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24 April 2013

The Committee Secretary  
Commonwealth Legal and Constitutional Affairs Committee  
PO Box 6100  
CANBERRA ACT 2600

Dear Sir/Madam

**Re: Marriage Amendment (Celebrant Administration and Fees) Bill 2013 and  
The Marriage (Celebrant Registration Charge) Bill 2013**

Thank you for accepting my reply to the proposed changes to the governance of the Marriage Celebrant Program via the above Bills.

**My Background**

I was registered as a civil marriage celebrant on 2 September 2004. To become registered, I completed a single unit of competency in the vocational sector (**CHCMCEL401A Plan, Conduct and Review a Marriage Ceremony**) via Yeronga TAFE, Brisbane, in December 2003. In the following years, I invested heavily in my development as a celebrant, and completed a two-year **Graduate Diploma in Civil Ceremonies** at Monash University – the highest tertiary qualification in this field anywhere in the world and held by only a few hundred of the 15,000+ registered marriage celebrants in Australia.

In the past I have served as a founder and Secretary of the **Professional Celebrants Association Inc** (2005-2008), represented this organisation at the forerunner organisation to the current Coalition of Celebrant Associations (COCA), **The National Council**, and attended the initial meeting in Canberra when the Skills Council sought input to revise the original marriage celebrant qualification. I was also a member of the **Civil Celebrant Graduate Association (Monash)**, for graduates of the Monash course.

I work **part-time** as a celebrant, currently performing **less than 20 weddings per year** as well as a range of non-legal ceremonies. I live in a low socio-economic community and while I have a range of fees, most of my work is at the lower end of the spectrum as many clients appear to prefer low-cost, 'budget' weddings. What celebrants earn varies from community to community and State to State (and Territory). You cannot compare the fees earned by celebrants in different communities looking for any common denominators - because there are none.

In my postcode , there are currently 25 registered civil marriage celebrants servicing the urban and semi-rural suburbs/communities of Alberton, Bahrs Scrub, Bannockburn, Beenleigh, Belivah, Buccan, Cedar Creek, Eagleby, Edens Landing, Holmview, Logan Village, Luscombe, Mount Warren Park, Stapylton, Steiglitz, Windaroo, Wolffdene, Woongoolba, Yarrabilba and Yatala. Seventeen of these celebrants were appointed after the 'appointment cap' was lifted in 2008, with the most recent being appointed on 18 April 2013.

I have performed over 300 weddings since 2004 and to my knowledge, have **never had a complaint** made to the MCLS about my performance. I also have **managed risk** within my celebrant business and never faced civil legal action by past clients as a result. I am a professional and dedicated civil marriage celebrant.

## The MCLS' Proposal To Implement Cost-Recovery on the Marriage Celebrants' Program – My View

The Bureau of Statistics reports that 121,752 marriages were solemnised in Australia in 2011, up 576 (0.5%) from 2010. Of these, 70.1% (85,226) were performed by civil marriage celebrants. With over 15,000 civil celebrants now registered by the MCLS, it's easy to see that if marriages were doled out evenly, less than 6 weddings annually would be carried out by each civil celebrant. For most civil celebrants, it's impossible to run a wedding-related business on these numbers. Many don't view their activity as a business.

The MCLS is to be held **totally responsible** for the situation in which it finds itself – unable to cope with managing the vast number of celebrants now in the program. The explosion in celebrant appointments in the last decade is due to the MCLS' inability and refusal to act on reports by celebrant associations highlighting the number of **poorly trained and unprofessional celebrants appointed** (most originating from one prolific and very poor quality registered training organisation in Victoria). Now all registered civil celebrants are being asked to pay an annual registration fee to fund the MCLS and this is being linked to the 'professionalism' of operating celebrants.

During the MCLS consultation with the celebrant community in 2011, when MCLS officers visited regions to seek feedback on this proposed fee, I **originally expressed support** for a fee to obtain cost recovery provided it was not too high. I have since come to realise that I was not looking at the bigger picture and have now **revoked my support**. I do not support cost-recovery coming only from civil celebrants when the Marriage Act 1961 covers 3 categories of authorised celebrants (religious, State-authorised, and civil celebrants).

### What I Do Support

I do support stringent fees being applied to any **new celebrant** attempting to join the Marriage Celebrants' program.

Such applicants should also be required to demonstrate their knowledge of marriage law and the requirements of our work before being appointed. The fee should be high enough to deter those who think being a celebrant is a breeze, but not a deterrent to those who have trained well and understand what is involved and desperately want to become a professional celebrant.

### What I Do Not Support

#### ***Payment of Indexed Annual Fees***

I firmly believe that marriage celebrants are 'Commonwealth Officers'.

In view of that, we should **not** be subject to paying annual fees that are currently set to commence at \$240 but are bound to rise annually to a maximum of \$600 to effectively 'fund' our own department. We provide valuable legal marriage solemnisation services to the community on behalf of the Commonwealth of Australia. There would be an absolute uproar if Federal public servants were told to pay indexed annual fees to fund their departments.

MCLS has already indicated in past communications that this fee will be used to determine **celebrant professionalism**. The mere payment of an annual fee will **not** determine professionalism. It will simply show who can afford to pay it and MCLS has already indicated their intention to remove the quinquennial performance review so exactly how will MCLS determine professionalism in celebrants? Anyone can fudge answers on online surveys – what checking process will be implemented to ensure celebrants are complying with the Code of Practice, OPD, legislation and other requirements? Many celebrants would like to know the answer to these questions.

MCLS will use an indexed annual registration fee to drive more people from the industry who deserve to stay and serve the community.

### ***Removal of Lifetime Appointment***

I do not support the proposed move to link the payment of an annual registration fee with a celebrant's appointment. This will remove the current situation – **appointment for life** – and replace it with '**appointment subject to payment of an annual fee**'. The mere concept of a fee has already driven a number of celebrants out of the industry, particularly those conducting only a handful of ceremonies each year, and older celebrants.

With celebrants taking **bookings for weddings a year or more in advance**, registration-subject-to-a-fee could mean that some celebrants are left in the lurch when unable to pay their fee and suddenly find themselves deregistered and having to scabble for replacements in order to ensure their clients' weddings can take place. This could also expose celebrants to **potential civil legal action** from disgruntled clients who find their wedding plans disrupted in this way, especially when they have established relationships with their celebrants over time. This in turn could affect **professional indemnity insurance premiums** for the wider celebrant community as more civil claims may be made against celebrants who are suddenly deregistered.

The timing of the proposed annual fee also means that **no celebrant in Australia will be able to take a holiday** at the time of year when the notices are issued (mid-year) in case they miss their mailed notice and are deregistered automatically in their absence for non-payment within the set timeframe.

### ***Australian Passport as Evidence of Name, Date and Place of Birth***

I **do not** support using the Australian Passport as evidence of a person's name, date and place of birth.

In my celebrancy career, I have had a number of never-validly-married clients in Queensland who have come to me with what I call the '**Smith Known As Jones**' scenario. This is where they have a birth certificate in one name (their legal birth name), but have been raised with or have been using another name and have been able to gain a driver's licence in the past by signing a statutory declaration at a Transport Centre and have believed that this was a legal name change. From this, they were able to obtain Australian Passports in names that were not their legal names.

I am aware that Passport Control has been tightened in Australia and the practice described above of issuing driver's licence name changes via statutory declaration has been scrapped at Transport Centres in Queensland. However, while there are people still walking around in the community with **Australian Passports in names that do not match their legal names** and they have not changed their names through marriage or official change-of-name processes, the Australian Passport should **not** be allowed to be used as evidence of name, date and place of birth.

The **onus** is on the celebrant to ensure identity is proven before a marriage can be solemnised. Allowing the Australian Passport to be used would create an identity loophole that some people could exploit and the celebrant would wear the risk if an identity or legal liability issue arises down the track. **If the Federal Government proceeds to allow Australian Passports to be used as evidence of identity, will it also legislate to protect celebrants who fall victim to unscrupulous clients who use loopholes created by this situation?**

The issue of **gender** and individuals seeking to change gender could also affect the use of the Australian Passport as an identity document.

### ***Removal of Quinquennial Performance Reviews***

One of the big issues in the celebrant industry is **performance**, so it's baffling why MCLS would not want to uphold the current **quinquennial performance reviews** – especially when they are looking to link celebrant professionalism with the payment of an annual fee!

The MCLS needs to continue to review celebrants every five years to ensure compliance with the Code of Practice, OPD training and other requirements under existing legislation.

## Comments On Other Submissions' Suggestions To Fund MCLS

I am very disappointed to read **The Australian Federation of Civil Celebrants'** submission which supports cost recovery simply because of the 'excessive number of authorised celebrants' and blames other associations for not suggesting practical ways to reduce numbers. As stated earlier, many associations have informed Canberra of their concerns over the years and made suggestions to cap or reduce numbers, including the AFCC, which have fallen on deaf ears at the MCLS.

To support a fee now simply because the AFCC wants to reduce numbers, and the haste with which the AFCC is happy to see celebrants removed from duties due to non-payment of this proposed fee is concerning. Thankfully, I'm not a member and this association **does not speak for me** or about 13,000 other celebrants in Australia.

Similarly, I understand our peak body of celebrant associations, **COCA**, may propose a plan to recommend collecting a fee when **ordering Form 15 Marriage Certificates**, with cost recovery to go to MCLS and distribution of the remainder to the States and Territories. **This proposal would be discriminatory if introduced.** Celebrants who are performing a large number of weddings annually will pay much more than those who do few or none, which then shifts the burden of cost recovery on to a smaller number of celebrants rather than across the board. This is grossly unfair.

COCA's suggestion to charge fees directly to marrying couples by requiring them to get a **stamp at Australia Post** is a better proposal to raise cost recovery, as it would shift this cost directly onto marrying couples. If each of the 121,752 couples who married in Australia in 2011 were required to pay a nominal marriage licence fee of \$50 using a Federal Government form distributed via Australia Post either prior to or after lodging a Notice of Intended Marriage with a celebrant, it would raise **\$6,087,600** for the MCLS without imposing any fee on registered marriage celebrants. Australia Post could distribute the fee directly to MCLS and take a small commission for collecting what would amount to a 'tax' on marriage.

My only concern with this process that it could lead to situations where savvy celebrants seek to form links with Australia Post outlets for the purpose of referring marrying couples (ie. exclusive business arrangements). This is already happening at many wedding venues and with other wedding providers, and I can see it also happening with Australia Post if this process were adopted.

Once again, thank you for the opportunity to have a say in this process. I hope the Senators are listening! Celebrants are voters, too.

Yours sincerely

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