee rises to the statutory limit of $600 (without allowing for cpi adjustments or for changes in celebrant numbers) the amount would be $6.6 million. This appears to be a more than generous contribution to 'cost recovery'. Of concern also is escalating contributions by marriage celebrants without any effort or undertaking by MLCS to endeavour to control or cut costs or to show what improvements might be made in the celebrant program or what accountability may be provided.

A demonstration of the MLCS lack of understanding or control of fiscal costs, is their proposal for the printing of an annual regstration certificate for celebrants at a cost of many thousands of dollars, when a receipt would be considered more than satisfactory.

Marriage Amendment (Celebrant Administration & Fees) Bill 2013

AMC strongly opposes the imposition of a fee as set out in the proposed section 39FA. It is discriminatory in that Commonwealth appointed marriage celebrants are being asked to pay the annual registration fee while the much larger number of religious, State & Territory appointed marriage celebrants, provided for in the Marriage Act 1961, are not. Professor Michael Pryles' opinion of May 1992 held it was wrong, on several counts including Section 116 of the Constitution, to impose any obligation on civil marriage celebrants that was not also imposed on religious celebrants.

There has been no consideration of alternate methods of fund raising to recover MLCS costs if such cost recovery is considered warranted. (Such as impose a fee on all classes of celebrants or implement a modest charge on all marrying couples, etc.) The celebrant program is not a large government program. It was previously administered by only one or two public servants until mistakes were made by the AGD in introducing the 2003 "reforms", contrary to industry advice, which caused serious destabilisation to Australia's much admired marriage celebrant program.

Now the MLCS has a significant number of public servants, both full time and part time (none of whom are marriage celebrants or have any practical experience in celebrancy), numbering around 14-16 and wishes to add to this number substantially. With anticipated substantial funds, proposed to be raised from

marriage celebrants, there appears to be little reason for MLCS to control either staff numbers or expenditure.

Proposed section 39FB Celebrant Registration Charge: consequence of non-payment

It's the consequence of non-payment that gives rise to a number of concerns:

1. Deregistration, not on the basis of performance, but because of non-payment or late payment, for whatever reason, is unreasonable. A celebrant's proven poor professional performance, skills, experience, knowledge and service to the marrying public should be the only justifiable reasons for deregistration.
2. Couples, having booked a celebrant's services, will become victims of the government's short-sighted policy of punishing the celebrant (through non-payment or late payment) and consequently marrying couples. Couples then have a very short period of time to find a suitable alternative, having already expended considerable time, energy and expense in finding a celebrant who suits their needs. Couples already find selection of a celebrant, suitable to them, a difficult process because of the huge number of celebrants available and the difficulty in determining whether a celebrant has the skills, experience and knowledge they want.
3. The result of wrongful deregistration due to administrative error, mail theft, natural disaster, family and/or health issues and the impact on celebrants whilst appealing deregistration would cause not only great personal/professional distress, but has the potential to damage the marriage celebrant program as a whole, and seriously undermine public faith in the profession.

Part 2 – Amendments relating to fee for applying to become a marriage celebrant

Before subsection 39D(1) and After subsection 39D(1)

AMC has no objection, in principle, to the imposition of an application fee for people applying to become marriage celebrants. Of greater concern is the lack of sufficiently effective or rigorous preliminary selection and assessment processes. Celebrant training has gone through a number of changes from initial self-training and mentoring to an appropriate unit (Plan, Conduct & Review a Marriage Ceremony) of a VET certificate course, to a Certificate IV in Celebrancy plus an ongoing professional development annual obligation which has so far proved far from satisfactory. However, training in itself or an application fee does not satisfactorily address effective selection and assessment.

Subsection 39D(2)

AMC has no objection, in principle, to the Registrar dealing with applications in the order in which they are made. However, there is no process in place to limit the number of applications, to cap the number of celebrants or to apply waiting times before registration is approved based on a genuine need for the celebrant's services. The new celebrant application fee does not, in itself, address the serious oversupply in celebrant numbers following the 2003 "reforms". There are now around 500 new celebrants being registered each year and every possibility this number will increase if measures are not introduced to curb new registrations to ensure they are in line with community needs.

Several sections relating to a fee for applications for exemptions – 39F(A), 39D(1), 39G(2)

AMC has no objection, in principle, to the imposition of a fee to apply for exemptions. However, such exemptions named in the proposed changes to the Act require review. There appears little or no justification to allow for exemptions for new celebrant applications, for all celebrants in remote locations and difficulty in completing ongoing professional development. While genuine cases may exist in these categories, such cases will need careful examination. For instance a new application on the basis of hardship doesn't auger well for the continuing costs of setting up, maintaining and operating a celebrant practice. Nor does an application for exemption from an annual fee appear to make much sense in cases where the celebrant applies for exemptions on the basis of remote location alone. Ongoing professional development, for instance, can be undertaken by distance education.

Also regardless of location all Commonwealth marriage celebrants face difficulties in finding sufficient need for their services. A celebrant 'remotely' located may not be in a much different situation than a centrally located celebrant who likewise finds difficulties finding sufficient need for their services as a result of the poorly thought out "reforms" introduced by the AGD in 2003 opening marriage celebrancy to unlimited appointments.

Therefore, careful attention, to any application for exemption, needs to be implemented. This is not clearly set out in the proposed changes.

Schedule 2 - Other amendments

Proposed Subsection 39H(1) and (2)

What this, in effect, does is to remove the current 5 yearly celebrant reviews entirely. A review, determined only at the discretion of the Registrar, means few celebrants will ever be reviewed.

What really is needed is the implementation of an ongoing rigorous review system that genuinely reviews the professional performance, knowledge, skills and knowledge of each marriage celebrant. Replacing the current 5 yearly, less than rigorous, reviews with occasional, if any, reviews is not contributing to the professionalism or quality of services provided by marriage celebrants.

Proposed addition to Subparagraph 42(1)(b)

AMC applauds this long overdue amendment to the Act. What it does, in effect, is restore an Australian Passport as acceptable evidence of date and place of birth, in the same manner as foreign passports are already accepted. A further advantage of accepting passports, not only from Australian citizens, but for all passport holders, is in providing supporting photographic evidence of identity.