



The Coalition of Celebrant Associations (CoCA) Incorporated
The Attorney-General's Peak Advisory Body for Commonwealth Celebrants

Submission to

Senate Legal and Constitutional Affairs Committee

PO Box 6100
Parliament House
Canberra ACT 2600
Australia

25th April 2013

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

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PART O Executive Summary

The Coalition of Celebrant Associations (CoCA) Inc, in this submission, provides ample grounds for the Senate to reconsider the entire approach of the Government's handling of the Australian Marriage Act 1961 and, in particular, the systemic injustice these Marriage Bills will further embed in the delivery of marriage services to this nation.

Australian families deserve better as do their celebrants.

This approach to the regulation of Category C Marriage Celebrants is discriminatory, as it does not apply to all celebrants and fundamentally flawed in that these changes will not result in better delivery of marriage services to the public.

70% of all marriages, including 95% of all civil marriages, will be subsidizing the legal guidance the Attorney-General's Department should be providing to all marriage celebrants under this Act - a situation that is unfair.

The Coalition of Celebrant Associations (CoCA) Inc:

- commends successive governments for their commitment to professional high quality civil celebrants who now perform over 70% of all ceremonies;
- commends the Government's recognition of the role of training and ongoing professional development in raising standards;
- does not support discrimination in the management of the Marriage Act, in placing different requirements upon civil celebrants to those of religious and registry celebrants;
- suggests consistent criteria for appointment and compliance requirements be applied to all categories of celebrants, and that this be enshrined in legislation;
- does not support the levy of a fee at the level proposed of \$250 pa (rising to \$600 pa plus cpi adjustments) on civil celebrants alone;
- asserts the average number of marriages at present per independent Commonwealth celebrant (an average of 7 pa or \$3,500 gross annual income) demonstrates the open-market approach does not work effectively when clients are only likely to use the service once or twice in a lifetime;
- recommends regional capping numbers of Commonwealth celebrants on a 5 year cycle with new appointments based upon the best applicants as determined by independent assessment;
- suggests that legal guidance is the main role for the Federal Department in conjunction with the State and Territory Registry Offices and celebrant associations;
- recommends that peak body and professional associations have a role similar to that carried out in other professions as the best way to assist in regulation and improving standards of the civil celebrancy profession;
- recommends other fairer and more effective methods of regulating civil celebrants and raising standards;
- recommends fairer and more equitable ways of raising revenue with respect to cost recovery in relation to services provided under the Marriage Act 1961.

The Coalition of Celebrant Associations (CoCA) Inc. trusts the Senate Committee will appreciate, by the depth and detail of this submission, the consistent effort CoCA associations have made since 2008 to bring evidence based recommendations to the Government.

The civil celebrancy profession does not need what appears to be a "quick-fix" that will create more problems than it solves.

The Coalition of Celebrant Associations (CoCA) Inc. requests the Senate Committee look at the bigger picture with an open mind and accept the recommendations of the celebrancy profession's peak body as the best way to address cost recovery issues for the ultimate good of the Australian public.



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*Re: Marriage Amendment (Celebrant Administration and Fees) Bill and the Marriage
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Part I. Preamble

At this time in our nation's development, our parliament is called upon to give its wisdom and concentrated attention to the way in which the Commonwealth Marriage Act 1961 delivers its legislative responsibilities of marriage services to its citizens and others who use the Marriage Act to formalize their relationship both legally and socially.

It would be naïve in the extreme to simply assume these Bills will improve marriage services by 'cost recovering' government services. These Bills allow expanded government services to unfairly cut Commonwealth marriage celebrants numbers.

The Bills will thwart the intentions of the Liberal-National Parties 2003 changes to modernise the Commonwealth Marriage Celebrant program by strengthening the civil celebrant profession towards self-governance. With then Labor Opposition support, the 2003 changes brought in training standards for Commonwealth celebrant appointments, ongoing professional development responsibilities and a simple system of 5 yearly reviews by a newly created section of the Attorney-General's Department – one that had been unnecessary for three decades.

More importantly, these Bills will increase the unintended systemic injustice between Category C (predominantly civil) and Category A & B (predominantly religious) marriage celebrants which resulted from the administration of the 2003 changes over the last decade.

The consequences of these Bills will be to increase the costs of marriage to 95% of couples who choose a civil marriage ceremony, decrease the likelihood that their preferred celebrant will be able to conduct their marriage and create a unstable workforce of casual annual 'contractors'.

The other two categories of celebrants under the Act are employees of the Registry Offices or members of Recognised Religions either on stipends and/ or with accommodation, vehicle and other financial and organizational support. Independent celebrants must cover all the costs of delivering professional marriage services to the public, before an hourly rate can be made. Even under this proposed amended system, making a net hourly rate is beyond the reach of the majority. Thus without a taxable level of income, any assumption that most celebrants will be able to claim this fee back is erroneous.

These annual fees are not being collected by a professional body as in other professions to maintain and increase professional standards and to reduce government red-tape and over-regulation. Rather the \$ 2.4 million raised annually will fund a government section that has no experience in delivering marriage services to the public and that so far has not demonstrated its ability to meet its current simple regulatory responsibilities, let alone expanding into areas beyond their expertise.

Another unresolved issue is the question of whether Commonwealth celebrants are Officers of the Commonwealth when involved in any activity related to their role as an independent marriage celebrant. Creating a charge to continue one's duties as an Officer of the Commonwealth could create a precedent or have ramifications for other types Commonwealth officers.

These amendments change the conditions under which all existing independent celebrants are appointed, namely ongoing life-time appointments whilst ever the celebrant remains a "Fit & Proper Person". However the natural justice issues of these changes have not been addressed. In fact, the Coalition of Celebrant Associations (CoCA) Inc. asserts the issues related to human rights, fair and equitable working conditions expected to apply to all celebrants who provide the public with the same government service (*i.e. valid marriage under law*) and the "public interest" policy test have not be given due depth of consideration and erroneous conclusions asserted by the government.

The 2003 changes were intended to mirror the basic regulatory components that are assumed to be in place for the Recognised Religious Celebrants and the Marriage Officers of the State & Territory Registries of Births, Deaths and Marriages. An independent review in 2008 was planned to ensure that these changes ran smoothly. Such an independent review, despite the numerous requests by celebrant associations and the government's own peak advisory body the Coalition of Celebrant Associations (CoCA) Inc. has never eventuated.

These Bills attempt to correct basic flaws in the administration of this aspect of the Marriage Act that came after the 2003 changes. These are the government's

- failure to accept professional celebrant associations advice in 2002 of an eleven unit training course as a minimum standard for appointment, instead choosing a single TAFE unit equivalent, thus enabling a greater than expected number of appointments.
- outdated paper based filing system - each celebrant's records being held in three different storage sections - compounding the subsequent increased workload in providing five yearly reviews of this unexpected increased number of celebrants.
- failure to conduct consultations in line with the Department of Finance Cost Recovery Guidelines and recommended Best Practice which require that 'Cost Recovery' be for the public good, efficient, not create unnecessary services nor raise revenue beyond that required to provide the government function (*i.e. not make a "profit"*).
- failure to adopt almost all of the recommendations of the peak body Coalition of Celebrant Associations (CoCA) Inc. to make better use of the existing systems that support the Program and that add minimal cost to the end-user, that being the marrying couple.

These systems are the Vocational Education & Training VET system; the Registries of Birth Deaths and Marriages that continue to provide all marriage celebrants with legal guidance as they had between 1973 and 2003 prior to the newly created Commonwealth Marriage Section; the celebrant professional associations that provide online and face to face advice and support to marriage celebrants in all aspects of the professional conduct of the celebrant as now required of Commonwealth Celebrants under the Code of Conduct in the Marriage Act.

As Senators, we understand your role of seeing the "big picture", to look for the flaws in the management of government services to the public to ensure those services are delivered efficiently and effectively and to correct systemic problems rather than assist to entrench those problems further.

The 2003 changes were designed to "increase the professionalism" of this sector. At a gross level, that meant converting what was a 'community service' into a self-regulatory system delivering professional services.

In many other ways, that process has been successful. Training standards have been increased and are set to be raised again. All but one of the celebrant professional associations are working together to advise different parts of government on the needs of the profession, at no cost to government or the taxpayer. These associations are strengthening the availability of online forums and other web-based information and support, professional indemnity and public liability insurance, copyright cover and other ceremonial resources to members.

In turn couples married by these celebrants, together with their families, will experience more meaningful and well delivered wedding ceremonies as the result of associations' support and expertise.

There is no evidence to support any assumption these changes are needed to ensure the validity of couple's marriages as conducted by Commonwealth celebrants rather than State regulated marriage celebrants.

Where there are any such concerns, revenue raised needs to be apportioned to both the Commonwealth and State & Territory Regulators so that the Marriage Act legal requirements apply to all marriages.

Marrying couples expect to be charged a Marriage Licence or Marriage Registration fee. There are a number of ways such revenue could be efficiently raised using existing systems, rather than increasing cost unnecessarily.

The Coalition of Celebrant Associations (CoCA) Inc. makes a number of recommendations in this submission based upon our four decade history and experience in delivering quality marriage ceremonies to the Australian community.

Our celebrants have consistently put the needs of the marrying public before their own as is required of any profession.

In this spirit, we ask that the Australian Senate not fall for the "quick fix" as proposed in these Bills. Rather The Coalition of Celebrant Associations (CoCA) Inc. asks that the Senate recommend amendments to these Bills to minimize bureaucratic over-regulation, restore parity between Commonwealth and State/ Territory celebrants that original thrust of the 2003 changes did not intend to remove and to outsource to the professional associations and their peak body those functions that rightly match their expertise and responsibilities.

Robyn L Caine

Chairperson

Coalition of Celebrant Associations – CoCA

CoCA Inc Member Associations:

- Alliance of Celebrants Queensland Inc - ACQ
- Association Civil Marriage Celebrants NSW & ACT - ACMC NSW/ACT
- Association Civil Marriage Celebrant SA - ACMSA
- Association of Civil Marriage Celebrants of Victoria Inc - ACMCV
- Australian Marriage Celebrants Inc - AMC
- Celebrants Australia Inc CAI
- Civil Celebrants Graduate Association (Monash) - CCGA
- Civil Celebrations Network Incorporated - CCN
- International College of Celebrancy Alumni and Friends Association - ICCA
- Humanist Celebrant Network - HCN
- Marriage Celebrants Australia Inc (WA) - MCA (WA)
- Professional Celebrants Association Incorporated - PCA
- South East Australia Civil Marriage Celebrant Association - SEACMCA

PART II. Summary of Coalition of Celebrant Association (CoCA) Inc Position.

The Coalition of Celebrant Association (CoCA) Incorporated:

1. Supports the Amendment to *add an Australian passport as evident of the date and place of birth of the party seeking to marry*. See PART V-G.
2. Supports an Application Fee for all new marriage celebrants. See PART V-B.
3. Opposes a "Celebrant Registration Fee" as this is unnecessary and affects 95% of civil marriages and 5% of religious marriages. See PART V-A.
4. Supports 'cost recovery' provided the revenue is raised equitably on ALL marriage services or ALL marriage celebrants. There are existing systems that could do this. See PART V-A.
5. Opposes the unfair removal of 5 year reviews of ongoing lifetime appointments (unless proved unfit) for Commonwealth celebrants with a "one-strike then out" annual "registration" fee, not applicable to ALL marriage celebrants. See PART V-E.
6. Asserts that the role of the Commonwealth is not to provide direct services – rather to provide over-sight and guidance for all celebrants on marriage law. See PART VI .
7. Disputes the claims that the Commonwealth is only responsible to regulate Category C marriage celebrants implying that these Bills are enforcing standard mechanisms that are being applied by Category A and B Regulators to the other two classes of marriage celebrants. See PART V-A.
8. Asserts that the Commonwealth is responsible to ensure that the Marriage Act's legal aspects are applied fairly and uniformly to all types of marriage ceremony (civil or religious) regardless of the type of celebrant appointment (Category A, B or C)). See PART VI.
9. Recommends forcing efficiencies in the Department by removing 'Cost Recovery' as it is not in the interests of the public and instituting other fairer methods of cost recovery that ensures all end-users, the marrying public, contribute to the costs of administering the Marriage Act for all Australians now and in the future.

This means using existing staffing resources of the Marriage Law and Celebrant Section as this now has a computerised database and online portal system. This would require the Department to make the maximum use of the advice and support of the peak body Coalition of Celebrant Association Position (CoCA) Inc., professional celebrant associations and the State & Territory Registry Offices. See PART V-A.
10. Calls for introducing a flexible regional based capping system of appointments based upon five yearly appointments of the independently assessed best applicants for the available vacancies, rather than continuing to appoint 1000 new celebrants every two years as is currently the case. and PART V-D.
11. Calls for Ongoing Professional Development to be managed predominantly by the professional associations and peak body, with Departmental input, rather than wholly controlled by the Department as currently the case. This would free staffing resources for regulatory reviews and legal guidance functions.
PART V-C.
12. Calls for the establishment of an online Marriage Law Expert Advisory Panel of representatives from State and Territory Registry Offices, celebrant associations, the peak body Coalition of Celebrant Associations and Attorney-General's Departmental Legal Officers as recommended of its February 2012 comprehensive Submission on Cost Recovery & Increasing Professionalism. PART V-A.

13. Calls for strengthening the Commonwealth Marriage Registrars powers to refuse and/or terminate appointments of marriage celebrants based upon 'actual or potential conflicts of interests' as is granted Registrars of State and Territory marriage celebrants.
14. Proposes that all Commonwealth Civil Marriage Celebrants be required to belong to a professional celebrant association as applies in other professions.

PART III Rationale

The basis for The Coalition of Celebrant Associations (CoCA) Inc submission is as follows

1. The grounds for "Cost Recovery" to minimize or prevent "invalidity of marriage" caused by the marriage celebrants are not supported by empirical evidence.

This Commonwealth Marriage Celebrants program

- has less than an average 0.5 % Statutory Complaints in an annual number of over 72,000 weddings. –
- has 0.00005% error rate affecting the validity of marriage in last 15 years (1998-2012) conducted by all marriage celebrants i.e. including State appointed –

Marrying couples are protected by

- the Australian Marriage Act which covers all marrying couples, who are free to marry, from any mistakes their celebrant may make, whether in a civil or religious marriage ceremony
- Fair Trading laws and have access to a Complaints Process, both to the Attorney-General's Department and to State Departments implementing Fair Trading laws.

2. These Bills in effect remove ongoing life-time appointments, with 5-year reviews to ensure the celebrant is fit to continue, replacing these with 'one year licences to practice' for Category celebrants, and as such will harm 95% of marrying couples choosing civil marriage, whilst affecting only 5% of couples choosing religious ceremonies.

This annual "Celebrant Registration" fee will increase costs on 95% of all civil marriages and over 70% of all marriages in Australia.

Marrying couples will have no guarantee that the celebrant of their choice, and with whom they have booked their wedding ceremony, will be still registered at the time of their ceremony.

- Couples choice of a celebrant is based on many individual factors, including the experience, reputation, personality and style of the celebrant, not just the fact that the celebrant has a licence to do the legal paperwork.
- 7 days to transfer a Notice of Intended Marriage gives couples no time to choose another celebrant, nor any guarantee that another celebrant with the same qualities will be able to be found in time.
- Many couples book their wedding in the first half of the year for a wedding in the spring to early summer season. This could affect one half of all civil weddings i.e. 35% of all marriages given 70% of marriages are done by Commonwealth Celebrants.
- A wedding celebration is a complex and difficult task in event planning, in balancing family and friendship relationships, in meeting expectations and desires, balancing financial and other pressures, so is rated as one of life's most stressful events.
- Having to find another celebrant at the last minute adds not only extra stress, but also can affect the couple's confidence and thus enjoyment of what they hope will be one of the happiest days of their lives.
- This is hard enough when serious illness or injury may strike their particular celebrant, but the possibility will be greatly increased by an annual fee system tied to the grounds for dismissal

The quality of the wedding services will decrease as structuring the Commonwealth Marriage Celebrant Program on an annual cycle of 'casual contractors' exacerbate an increasingly unstable and inexperienced workforce.

- Independent civil celebrants primary point of difference with State appointed marriage celebrants is the provision of a personalized ceremony tailored to the needs and desires of the couple. Unlike State appointed celebrants in registry offices and churches, independent celebrants do not have a standard set script for the ceremony.
- In 90% of civil weddings independent marriage celebrants do not work at the same venue, because the marrying couple book or provide the venue, in many cases in outdoor spaces. Thus the need for equipment and experience in delivering ceremony under a variety of more challenging situations.
- Professional standards depend upon continuity of work experience over a variety of work situations and improve over time as newer professionals are mentored by more experienced ones.
- Celebrants' motivation to invest in extra training, professional association support, clothing, computer, PA and other equipment depends upon the expectation that there will be time to recoup set-up expenses and achieve the ability to make a decent hourly rate for one's work.
- Even small businesses take 4 to 5 years to become established so annual appointments will create a high turn-over of newer celebrants lowering the overall experience and stability of the profession.

3. The grounds for Cost Recovery to "increase professionalism" of Commonwealth Marriage Celebrants and deal with most complaints is the role of the Professional Celebrant Associations and their education and training systems.

- The Marriage Law & Celebrant Section does not conduct marriage ceremonies as do State and Territory Registry Offices, thus lacks experience in ongoing delivery of marriage services.
- Marriage Law & Celebrant Section are neither marriage celebrants, nor celebrant trainers or assessors yet have failed to implement the advice of the Departments' own peak advisory body, the Coalition of Celebrant Associations Inc.

4. These Bills do NOT create efficient or effective regulation of marriage celebrants under the Australian Marriage Act 1961

Please note that this Commonwealth Marriage Celebrants program

- operated for 30 years with 1 or 2 staff in Canberra in a smooth and efficient manner.
- is part of the Australian Marriage Act with protects all couples, who are free to marry, from any mistakes their celebrant may make, whether in a civil or religious marriage ceremony.

The Government argued in its Regulation Impact Statement that it needed to increase its staffing from 7 to 12 full-time staff to manage the Commonwealth Marriage Celebrants program and to meet their regulatory responsibilities of 5 yearly reviews of all its celebrants.

However these amendments now remove that requirement altogether. With computerization it can be argued that the need for increased staffing is negated.

Increased staffing is not efficient, as it will be duplicating

- telephone advice services already provided by Registry Offices to all marriage celebrants, and
- other support services provided by professional celebrant associations.

5. The Cost Recovery Consultation process was flawed and biased by the interpretation of results obtained

The Coalition of Celebrant Associations (CoCA) Inc. argued that these changes do not meet the principles outlined in the Department of Finances Cost Recovery Guidelines.

The consultations were conducted under a directive that there would be "no negotiation about whether there would be a fee, only the amount of the fee was negotiable".

Even with this proviso, 70% of independent celebrants opposed the fee.

These amendments allow for the fee to be increased to the level originally announced in 2011. Thus the consultation process was a waste of government and celebrant's time, resources and finances.

CoCA argued the single most important structural reform required was the implementation of a system where

- the best applicants for celebrant work would be appointed
- the number of independent celebrants appointed allowed the marrying public access to a range of choice of celebrant
- the number of new celebrants balanced the ones retiring out
- the average number of weddings per celebrant allowed access to sufficient work to
 - retain and improve marriage celebrancy knowledge and skills
 - cover all the expenses in delivering marriage services *i.e. not subsidising these with income or funds from other sources*
 - earn a fair hourly rate for the government service they provide
- the number of celebrants allowed the marrying public a reasonable degree of choice of celebrant

Marriage is the fundamental building block of the structure of society. It is the legal contract that in our nation, adults can use to protect the resources created by their union to support their daily living and to use primarily in times of sickness, disability and old age.

Marriage also aims to support the marriage partners' commitment to nurture the physical, spiritual and social health to adulthood any children of the partnership as well as their partner and themselves. Marriage also strengthens the family and community support of this social unit by redefining the relationships between the two extended families from which the parties to the marriage belong as well as redefining the kinship relationships.

The CoCA argues that the government is responsible to ensure that

- such fundamental services are delivered in best possible way for the public good
- the conditions under which these services are delivered are fair and equitable for all categories of celebrants and
- must protect the public from conflicts of interest in all parts of the system.

6. These Bills will entrench systemic discrimination of civil marriage celebrants under the Australian Marriage Act 1961 (not intended by the 2003 changes) and do NOT meet Australia's human rights nor rights in work.

- The 2003 changes were not intended to penalise independent marriage celebrants, rather to modernise the Commonwealth Marriage Celebrant Program by acknowledging the growing profession of civil celebrancy and incorporating some general principles that applied to the other two categories of marriage celebrants.

- Example of general principles are that most Recognised Religious Celebrants and Registry Staff would require some pre-employment training, be required to do ongoing professional development and have their employment reviewed on a regular basis.
- However the 2003 changes now create mandatory requirements for independent marriage celebrants to gain and maintain marriage appointments that do not apply to the other two categories of celebrants.
- Applying a not-competency based termination of the right to continue to work as a marriage celebrant (i.e. ongoing life-time appointments unless proved unfit) further embeds this systemic inequality of the conditions under which this category of celebrants provides marriage services on behalf of the government to the community.
- Natural justice issues of extinguishing current rights of ongoing lifetime appointments (*unless proved unfit*) have not been addressed in these Bills.

7. The Senate is reminded to assess this annual fee in the context of the set-up and ongoing costs to independent marriage celebrants (Marriage Act Part IV, Division 1, Subdivision C) that do not apply to the other two categories of celebrant (Subdivisions A and B).

Unlike Category A celebrants, independent marriage celebrants (Subdivision C) are responsible for

- the financial, time and other costs of training to be a celebrant
- all the set-up costs for their celebrancy practice (office space and equipment, vehicle, clothing etc)
- all the ongoing expenses associated with delivering marriage services in a variety of community based settings to a very broad range of couples and their guests (*most common size 50 to 100 people* –

This means most celebrants struggle to make an hourly rate commensurate with the responsibilities they hold in relation to the Marriage Act.

The set-up costs, training and ongoing expenses two other categories of celebrants are covered by their Recognised Religion or by the Registry Office. Both also have financial remuneration for their time.

Therefore it is not good enough to assume this group of celebrants are “just a small business” when their responsibilities under the Marriage Act are equal to the other two Categories of marriage celebrants.

8. There are more efficient, effective, professional, fairer and less costly measures for Cost Recovery that would ensure user pays i.e. all end-users contribute to the regulation of one of the important laws affecting our whole Australian society.

- CoCA outlines other options for cost recovery, if this were the ONLY aim of these Bills.
- The Coalition of Celebrant Associations Inc proposed 12 Recommendations to the Department in its Cost Recovery and Increased Professionalism.

PART IV. Summary of Coalition of Celebrant Associations (CoCA) Inc Recommendations to the Senate.

Marriage Amendment (Celebrant Administration and Fees) Bill 2013

CoCA Inc– Senate Recommendation 1

That the following amendments to the Marriage Act 1961 NOT be approved:

- Subsection 5(1) Insert: celebrant registration charge: see subsection 39FA(1).
- Subsection 5(1) Insert: charge payment day: see subsection 39FA(2).
- After section 39F Insert:
- 39FA Celebrant registration charge: liability to pay charge
- 39FB Celebrant registration charge: consequence of non-payment
- At the end of paragraph 39J(1)(c) Add "(including under subsection 39FB(3))".

CoCA Inc– Senate Recommendation 2

That the following amendment Marriage Act 1961 be approved:

After "Part IV Solemnisation of marriages in Australia, Division 2 Marriages by authorised celebrants, 50 Marriage certificates"

Add

(8) The regulations may make provision for a celebrant registration and regulation fee to be collected upon the sale of the government authorised and numbered Form 15 Marriage Certificate with the revenue so collected being apportioned to fund the Commonwealth Marriage Law and Celebrant Section national responsibilities as well as its regulation responsibilities for Part IV, Division 1, Subdivision C celebrants with the residue of the funds collected being distributed to the state and territories Regulators according to the location of the marriage solemnization" for the regulation responsibilities for Part IV, Division 1, Subdivisions A and B celebrants.

CoCA Inc– Senate Recommendation 3

That the following amendment Marriage Act 1961 be approved:

After Part 1A Marriage Education, insert

Part 1B Marriage Registration and Regulation

(1) The regulations may make provision for a marriage registration fee to be collected from marrying couples through the sale of a government authorised Marriage Registration Stamp via Australia Post or other so nominated accessible source with the revenue so collected being apportioned to fund its distribution costs (e.g. Australia Post), Commonwealth Marriage Law and Celebrant Section national responsibilities as well as its regulation responsibilities for Part IV, Division 1, Subdivision C celebrants with the residue of the funds collected being distributed to the state and territories Regulators according to the location of the marriage solemnization for the regulation responsibilities for Part IV, Division 1, Subdivisions A and B celebrants.

CoCA Inc– Senate Recommendation 4

That the following amendment Marriage Act 1961 SECTION 39E (1) to remain as is and SECTION 39E (2) to be changed to read:

Regulations to be amended to

- establish 30 regions of 5 electorates each of roughly equal population size.

- each region open for appointments once every 5 years on a rotational basis such that 6 regions a year will be available for appointment to the best applicants.
- appointments only made when the average number of weddings per region is above 25 weddings pa
- appointments to be made on the basis of the applicant having the best scores as ranked by an independent assessment process.

CoCA Inc– Senate Recommendation 5

That the following amendment to the Marriage Act 1961 Section 39C changed to read as follows

(2) The Registrar to whom an application for registration under this Subdivision is made may refuse to register the applicant if, in the opinion of the Registrar, the applicant is not a fit and proper person or does not meet other requirements as below. In determining whether the Registrar is satisfied that the person is a fit and proper person to be a marriage celebrant, the Registrar must be satisfied the person:

- (a) has sufficient knowledge of the law relating to the solemnisation of marriages by marriage celebrants; and
- (b) is committed to advising couples of the availability of relationship support services; and
- (c) is of good standing in the community; and
- (d) has not been convicted of an offence, punishable by imprisonment for one year or longer, against a law of the Commonwealth, a State or a Territory; and
- (e) does not have an actual or potential conflict of interest between his or her practice, or proposed practice, as a marriage celebrant and his or her business interests or other interests; and
- (f) would not be likely gain a benefit in respect of another business that the person owns, controls or carries out if they were appointed; and
- (g) will fulfill the obligations under section 39G; and
- (h) is a fit and proper person to be a marriage celebrant in relation to any other matter the Registrar considers relevant.

CoCA Inc– Senate Recommendation 6

That the Department implement a post-training pre-appointment independent knowledge and skills assessment to establish the order of ranking for those celebrants applying for the limited vacancies under the Capping System as proposed in CoCA Inc's Recommendation No 4 above.

CoCA Inc– Senate Recommendation 7

Add: (2) Without limiting subsection (1), the regulations may require a fee to be paid in respect of an application for an exemption from requirements prescribed by regulations made for the purpose of paragraph (1)(b); a fine to be paid for the failure to completed the Ongoing Professional Development obligations. The regulations may specify the fee and the fines to be determined by the Minister by legislative instrument.

CoCA Inc– Senate Recommendation 8

That the Department establish a Joint Attorney-General's Department and Coalition of Celebrant Associations Joint Standing Committee for Approval and Monitoring of Ongoing Professional Development Activities for Marriage Act Part IV, Division 1, Subdivision C celebrant, part of which's role would be to develop a simple and clear set of Guidelines for the approval of OPD activities and an Application and Monitoring Process that requires minimal support and supervision from the Marriage Law and Celebrant Section (i.e. one that allows the Marriage Law and Celebrant Section to concentrate on ensuring all marriage celebrants are up-to-date with their OPD obligations.)

CoCA Inc– Senate Recommendation No 9

That Section 39E, Paragraph 39J(1)(a) and Subsection 39J(3) NOT be repealed.

CoCA Inc– Senate Recommendation No 10

That Subsections 39H(1) and (2) should NOT be repelled, nor should Paragraph 39J(1)(a) “(unless a ground for the decision was that the Registrar would breach section 39E by registering the person)” nor Subsection 39J(3) “(even if doing so at the time the action is taken would cause a breach of a limit under section 39E)” be omitted.

CoCA Inc– Senate Recommendation No 11

That this amendment “Schedule 2—Other amendments Part 2—Transitional provisions” be adopted.

CoCA Inc– Senate Recommendation No 12

That amendment “42(1)(b) (iv) an Australian passport, showing the date and place of birth of the party; and” be adopted.

CoCA Inc– Senate Recommendation No 13

That amendment “**Subsection 115(1)** Omit “, as soon as practicable after each 14 March” be adopted

CoCA Inc– Senate Recommendation No 14

That the proposed amendment “39FA Celebrant registration charge: liability to pay charge” NOT be adopted, unless this applies to ALL Categories of marriage celebrants.

CoCA Inc– Senate Recommendation No 15

That the proposed amendment “39FB Celebrant registration charge: consequence of non-payment” NOT be adopted

CoCA Inc– Senate Recommendation No 16

That the Regulation fee be set at \$50 for 2013/2014.

CoCA Inc– Senate Recommendation No 17

That the Marriage (Celebrant Registration Charge) Bill 2013 section The statutory limit read as follows:

The statutory limit

(1) The **statutory limit** is: (a) for the financial year commencing on 1 July 2013—**\$250**; or (b) for a later financial year:

(i) unless subparagraph (ii) applies—the amount calculated by multiplying the statutory limit for the previous financial year by the indexation factor for the later financial year; or

(ii) if the indexation factor for the later financial year is 1 or less—the same amount as the statutory limit for the previous financial year.

PART V. Marriage Amendment (Celebrant Administration and Fees) Bill 2013

PART V-A.

Schedule 1—Amendments relating to fees and charges Part 1—Amendments relating to annual celebrant registration charge
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Summary of Proposed Changes of this section:

1. Introduces annual registration charges to continue to be a Commonwealth registered Marriage Celebrant
Commonwealth-registered marriage celebrants who are authorised under the Marriage Celebrants Program to perform marriages. This group includes civil celebrants and celebrants who are ministers of religion whose denomination is not proclaimed under section 26 of the Act i.e. Marriage Act 1961 Part IV Div.1 Subdivision C Marriage celebrants
2. Excludes annual registration charges to be continue to be a State or other registered Marriage Celebrant. i.e. Marriage Act 1961 Part IV Div. 1 Subdivision A Ministers of religion

Explanatory Memorandum claims:

"In summary, these include amendments to increase the efficiency and operation of the Marriage Celebrants Program."

The administration of the Program includes assessing and authorising new marriage celebrants for registration, reviewing celebrant performance, resolving complaints about celebrants, handling a large volume of enquiries from celebrants, producing information and guidance materials, managing ongoing professional development arrangements for celebrants and engaging with celebrants and their peak group. Many of these functions are carried out by the Registrar of Marriage Celebrants, a departmental officer with specific authority under the Marriage Act to carry out various functions in Subdivision C of Division 1 of Part IV of the Act.

Discussion:

1. Excluding marriage celebrants appointed under Marriage Act 1961 Part IV Div. 1 Subdivision A Ministers of religion and Subdivision B State and Territory officers

These amendments by excluding the two other categories of marriage celebrants, further contributes to systemic injustice against civil marriage and civil marriage celebrants that was not intended when the Act was created in 1961 nor by the 2003 changes to the Marriage Act.

Some basic measures (training for appointment, ongoing professional development and 5 yearly reviews) were intended to bring Commonwealth celebrants in line with basic assumptions about the way the State & Territory celebrants were appointed and regulated.

Rather than support the professionalism of celebrancy, these Bills are now being used to impose unfair conditions upon which Commonwealth celebrants services can be terminated upon specific grounds not applicable to other categories of marriage celebrants even though all three categories provide the same government approved service of legal marriage to the Australian community, regardless of the style of ceremony.

2. In summary, these include amendments to increase the efficiency and operation of the Marriage Celebrants Program. (Explanatory Memorandum)

Coalition of Celebrant Associations (CoCA) Inc. considers that these changes are neither an efficient nor effective way to regulate the Commonwealth Marriage Celebrant Program

because the Department does not have the expertise nor experience to be increasing its services into areas that are traditionally the province of the professional celebrant associations and the Registries of Births Deaths and Marriages.

Rather the Department is creating and expanding services to justify the collection of this revenue.

There may be some submissions in favour of the proposed annual registration fee simply to remove competition by pricing them out. However, this competitive "open market" strategy is specifically legislated against for Category A Religious celebrants (Section 33 d(ii) and Section 31 (1) a of the Act.)

Besides the wider implications of applying an annual registration fee are far more concerning. Knee-jerk reactions do not consider flow-on matters of discrimination, reduction of service to the public, heartache and worry for the marrying couple, loss of celebrant experience and expertise, lowering of service standards in the marriage celebrant program and doubts about future adequate cost recovery for the Department and the Marriage Law and Celebrant Section

There are also concerns in approving unlimited expenditure and staff for the Marriage Law and Celebrant Section without requirements for cost savings or costs reductions. This submission closely examines these and other matters of more importance than simply pricing celebrants out or introducing a 'cost recovery' fee, without any effort to examine better and fairer means of cost recovery from all users of the service, rather than Commonwealth marriage celebrants alone. For instance this could include a small charge for couples through a marriage licence process or a surcharge on purchase of marriage certificates.

As there is little change each year to the number of marriages this would ensure a foreseeable income for the Department. Celebrant numbers may rise or fall - making anticipated income from celebrants hard to gauge - or grossly unfair by passing on even greater cost recovery impositions on fewer celebrants and not on their State and Territory religious counterparts.

RE "The administration of the Program includes assessing and authorising new marriage celebrants for registration."

Appointing Commonwealth Marriage Celebrants every five years would reduce the workload of the Department to one fifth proposed under these Bills.

Given that the average number of weddings per celebrant has dropped from 35 pa (average income \$17,500 pa) to less than 7 pa (average gross income \$3,500 pa, it is wasteful of government resources and will continue to contribute to an unstable ever decreasing level of expertise across this marriage celebrant sector.

RE "reviewing celebrant performance"

See PART V-E of this submission

RE "resolving complaints about celebrants"

Normally professional bodies handle minor complaints about professionals. Even if all complaints continue to be directed to the Department, requiring marriage celebrants to prove themselves to be "Fit and Proper" professionals by their willingness to belong to a professional celebrant associations would be one way to minimize complaints.

Celebrant associations provide all types of advice to the members about the possible problems that certain behaviours and practice can cause in the relationship between the marrying couple and their celebrant and in the delivery of personalized ceremonies.

Strengthening the relationship between the celebrant peak body and the Department, with collection of relevant data on the types of complaints would assist both bodies to direct

efforts to reduce such complaints over time. Such methods could include Fact Sheets, Guidance Notes etc available via the Online Portal plus improved prior training and ongoing professional development.

RE: handling a large volume of enquiries from celebrants.

The government created this problem by choosing too low a training requirement for celebrant appointed, then duplicating registry office and celebrant associations services by providing telephone advice services in an attempt to address a training problem.

As the Department does not offer marriage services to the public, its staff has no expertise or experience in dealing with the majority of marriage related questions that celebrants may ask.

Firstly prior to 2003, celebrant made enquiries related to legal matters to the relevant Registry of Births Deaths and Marriages for the geographical area wherein the marriage would be held.

These support services continue to be available to all marriage celebrants as registries have the responsibility to register a valid marriage. In recent times, Registry offices are moving to wanting marriage celebrants to provide Online Marriage Registration. NSW and Victoria are now online and it is expected that in the next decade all jurisdictions will be online

Online registration by celebrants reduce costs to state and territory budgets with no recompense to these Commonwealth celebrants.

Celebrants may also access advice and support services via their professional associations. Recommending membership of such associations would also reduce the need for enquiries to either state or national government services.

Rather than continue to duplicate these advice services at extra cost to celebrants and thus to the marry public, it is recommended the Department confine its role to providing its expert legal advice via an online Expert Advisory Panel Forum of relevant bodies.

Queries from associations and registries as well as complaints reported would assist all stakeholders involved in supporting celebrants to direct efforts to reduce such inquiries and complaints over time. Such methods could include Fact Sheets, Guidance Notes etc available via the Online Portal plus improved prior training and ongoing professional development.

Another concern is that Commonwealth celebrants are not the only users of the Marriage Section of the Department. The general public and other types of celebrants are also likely to use these services. Currently the Department does not collect any statistics on the types of enquiries it receives from the public, State & Territory appointment celebrants versus Commonwealth celebrants.

It is not fair that independent celebrants be required to totally fund the marriage services they offer before being able to make a net hourly rate, and that celebrants should also be funding government services provided to other categories of celebrants and the public.

In fact, this is "making a profit" from one Category of celebrants to provide services to other Categories of celebrants and something we understood was not allowed under the Department of Finance Cost Recovery Guidelines.

RE: producing information and guidance materials.

Likewise it is not fair that independent celebrants be funding government information and guidance materials that are required by other categories of celebrants and the public.

RE: managing ongoing professional development arrangements for celebrants and engaging with celebrants and their peak group.

The Coalition of Celebrant Associations argues that the Department's involvement in setting the Ongoing Professional Development (OPD) program for the celebrancy profession is outside its regulatory responsibilities, and certainly outside its expertise and experience as they are not celebrants. Regulators of the other two categories of celebrants do not set the Ongoing Professional Development programs for either the Recognised Religions or the state or territory administrative systems. The Regulators role here is to check that 5 hours pa OPD is completed NOT determine what that those OPD activities will be.

The Coalition of Celebrant Associations has proposed a plan that involves establishing a Standing Committee for Ongoing Professional Development with the peak body, associations and the Department. This would mean minimal involvement of the Department in the approval of the OPD activities and using the Department's MARCEL database annual survey to assist in the monitoring of the quality of OPD services. That is the Department could provide a mechanism for independent feedback on the quality and suitability of OPD activities.

Once again the peak body and celebrant associations expertise and experience is offered at no cost to the government.

The Coalition of Celebrant Associations (CoCA) Inc RECOMMENDATIONS

CoCA Recommendation 1

That the following amendments to the Marriage Act 1961 NOT be approved:

- Subsection 5(1) Insert: celebrant registration charge: see subsection 39FA(1).

- Subsection 5(1) Insert: charge payment day: see subsection 39FA(2).
- After section 39F Insert:
- 39FA Celebrant registration charge: liability to pay charge
- 39FB Celebrant registration charge: consequence of non-payment
- At the end of paragraph 39J(1)(c) Add "(including under subsection 39FB(3))".

CoCA Inc Recommendation 2

That the following amendment Marriage Act 1961 be approved:

After "Part IV Solemnisation of marriages in Australia, Division 2 Marriages by authorised celebrants, 50 Marriage certificates"

Add

(8) The regulations may make provision for a celebrant registration and regulation fee to be collected upon the sale of the government authorised and numbered Form 15 Marriage Certificate with the revenue so collected being apportioned to fund the Commonwealth Marriage Law and Celebrant Section national responsibilities as well as its regulation responsibilities for Part IV, Division 1, Subdivision C celebrants with the residue of the funds collected being distributed to the state and territories Regulators according to the location of the marriage solemnization" for the regulation responsibilities for Part IV, Division 1, Subdivisions A and B celebrants.

CoCA Inc Recommendation 3

That the following amendment Marriage Act 1961 be approved:

After Part 1A Marriage Education, insert

Part 1B Marriage Registration and Regulation

(1) The regulations may make provision for a marriage registration fee to be collected from marrying couples through the sale of a government authorised Marriage Registration Stamp via Australia Post or other so nominated accessible source with the revenue so collected being apportioned to fund its distribution costs (e.g. Australia Post), Commonwealth Marriage Law and Celebrant Section national responsibilities as well as its regulation responsibilities for Part IV, Division 1, Subdivision C celebrants with the residue of the funds collected being distributed to the state and territories Regulators according to the location of the marriage solemnization for the regulation responsibilities for Part IV, Division 1, Subdivisions A and B celebrants.

CoCA Inc Recommendation 4

That the following amendment Marriage Act 1961 SECTION 39E (1) to remain as is and SECTION 39E (2) to be changed to read:

Regulations to be amended to

- establish 30 regions of 5 electorates each of roughly equal population size.
- each region open for appointments once every 5 years on a rotational basis such that 6 regions a year will be available for appointment to the best applicants.
- appointments only made when the average number of weddings per region is above 25 weddings pa
- appointments to be made on the basis of the applicant having the best scores as ranked by an independent assessment process.

CoCA Inc Recommendation 5

That the following amendment to the Marriage Act 1961 Section 39C changed to read as follows

(2) The Registrar to whom an application for registration under this Subdivision is made may refuse to register the applicant if, in the opinion of the Registrar, the applicant is not a fit and proper person or does not meet other requirements as below. In determining whether the Registrar is satisfied that the person is a fit and proper person to be a marriage celebrant, the Registrar must be satisfied the person:

- (a) has sufficient knowledge of the law relating to the solemnisation of marriages by marriage celebrants; and
- (b) is committed to advising couples of the availability of relationship support services; and
- (c) is of good standing in the community; and
- (d) has not been convicted of an offence, punishable by imprisonment for one year or longer, against a law of the Commonwealth, a State or a Territory; and
- (e) does not have an actual or potential conflict of interest between his or her practice, or proposed practice, as a marriage celebrant and his or her business interests or other interests; and
- (f) would not be likely gain a benefit in respect of another business that the person owns, controls or carries out if they were appointed; and
- (g) will fulfill the obligations under section 39G; and
- (h) is a fit and proper person to be a marriage celebrant in relation to any other matter the Registrar considers relevant.

PART V-B.

Schedule 1—Amendments relating to fees and charges
Part 2—Amendments relating to fee for applying to become a marriage celebrant

Summary of Proposed Changes of this section:

Introduces charges to apply to be a Commonwealth registered Marriage Celebrant
Excludes charges to apply to be a State or other registered Marriage Celebrant

Discussion:

As part of its Cost Recovery for Increased Professionalism Submission in February 2012 as part of the Consultation phase, CoCA's Recommendation 6 was that the Department implement a Post Training / Pre-Appointment Assessment Process to ensure

- a uniform high standard of entry for all independent civil marriage celebrants
- a qualitative baseline for trainer's qualifications to provide training with the VET system, and
- a measure for existing celebrants to bench mark themselves as part of their Ongoing Professional Development.

CoCA recommended that this be

- self-funded independent uniform assessment of knowledge and skills by interview
- conduct by a pool of experienced marriage celebrants who are also qualified workplace trainers and assessors of the VET celebrancy courses.

It is believed that some of the benefits of this process would be to:

- address problems with the variable outcomes of the knowledge and skills of graduates of the VET system.
- strengthen the perception that the Marriage Celebrants role is an important one requiring more than just passing a course.
- provide an opportunity for existing celebrants to become a CoCA accredited celebrant if the celebrant successfully passes this assessment

The Department's plan to strengthen prior assessment of applicants is a move in right direction.

However Coalition of Celebrant Associations Inc still remains concerned that whilst Departmental Staff may be knowledgeable in area related to marriage law, they are not qualified or experienced celebrants. Neither are Departmental staff experienced celebrant trainers nor assessors so that what is proposed falls short of an in-depth independent skilled assessment of a celebrant applicant as proposed by CoCA.

Coalition of Celebrant Associations Inc's Cost Recovery and Increased Professionalism Submission February 2012 Recommendation 6.0 was to "Implement a Pre-Appointment Assessment Process"

This strategy was estimated as a one-off cost of around \$20,000 to establish this process with its ongoing implementation and review being self-funded by celebrants wishing to be assessed in line with whatever is the current appointment training qualification to apply to be appointed.

Therefore The Coalition of Celebrant Associations (CoCA) Inc's considers that such an independent in-depth skilled assessment of celebrant applicants would then provide a mechanism whereby celebrant vacancies in the five year capped regional appointment system would be the measure to choose the best applicant for the vacant appointment.

CoCA Inc Recommendation 6

That the Department implement a post-training pre-appointment independent knowledge and skills assessment to establish the order of ranking for those celebrants applying for the limited vacancies under the Capping System as proposed in CoCA Inc Submission Recommendation No 4

PART V-C.

Schedule 1—Amendments relating to fees and charges

Part 3—Amendments relating to fee for applying for exemption from professional development requirements

At the end of section 39G

Add: (2) Without limiting subsection (1), the regulations may require a fee to be paid in respect of an application for an exemption from requirements prescribed by regulations made for the purpose of paragraph (1)(b). The regulations may specify the fee, or provide for the fee to be determined by the Minister by legislative instrument.

Summary of Proposed Changes of this section:

Adds the ability to charge a fee for exempting a Part IV, Division 1, Subdivision C Marriage Celebrant from doing annual Ongoing Professional Development required hours.

Note: *Part IV, Division 1, Subdivision A and B Marriage Celebrants are not required to do any specific number of annual Ongoing Professional Development hours.*

Discussion:

The Coalition of Celebrant Associations (CoCA) Inc supports the principle that those celebrants, who require an exemption from Ongoing Professional Development in a particular year, be required to pay a fee to apply.

However as Ongoing Professional Development options are available online and by distance it is unlikely this option is needed.

Therefore the celebrant should be required to make up the 5 hours Ongoing Professional Development in the following year or receive a Fine for Non-OPD Compliance in the order of \$500.

As argued elsewhere because of the discriminatory nature of applying criteria to Category C celebrants that does not apply to Category A and B, a single failure to do Ongoing Professional Development should not be grounds for loss of celebrant appointment. Alternatives such as fines should be options available to the Registrar of Celebrants.

COCA INC RECOMMENDATIONS

CoCA Inc Recommendation 7

Add: (2) Without limiting subsection (1), the regulations may require a fee to be paid in respect of an application for an exemption from requirements prescribed by regulations made for the purpose of paragraph (1)(b); a fine to be paid for the failure to completed the Ongoing Professional Development obligations. The regulations may specify the fee and the fines to be determined by the Minister by legislative instrument.

CoCA Inc Recommendation 8

That the Department establish a Joint Attorney-General's Department and Coalition of Celebrant Associations Joint Standing Committee for Approval and Monitoring of Ongoing Professional Development Activities for Marriage Act Part IV, Division 1, Subdivision C celebrant, part of which's role would be to develop a simple and clear set of Guidelines for the approval of OPD activities and an Application and Monitoring Process that requires minimal support and supervision from the Marriage Law and Celebrant Section (i.e. one that allows the Marriage Law and Celebrant Section to concentrate on ensuring all marriage celebrants are up-to-date with their OPD obligations.)

PART V-D.

Schedule 2—Other amendments

Part 1—Amendments

1 Section 39E - Repeal the section.

3 Paragraph 39J(1)(a)

Omit "(unless a ground for the decision was that the Registrar would breach section 39E by registering the person)".

4 Subsection 39J(3)

Omit "(even if doing so at the time the action is taken would cause a breach of a limit under section 39E)".

Summary of Proposed Changes of this section:

Removes section relating to the Capping of Marriage Act Part IV, Division 1, Subdivision C Celebrant Numbers

NB Registrars of Marriage Act Part IV, Division 1, Subdivision A and B celebrant have the ability to cap their numbers.

Discussion:

It is the responsibility of government to ensure that government services such as marriage under law are delivered in a fair and equitable way to ensure that a consistent quality of those professional services are available to the public.

A simplest view of this Legislation is to think that the fee will remove those doing few weddings. Not so. The vast majority (98%) of celebrants are currently either subsidizing the costs of providing a professional civil marriage services from other income or personal financial resources or at best making a poor hourly rate for their part-time work.

Those celebrants who have other employment or private resources, but do few ceremonies will be able to afford the fee.

However those more likely to not be able to afford these fees are:

- longer-term celebrants who mentor newer celebrants
- more experienced celebrants who have caring responsibilities for partners, parents or grand-children,
- full-time civil celebrants who like religious celebrants provide a range of other ceremonies, particularly civil funeral ceremonies

The standard of the profession over-all will be diminished by the loss of this knowledge and expertise, simply on the basis of a crude cutting numbers measure by the government.

It must also be pointed out that 23,500 recognised religious celebrants only average 1.48 weddings pa. Thus if it is reasonable to apply such crude measures to Part IV, Division 1, Subdivision C celebrants to increase their opportunities for work, then one could argue that this applies even more so to Part IV, Division 1, Subdivision A and B celebrants

Number of ceremonies done is NOT a measure of the quality of those ceremonies.

There are many examples where government restricts the numbers of people delivering a service to ensure that the service remains in the best interest of the public. The Marriage Act does so for the other two categories of celebrant. See

The Coalition of Celebrant Associations (CoCA) Inc has advised the government that the single most important strategy to increase professionalism is to balance the number of celebrants entering the profession with those leaving, whilst still ensuring that the marrying public has plenty of access to a choice of celebrant.

An ongoing yet flexible capping measure would ensure that a sufficient number of celebrants are able to maintain and improve not only their legal knowledge, but also their ceremonial skills. The latter, since 2003, is required under the Act in the Code of Practice and is the single most important concern of couples i.e. that their wedding ceremony is delivered according to their wishes in a competent and professional manner.

Most professions are regulated by

- high entry standards and training qualifications
- sufficient work to gain a sustainable weekly wage
- oversight by the profession bodies.

These natural forces manage a profession's numbers and thereby deliver a reasonably stable workforce without interference by government.

However this principle was not followed through with the 2003 changes. Instead of a course of 11 units, only one unit of a TAFE equivalent / Vocational Education & Training (VET) unit was set as the appointment criteria. To this low training level were added with some "Conflict of Interest" provisions in the Act (*that unlike State Registrars does not give the Commonwealth Registrar the ability to refuse appointment*) and some simple other "Fit & Proper" person's criteria.

Since 2003 unsustainable numbers of new appointments are continuing to be made, with over 10,000 celebrants appointed in less than a decade and the resultant dropping of the average number of weddings per celebrant to 7 per year (five times lower than 1999).

Given Marriage Act Part IV, Division 1, Subdivision C celebrants are self-employed professionals-in-private practice need to average 100 weddings pa to make a sustainable weekly wage from wedding work, the effect of the 2003 Changes have halved work and income and been disastrous.

Adding other ceremony work in 1999 may have allowed 35 % celebrants with over 25 wedding per to make a part-time to full-time income from work as a civil celebrant. This opportunity also has shrunk by one half.

And the number doing 10 weddings or less increased from 36.3% to 63.8%

At \$500 per wedding to compare AVERAGE GROSS incomes of independent celebrants, these tables show a massive drop in earnings from \$17,500 pa (1999) to \$3,500 pa (2010).

Civil celebrants, like recognised religious celebrants, need fair recompense for their work, but remuneration is not the prime or only reason they offer their services to the community.

Table 1 - CIVIL MARRIAGES 1999 Dept AG's Statistics
Average weddings per celebrant per year = 35

Number Of Weddings Per Annum	Celebrants %	Celebrants Number
Nil	6.78 %	113
1 - 10	29.53 %	493
11 - 25	26.20 %	438
26 - 50	21.70 %	362
51 - 100	12.08 %	202
101 - 150	2.53 %	42
151 - 200	0.95 %	16
200 plus	0.25 %	4

Handwritten annotations: 33.8% (spanning 26-50 and 51-100), 3.73% (spanning 101-150 and 151-200)

Celebrante and AFCC Association Survey (2012)
Average weddings per celebrant per year = 7

HOW MANY CEREMONIES DID YOU PERFORM IN 2011?

RESPONSE	%	COUNT
None	6.4%	94
Between 1 and 5	32.8%	52.3% 480
Between 5 and 10	20.5%	300
Between 10 and 20	17.8%	21.95% 261
Between 20 and 30	8.3%	122
Between 30 and 40	4.2%	61
Between 40 and 50	2.7%	16.35% 69
Between 50 and 75	4.1%	60
Between 75 and 100	1.2%	17
More than 100	2.1%	31
TOTAL	100%	1465

Handwritten annotations: 52.3% (spanning Between 1 and 5 and Between 5 and 10), 21.95% (spanning Between 10 and 20 and Between 20 and 30), 16.35% (spanning Between 40 and 50 and Between 50 and 75)

Putting a flexible capping regime in place

- would still allow new celebrants to enter the system based upon the "best person" for the role
- would not remove the opportunity for potential independent marriage celebrants to conduct other ceremonies for their community, as is the case for Division 1, Subdivision A and B celebrants
- would reduce the amount of wasted personal family income in applicants setting up an independent celebrancy practice, only to find that unsustainable. This is due to the over-supply of independent celebrants, still being increased by 1000 new celebrants every two years, and the relatively slow growth in the availability of wedding work, despite the growing market share
- Would reduce the 'cost recovery' burden on existing celebrants who are being required to subsidise a system that is not matched to either their needs or the community's needs.

The independent marriage celebrant workforce would be stabilised by making appointments per region, with vacancies being open every 5 years, with appointments going to the best applicants available by independent assessment, and only when the ratio of weddings per celebrant per year rises about 25 weddings for that region

The "appointment selection" method then is

- not dependent on population changes or celebrant relocations
- would balance the intake rate with retirement, de- registration rates and regionally based community needs
- provide adequate access to work to improve and maintain skills.
- based upon similar principles for appointment and registration being applied to civil as currently apply to Recognized religious (refer Division 1 – Subdivision A section 31 of the Marriage Act 1961)

With the regional ratio of weddings per celebrant per year set by regulation, there would be an opportunity for different regions to make submissions based upon special regional circumstances.

COCA RECOMMENDATIONS

CoCA Inc Recommendation No 9

That Section 39E, Paragraph 39J(1)(a) and Subsection 39J(3) NOT be repealed.

See CoCA Inc Recommendation No 4.

PART V-E.

Schedule 2—Other amendments

Part 1—Amendments

2 Subsections 39H(1) and (2) Repeal the subsections,

substitute: (1) The Registrar of Marriage Celebrants may, from time to time, review the performance of a marriage celebrant in respect of a period to determine whether the Registrar considers that the celebrant's performance in the period is satisfactory. Note: The period to which a review relates is at the discretion of the Registrar.

9 Transitional provisions relating to amendment made by item 2

Summary of Proposed Changes of this section:

Removes the requirement to review each marriage celebrant every 5 years

Explanatory Memorandum claims:

Discussion:

NB The Regulation Impact Statement (RIS) put forward by the AG Department argues the increased funding required is to enable the Department to conduct these 5 yearly reviews, yet this section removes that need.

RE "reviewing celebrant performance"

The Department has recently moved from paper-based to computerized management of its administrative systems for monitoring the performance of Commonwealth celebrants, including an online portal to enable Commonwealth celebrants to be able to pay fees with the additional needed benefit of being able to reinstate annual surveys to collect statistics upon which to make informed decisions for The Program.

It must be noted the government argued that Cost Recovery was necessary to enable it to meet its regulatory responsibilities for checking that celebrants had met all requirements during a minimum of a 5-year period.

So it can seem rather contradictory then that these Bills in effect will increase the number of reviews five fold via an annual survey. On the other hand, it can be assumed the recent computerization of Commonwealth celebrants records is more than sufficient to handle 5 yearly reviews, if "*performance reviews can be conducted on a more selective and targeted basis*" as proposed in the Explanatory Materials.

Either way it must be concluded that the level of funding required to meet its Regulatory functions as required by the Act has been excessively inflated.

The "*allocation of the necessary resources to those cases where there are grounds for concern about the conduct or professional standards of marriage celebrants*" means that all those celebrants who are meeting their regulatory responsibilities are subsidising those who are not.

This is an example of "making a profit" from one Category of celebrant to provide services to other Categories and something we understood that was not allowed under the Department of Finance Cost Recovery principles.

CoCA Recommendations

CoCA Recommendation No 10

That Subsections 39H(1) and (2) should NOT be repealed, nor should Paragraph 39J(1)(a) "(unless a ground for the decision was that the Registrar would breach section 39E by registering the person)" nor Subsection 39J(3) "(even if doing so at the time the action is taken would cause a breach of a limit under section 39E)" be omitted.

PART V-F.

Schedule 2—Other amendments Part 2—Transitional provisions

Summary of Proposed Changes of this section:

Refers to online applications that may not be completed at the time of commencing application

Discussion:

This is a minor adjustment due to the way most applications will be made now that the Department has an online facility for lodging applications for appointment as an independent marriage celebrant.

Having computer and IT based skills is an essential requirement for modern professional independent marriage celebrants. This is important for researching information and especially for doing online registration of marriage that is currently available for NSW and Victorian marriage celebrants and within a decade could be available in all States and Territories.

CoCA Recommendation No 11

That this amendment "**Schedule 2—Other amendments Part 2—Transitional provisions**" be **adopted**

PART V-G

Schedule 2—Other amendments

Part 1—Amendments

6 At the end of paragraph 42(1)(b) Add: (iv) an Australian passport, showing the date and place of birth of the party; and

Summary of Proposed Changes of this section:

Removes discrimination against all Australian citizens and especially those who are not Australian born, as overseas born people are able to use overseas passports as evidence of age (date-of-birth) and place of birth;

Discussion:

CoCA supports this amendment.

However such changes will require supporting information and guidance for ALL marriage celebrants.

Thus the need for a Cost Recovery mechanism that is fairly applied to all marriage celebrants, or the Commonwealth needs to retain more funds in the Departments budget to ensure that Commonwealth celebrants are not indirectly subsidizing the work of the Department for all celebrants.

COCA RECOMMENDATIONS

CoCA Recommendation No 12

That amendment "42(1)(b) (iv) an Australian passport, showing the date and place of birth of the party; and" be adopted.

Also see *CoCA-Senate Recommendation No 2 and 3*

PART V-H.

Schedule 2—Other amendments

Part 1—Amendments

7 Subsection 115(1) Omit “, as soon as practicable after each 14 March”.

Summary of Proposed Changes of this section:

As the Register of all Marriage Celebrants – State and Commonwealth – are published on the Attorney-General’s website on a continuous basis, the need for printing lists is redundant.

Discussion:

CoCA agrees with this amendment given the changing nature of information distribution.

However, it must be noted that the MARCEL computer and web system that now carries the full Online Register of ALL Marriage Celebrants should be funded by all marriage celebrants not just Commonwealth Celebrants as proposed under Cost Recovery.

COCA RECOMMENDATIONS

CoCA Recommendation No 13

That amendment “**Subsection 115(1)** Omit “, as soon as practicable after each 14 March” be adopted

Also see CoCA-Senate Recommendations No 2 and 3

PART V-I.

39FA Celebrant registration charge: liability to pay charge

39FB Celebrant registration charge: consequence of non-payment

Summary of Proposed Changes of this section:

Sixty days to pay an annual registration fee, not applicable to Division 1, Subdivision A and B celebrants. Failure to pay in 60 days results in automatic extinguishing of the celebrant's ongoing lifetime appointment provided the celebrant continues to be a Fit & Proper person. Provides an ability to see an exemption from the payment of the fee, but not an ability to apply for an extension to the time within which to pay.

Discussion

There is no evidence to support the assumption that this annual level of regulation is required to ensure marriages are valid under law.

So there is absolutely no justification for the government to remove the right to continue to practice as a marriage celebrant if one continues to be a Fit and Proper Person simply on the basis of the non-payment of an annual fee.

Removing ongoing lifetime appointments (by removing *5 yearly reviews of performance*) with annual appointment based upon ability to pay a fee (*rather than poor performance*):

- has serious and unnecessary consequences for the marrying public.
- is a disproportionately harsh consequence for the non-payment of fee
- is discriminatory in its being only applicable to one Category of Marriage Celebrants under law.

Therefore payment of Cost Recovery Fees should not remove the Celebrant 5 yearly Performance Reviews nor the right to continue to practice as a marriage celebrant if the celebrant continues to be a Fit and Proper Person.

Non-payment of annual fees should attract fines not an automatic expiration of appointment.

COCA RECOMMENDATIONS

CoCA Recommendation No 14

That the proposed amendment "39FA Celebrant registration charge: liability to pay charge" NOT be adopted, unless this applies to ALL Categories of marriage celebrants.

CoCA Recommendation No 15

That the proposed amendment "39FB Celebrant registration charge: consequence of non-payment" NOT be adopted

PART VI RE: Marriage (Celebrant Registration Charge) Bill 2013
A Bill for an Act to impose celebrant registration charge, and for related purposes

PART VI - A. The statutory limit

The statutory limit

(1) The **statutory limit** is: (a) for the financial year commencing on 1 July 2013—\$600; or
(b) for a later financial year:

(i) unless subparagraph (ii) applies—the amount calculated by multiplying the statutory limit for the previous financial year by the indexation factor for the later financial year; or

(ii) if the indexation factor for the later financial year is 1 or less—the same amount as the statutory limit for the previous financial year.

Discussion:

The Department provided the Coalition of Celebrant Associations (CoCA) Inc with an estimation that approx. 10% of its current annual budget of \$2 million is applied to its national marriage responsibilities with the remainder being tied up in its management of the Commonwealth Marriage Celebrant Program.

One queries why small a small budget item is ear-marked for “cost recovery” given the importance of marriage to our social structure, and especially when the other two categories of celebrants should be subject to the same regulatory measures under the same Act, if marriage services are to be delivered without favour to all?

Coalition of Celebrant Associations (CoCA) Inc considers the major part of the federal government’s work on marriage should relate to all categories of celebrants.

13.0 Summary of the effects of Recommendations on Cost Recovery

Name of Fee	MLCS work	
Annual Marriage Law Education & Confirmation of Continuing Registration Fee or Annual Marriage Law & Celebrant Section Website Listing and Access Fee.	Marriage Law and Policy Development	Either collected as a fee directly from celebrants and paid once each year via Canprint. Or by purchasing of vouchers/ stamps from Canprint per marriage
	Marriage Stationery, Publications and Canprint	
	Data collection & analysis	
	Website Listing	
	Coordination of Resource Development and support for all marriage celebrants (BDMs and Celebrant Associations)	
	Reimburse BDM work	
	Reimburse CoCA work	
	Explanatory Material	
Application Fee	Inquiries	Paid for by applicant
	Fit & Proper Person Assessment	
	Knowledge and Skills Assessment	
	Servicing Regional Advisory Committees	
Appointment Assessment Fee	One hour each 5 years	Paid once each five years purchased from Canprint. Or a proportion added to the annual Website Fee
	Fines for non-compliance	

NOTE: CoCA advises against duplicating a mechanism for collecting fees when there is already a system in place via Canprint. Celebrants should not be required to bear the cost of such duplication were the MLCS to set up its own collection system.

In relation to the Departments regulation of Category C celebrants, their figures

- estimate costs of maintaining the MARCEL Data base for managing Commonwealth celebrants records, doing annual surveys and reviewing performance at \$ 1 million over 3 years. This translates to around \$30 per celebrant.

However, this database also manages the online Directory of ALL Marriage Celebrants (*i.e. including the two categories of celebrants excluded from the payment of these fees.*) So cost recovery should come from these celebrants as well.

This amount could be then be guessed as around \$20 per Category C celebrant.

- Estimated as \$300,000 over 3 years (or \$10 per celebrant) the costs for stakeholder engagement, unnecessary stationery costs for an annual registration and criminal checks for new celebrants. Given the latter is now to be collected as part of the fee to be applied to New Appointments, this figure can be conservatively halved i.e. \$5
- In total this represents approx \$25 per annum.

Add to this half hour per annum of clerical work to check the celebrant has completed each years Annual Survey and OPD obligations, Notified any contact information changes and not had any complaints, gives a fee of around \$50 pa not \$250.

Thus the Coalition of Celebrant Associations Inc. estimated on the Cost Recovery figures provided by the Department, that a maximum fee of \$50 pa or \$250 for a five year term would be more than sufficient to cover the costs of the Department in monitoring celebrants performance and completing 5 yearly reviews with the computerized system now in place.

Category C celebrants who have meet all their obligations should not be required to subsidise those who do not as is currently proposed by the Bills. Non-compliant celebrants need to be fine for their failure to meet their statutory requirements.

On this premise, the annual fee should be not more that \$50 indexed in 2013 with an upper limit of \$150. Allowing for a portion of celebrants to resign, this would mean the government could recover \$250,000 to \$500,000 pa in revenue, or an additional \$750,00 to \$1.5 million over 3 years.

This is provided that the government can sustain the argument that this aspect of cost recovery is specifically related to Category C celebrants, even though the other two Categories are not regulated in this way.

In its Cost Recovery and Increased Professionalism Submission, Coalition of Celebrant Associations Inc maintains that Cost Recovery must apply fairly to all end-users under the Marriage Act, not just those choosing independent celebrants, for all other aspects of the Marriage Law and Celebrant Section's work.

Setting training standards is the responsibility of the VET sector in conjunction predominantly with the professional associations and the peak body.

As argued elsewhere management of ongoing professional development should be predominantly the role of the peak body and celebrant associations with Department input, rather than the reverse.

Other Options

Celebrant Regulation Fee

The Commonwealth government could impose a Celebrant Register Fee on all celebrants via a \$10 or \$20 levy on all Marriage Certificates sold via Canprint Company that distributes government publications as well as marriage stationery to all marriage celebrants

This would mean that all celebrants would contribute to Cost Recovery of the Department's responsibility to maintain an up-to-date Register of Marriage Services for the public.

Commonwealth celebrants will be providing their own time free of charge to update their own contact details and thus be reducing department costs anyway.

The revenue raised can then be apportioned between the federal government and the state and territory registries for the services.

At 120,000 weddings per annum, the funds raised would be \$1.2 million (\$10 per wedding) to \$2.4 million (\$20 per wedding) regardless of category of Marriage Celebrant.

Marriage Services Fee

That the Commonwealth government impose a Marriage Services Fee on all marriages through the simple purchase of a Registration Stamp from the Australia Post system.

The revenue raised then can be apportioned between the federal government and the state and territory registries for the services.

At 120,000 weddings per annum, the funds raised would be \$2.4 million (\$20 per wedding stamp) to \$3.6 million (\$30 per wedding stamp) regardless of category of celebrant conducting the services.

Recommendation No 16

That the Regulation fee be set at \$50 for 2013/2014.

Recommendation No 17

That the Marriage (Celebrant Registration Charge) Bill 2013 section 8 The statutory limit read as follows:

8 The statutory limit

(1) The **statutory limit** is: (a) for the financial year commencing on 1 July 2013—**\$250**; or
(b) for a later financial year:

(i) unless subparagraph (ii) applies—the amount calculated by multiplying the statutory limit for the previous financial year by the indexation factor for the later financial year; or

(ii) if the indexation factor for the later financial year is 1 or less—the same amount as the statutory limit for the previous financial year.

