

Submission from

**Rona Goold
Civil Marriage Celebrant**

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

Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

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1. Preamble

Recognition of significance of marriage

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

*Marriage Regulations 1963 Statutory Rules 1963 No. 31 as amended
Schedule 1A Code of Practice for marriage celebrants (regulation 37L) #*

It would be simplistic to think these Bills are just about recovering some dollars civil celebrants seem reluctant to pay because we all know weddings are worth a lot of dollars and surely that's the case for celebrants too.

To think this way would be reducing this legislation to a "just a piece of paper" mentality. Many people use this to protect themselves from the deep pain they intuitively know comes from the failure of a marriage. Marriage is so much more than just a piece of paper protecting one's assets.

Marriage is the fundamental building block of a society's structure. At one level, it is the legal contract in our nation, adults can use to protect the resources created by their union to support their daily living and to enhance their lives as well as to support themselves in times of sickness, disability and old age.

At a more important level, marriage aims to strengthen

- the marriage partners commitment to nurture the physical, spiritual and social health to maturity any children of their partnership as well as their partner and themselves.
- family and community support of this social unit by redefining relationships between the two extended families, to which each partner belongs, as well as redefining the kinship and other relationships.

Ceremonies are an opportunity to take 'time out' of the busi-ness of daily living to reflect on those aspects of life that are the most important

- welcoming a child into its family circle and its extended support network of friends and community
- coming to the age of accepting adult responsibilities as well as privileges of citizenship in a democratic country like ours
- committing to love and support one's chosen life partner "for life" (*not just in terms of time but also for good health and the fullness of life*)
- acknowledging achievements whether in sports, arts, business or community service
- farewelling a loved one when their life ends, celebrating the impact of their life on their community and reinforcing the family and social bonds we all need for optimum physical, mental and social health.

Whether ceremonies are religious or secular, these are the times our society reinforces social and personal values of love, loyalty, family, trust, commitment, caring, hope, freedom, equality fidelity, perseverance, harmony, tolerance, " a fair go" and the like.

We need at these times to focus on those aspects of ceremony and less on the paper and party thereafter.

Australia's civil celebrants have been quietly and unobtrusively developing their knowledge, skills and experience in delivering ceremony. Creating and facilitating meaningful individualised ceremony takes time and commitment from celebrants who value relationship and care in all its forms. It is easy to be cynical, hard to persevere – especially without support.

All marriage celebrants, but particularly independent celebrants, need their government uphold their role in "*the social, cultural and legal significance of marriage and the marriage ceremony in the Australian community*". Leaving the latter's fate to "market forces" on one year annual contracts subject basically only to payment of a fee (*whatever the amount*) as these Bills propose, will be a strong statement of the national government's lack of commitment to marriage and their independent celebrants – viewing these Bills and the fee as 'just a piece of paper'.

That is why it is essential to adopt the Coalition of Celebrant Associations (CoCA) Inc. recommendations to amend these Bills, or failing that, to reject the Bills outright until cost recovery is considered in a more comprehensive reform program.

Code of Conduct: <http://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Formmarriagecelebrants.aspx>

2. Executive Summary:

The Coalition of Celebrant Associations (CoCA) Inc, as do I, argue that the imposition in these Bills of registration charges for cost recovery purposes entrenches inequities in the system for Commonwealth celebrants, vis a vis state and religious celebrants, and makes independent professional civil celebrancy service provision unviable.

These changes come on top of 'reforms' in 2003 that removed caps on overall numbers of celebrants and led to a massive increase in celebrant appointments, from 3,400 to 10,500 now.

The result of this deregulation and a low entry-training requirement is less work and less experience on which to build capacity and a significant drop in income for celebrants, as there was no equivalent rise in number of civil weddings.

There are now so many celebrants registered that the average number of weddings they perform in a year is seven and average gross annual income is down to \$3,500. At best, civil celebrancy has become a sometime hobby for almost all, instead of the proud and respected profession it once was.

Like CoCA, I am of the view that registration charge, while onerous for those on such low incomes, will not in and of itself deter prospective celebrants, most of whom will take a short training course and try their luck by undercutting current operators, further diminishing income and no doubt driving down the quality of service.

Like the CoCA submission, I argue for a level playing field, all marriage celebrants, including religious and state and territory registered, should be subject to the same training requirements, standards and charges and the same legal oversight by the Attorney-General.

I fully support the Coalition of Celebrant Associations (CoCA) Inc recommendations as to how a more equitable system could be established and urge the Senate to either

1. Adopt the Coalition of Celebrant Associations (CoCA) Inc recommendations and my own, or
2. Reject these Bills until these are considered in a more comprehensive reform program.

3. Summary of Recommendations

Recommendation 1:

39I Disciplinary measures be amended to add a new item after existing item 2 (a), make amendments to existing item 2 (c), and renumbering such that 39I states

(2) (b) A fine of \$500 for each failure to meet one's Obligations as a marriage celebrant, or such amount as determined by Regulation and where the failure has relates to non-attendance to annual approved 5 hours Ongoing Professional Development activities, the celebrant will be required in the following OPD year to compete 10 hours of OPD

(2) (b) to be renumbered as (2) (c)

(2) (c) to be renumbered as (2) (d)

(2) (d) suspend the marriage celebrant's registration for a period (*suspension period*) of up to 6 months ADD *where the marriage celebrant has received three fines with a five-year review period, or for any other reason as the Registrar sees fit* by annotating the register of marriage celebrants to include:

(2) (d) to be renumbered as (2) (e)

Recommendation 2:

39G Obligations of each marriage celebrant be amended to add a new item (b) then renumber existing items 39G (b) and (c) accordingly

(b) undertake and maintain membership of a professional celebrant association whilst registered as a Subdivision C marriage celebrant

39G (b) renumbered as (c)

39G (c) renumbered as (d)

Recommendation 3:

As proposed by CoCA to the Department in 2012, a Senate Inquiry with the following Terms of Reference is recommended to both Houses of Commonwealth Government.

Australia's marriage law and marriage celebrant services including:

- (a) A review of the current law and practice and the extent to which it is sustainable in delivering high standards of professionalism
- (b) The effectiveness of the Celebrants' Code of Practice and Guidelines for Celebrants
- (c) The extent to which current training regimes are fit for purpose
- (d) Celebrant appointment processes
- (e) The extent to which the treatment of civil celebrants and religious ministers is equitable
- (f) The effectiveness of the current complaints handling system.
- (g) The appropriateness of current fees and levies imposed on celebrants
- (h) Any other relevant matters.

Other Recommendations:

As outlined in 5.3, this submission fully support all the recommendations of the Coalition of Celebrant Associations (CoCA) Inc. Submission to this Senate Inquiry.

4. Introduction:

Rona Goold BSC DipEd CMC

To: Committee Secretary
Senate Legal and Constitutional Affairs Committee
PO Box 6100
Parliament House
Canberra ACT 2600
Australia

Dear Senators

Thank you for the opportunity to share my personal observations, knowledge, experience and recommendations from a career in celebrancy. My career is not as long as some. However I have experienced the Marriage Celebrant Program in its three main phases of structural change (1973 to 1995; 1995 to 2003; 2003-2013).

My marriage celebrant appointment commenced in 1989. Since then I have conducted over 800 civil marriages and 150 baby and child namings as well as some civil funerals, memorials and other ceremonies in that time. I am member of the several other celebrant associations to inform my celebrancy work. Currently I am a fulltime volunteer Coordinator of Celebrants & Celebrations Network Australia (CCNA) the celebrant support division of the Civil Celebrations Network (CCN) Inc.; The CCN Inc Delegate to CoCA and Secretary of the Coalition of Celebrant Associations (CoCA) Inc. Also I am CoCA's representative on the Industry Reference Group's the third review of celebrancy training in the VET system having also been the celebrant representative on the second review by the Community Services & Health Sector Skills Council). Previously I was a National Committee Member of the AFCC from 2001 to 2008 and founding director of the CCNA and a member of the founding member of the CCN Inc. My prior experience to celebrancy was high school science teacher and community worker for several age and disability related services as well as the founding director of a NSW Health statewide Alcohol and Other Drug education centre. This experience is note to establish my 'bona fides' in making this submission.

All phases have had their difficulties and challenges as well as their advantages and successes. The last phase has been the most challenging because of the paradigm shift from a community service model to a professional model of civil celebrancy.

This phase has been made more difficult by the good intentioned but uninformed efforts of the Department since 2003. There are three main reasons for these problems in this time. These are:

1. a lack of continuity with the pre-2003 vision for the 2003 changes. The Government changed and those people who carried this vision moved elsewhere.
2. the newly created section of the Department to administer the Program was and continue to be staffed with personnel who do not have professional celebrancy experience or expertise
3. the erroneous assumption civil celebrant associations' advice was biased and self serving rather than being in the national interest.

I suppose most of you are wondering why many of the submissions from celebrants are describing these Bills as unfair and discriminatory.

After all, other professionals have to pay an annual fee to stay registered.

And at \$240 this fee is just "a half a wedding".

Why is there any fuss at all, other than perhaps the fact that no one seems to want to pay his or her way these days?

And the Government has assured you these Bills are not discriminatory (*according to legal terms*) even if they are unfair.

If so, does this mean the Senate would want to support Bills that are unfair?

These Amendment Bills need to be amended as CoCA Inc recommends or rejected because:

1. Putting aside the same sex marriage issue, the Marriage Act needs a comprehensive review, having been legislated over a half a century ago. The Act is discriminatory in the way it delivers legal marriage services and weddings ceremonies to the public and on the marriage celebrants who to deliver these legal services on the behalf of the government. *See Table 1*
2. The fee is not going to a professional peak body or to celebrant associations, but to 'cost recovery' 90% of the government marriage budget - leaving only a tiny amount \$0.2 million for maintaining a register of all marriage celebrants and providing legal guidance to the whole nation.
3. An unpaid 'fee' in other professions would not result in a total extinguishment of the right to practice in so short a time as 60 days, with the requirement to retrain to regain the right to practice when the job role has not changed, and this harsh measure only applying to those in "private practice" (Subdivision C celebrants), whilst not requiring the fee at all from those professionals who are "employed" (Subdivision A & B celebrants).

Nor does such an immediate and automatic extinguishment impact so personally on the "client". A replacement lawyer can be found to as expertly handle a legal matter, a doctor found to do the operation, a physiotherapist to do a therapeutic massage, a nurse to deliver a flu injection. However because the personality, style, experience and skills of each celebrant are unique such an easy replacement would be rare, if not impossible.

4. In other professions, the regulator's role is not to determine the continuing professional development requirements of the profession, rather to monitor the requirements as they relate specifically to a small aspect of the profession's work, not to "take over" these broader legitimate functions of the profession.
5. In other professions, there is sufficient full-time work to make a sustainable weekly wage whether the profession is in private practice or in paid employment. Marriage services are still controlled by government and in this way, Commonwealth celebrants are more equivalent to "professionals in private practice having an enterprise bargaining agreement" with government and thus it is appropriate for the government to set numbers to match the public good.
6. Capping of celebrant numbers as outlined in the CoCA Submission to the Senate and in its submission to Government in February last year, is the most efficient and the fairest way to structure the appointments of independent celebrants.

Structures to do so were not in place in 2003. However with celebrant training and assessment systems in place now and the Department having computerised The Celebrant Program's database and interfaced this online, appointments can be made upon the principle of the best person for the vacancies when they arise.

The average ratio of weddings per celebrants could be adjusted if there is independent evidence to support its need.

7. The Department will be wasting celebrants' money, and in turn, the community's financial resources, by implementing an unnecessary level of regulation that will not deliver the results it claims it will.

Rather these Bills will compound earlier mistakes the Department has made with The Marriage Celebrant Program, when it

- o did not upgrade its administrative system for the Celebrant Program from paper to computers in 2003
- o chose too low an entry training level for appointment in 2003 (*One VET/TAFE unit*)
- o tried to make up for this mistake by requiring all Subdivision C celebrants to phone them, even though this duplicated BDM support and the Department had no experience in

responding to these types of call nor experience in delivering this type of advice – *thus creating a need it now says it needs to service!*

- o directed Subdivision C celebrants not to phone them, but to email instead, when swamped with calls as a result of its Directive
 - o provided email advice with a 'caveat' their information not be passed onto other celebrants in case the particular circumstance of that case was not universally applicable. *(It would be far more efficient to use the Expert Advisory Panel model as proposed by CoCA to work with the Stakeholders to develop guidelines, general principles, fact sheets and other tools rather than trying to do this task one-on-one requiring high staffing)*
 - o then directed how Subdivision C celebrants can interpret the Marriage Act, although at the same time advising marriage celebrants the Department can not give legal advice *(as that is the role of the courts)*
 - o required all Subdivision C celebrants to instruct their couples they must use "*words that mean the same as*" rather than "*words to that effect*" as noted in Section 45. The Department thus approves the word "spouse", but not the term "marriage partner"; allows "lawful" or "wedded" to be removed from the Vows, but not both words; requires the couple to say "I call upon the persons here present to witness" and allows the variation "I ask everyone here to witness, but not "I ask my family and friends to witness" as a non-friend or family member may be passing by; allows the AB or CB for names in the vows to be personalized to one given name, but not nickname (A or B, C or D) provided the full names are used elsewhere in the ceremony, but before the vows and so on, even though Section 45 does not apply to couples married by Subdivision A Recognised Religious Celebrants. (And surely one would expect trained professional civil celebrants to be trusted to make judgments at this level of "words to that effect"?)
For Example See Marriage Guidelines Page 60
<http://www.ag.gov.au/FamiliesAndMarriage/Marriage/Pages/Formmarriagecelebrants.aspx>
and CCN Inc Submission Part B The Marriage Act
<http://www.celebrations.org.au/submissions/ccn-submission-re-fee-a-reforms/914-section-b-the-marriage-act>
- CAN THE COUPLE PERSONALISE THE VOWS?**

Couples may wish to personalise the minimum vows. However, it is important to be aware that legally there is limited capacity to change the vows. The safest course of action is to use the wording in the Marriage Act.

The following wording substitutions and changes are acceptable given the inclusion of 'words to that effect' in subsection 45(2):

 - 'call upon' may be changed to 'ask'
 - 'persons' may be changed to 'people'
 - 'thee' may be changed to 'you'
 - 'husband' or 'wife' may be changed to 'spouse'
 - 'persons here present' may be changed to 'everyone here' or 'everybody here' or 'everyone present here' or 'everybody present here', or
 - the couple may leave out either 'lawful' or 'wedded', but not both.

The following changes to the minimum words are not acceptable:

 - 'family and friends' cannot replace 'persons here present' or 'everyone here', and
 - 'partner' cannot replace 'husband' or 'wife' or 'spouse'.
- o conducted its "consultations" based upon "how to justify current staffing" and thus creating a plan to "increase services" rather than genuinely consider how to make more effective and efficient use of the existing stakeholders as advised by CoCA Inc.

- o asked for celebrant association advice then considered as the Department it knows better. *(For example CoCA recommended minimum 10 weddings in three years + knowledge and skills assessment the Department + proof of their qualification in Workplace Training and Assessment and completion of the current celebrant training + Department re-assessment every five years to be a trainer of the marriage units etc. This recommendation yet to have a response)*

Thus these sort of structural changes are not part of the Department's plan to ensure all new appointees will receive better quality training and are independently assessed prior to appointment to reduce the need for government involvement in this profession.

8. The Department staff proposed to collect this fee do not provide marriage services, do not have relevant expertise and experience, are not trainers, nor assessors of professional civil celebrants, so it is inappropriate that the Department deliver the sorts of services proposed.

Their legal knowledge and skills are applicable and may be needed by all marriage celebrants, not by just one Subdivision under the Act.

9. The Marriage Law and Celebrant Section has indicated some \$1.8 million devoted to providing some simple regulatory functions of the Category C Commonwealth appointed celebrants leaving only \$ 0.2 million for Marriage law policy development and guidance.

One would have hoped our government considered \$2 million such a tiny fraction in national budget, for such an important piece of legislation that "cost recovery" was not necessary at all. However if necessary, it is important to make sure this is in the public's interest and collected on all marriage service and/ or celebrants.

10. These Bills aim not only to recover \$1.8million from the least able to pay celebrants, but increase the Department's budget by another \$0.4 million to "increase services" that are unnecessary.

These extra costs are more likely to decrease celebrant associations' memberships, and thus reduce celebrants' access to those bodies that, at no cost to the government, can provide a wide range of advice and daily support via their online networks to celebrants.

This appears to be a strategy to increase celebrants' dependence on this Government Department rather than minimise the need for any celebrant to require one-on-one staff intensive and expensive support.

11. The Regulator does not require this level of funding, when the level of statutory complaints and invalidity of marriage is miniscule compared to the volume of weddings done by Category C celebrants (70,000+ pa or 7 million weddings in a decade).

12. The Department has argued "regulating" so many celebrants needs more staff, even though it plans to appoint more. However computerisation of the Program's records is negating the claim for this need. The Bills demonstrate this in that they now propose to remove 5 yearly reviews altogether.

Recent discussions with the Department also indicate their planned advice services are not just available to Commonwealth Celebrants. They are used by the general public as well as by other Subdivisions of Celebrants. One could also argue that many the queries celebrants make of the Department (and Registry Offices and their professional associations) are in reality on behalf of their couples.

What is needed is the Marriage Law and Celebrant Section to actually do their regulatory work as the Act requires. Why then are they not? **See Key Issue 5.1**

5. Key Issues:

Via my involvement on CoCA, I understand some 3000 celebrants have not completed their annual ongoing professional development obligations

Why then are these celebrants still on the Marriage Register as "active" celebrants?

Why is the Department not meeting its current simple regulatory responsibility and is annual "registration" fee the best way to solve this problem?

Even if these people are only doing 1 or 2 weddings pa for family and friends, this represents 3000 to 6000 weddings not able to be done by celebrants who are meeting their Obligations.

Why has the Department not been given the "clout" to remove non-compliant celebrants in a firm yet fair way?

5.1. Are these Bills necessary?

No.

The Department's response is totally disproportionate to level of complaints needing addressing from a legal perspective.

The Coalition of Celebrant Associations (CoCA) Inc submission provides evidence Statutory Complaints at less than 0.5% of all independent celebrants marriages and 1 case in the last 15 years where the invalidity of marriage was upheld in connection to independent celebrants.

A simple annual Registration fee cannot address non-legal complaints about the celebrant's personality and professionalism.

Rather these are issues are better addressed by:

1. Better Legislation
2. Better Coordination of Legal Advice and Support by the Department of all the key stakeholders - Marriage Law & Celebrant Section, Registries of Birth, Deaths and Marriages, the peak body CoCA and professional celebrant associations
3. Better training systems and qualifications prior to appointment
4. Better assessment and selection processes for appointment
5. Better professional association advice and support
6. Better ongoing professional development

The Department needs to confine its role to its legitimate national priorities of 1,2 and 3 above and concentrate its involvement simply in the "Regulation of Independent Marriage Celebrants" 5 yearly reviews and follow up of those not meeting their simple Obligations as Commonwealth Appointed Marriage Celebrant.

Just meeting its current Regulatory functions properly would mean the Marriage Law and Celebrant Section could remove over 3,000 celebrants in one go.

The Act outlines clear Disciplinary measures that can be taken.

Do these need strengthening with fines or some other methods to ensure the Department's simple Regulatory responsibilities are met?

A "three strikes" then automatic de-registration would be one more effective method than an annual fee penalising those compliant with their obligations and will create an even more unstable workforce.

These types of measures would mean those celebrants who are passionate and committed to their celebrancy practice would not, as these Bills propose, be subsidising those who are not meeting their most basic obligations.

Disciplinary Measures in the Act give the Commonwealth Registrar grounds to address the four main Obligations of the Marriage Celebrant (39C):

1. Adherence to the Code of Practice and making couple aware of this
2. Completing Annual Ongoing Professional Development responsibilities
3. Informing the Registrar of change of Contact details or
4. Informing the Registrar change in Circumstances such that the celebrant may not have been appointed in the first place

See From 12 A below.

**Schedule 1 Undertakings relating to obligations
under section 39G of the *Marriage
Act 1961***

- ◀ I give my assurance that I have read and understood the Code of Practice prescribed by the *Marriage Regulations 1963* (the *Regulations*).
- ◀ If registered as a marriage celebrant, I will:
 - ◀ conduct myself in accordance with the Code of Practice, display the Code of Practice in a prominent place for potential clients to view, and make a copy for any potential client who asks for one; and
 - ◀ undertake all professional development activities as required by the Registrar of Marriage Celebrants in accordance with the Regulations; and
 - ◀ notify the Registrar, in writing, within 30 days of any change to my details entered in the register of marriage celebrants or any event that might have caused the Registrar not to have registered me if the event had occurred before I was registered.

Name

Signature

Date

Disciplinary Measures are:

1. Caution in writing
2. Requirement to undertake Professional Development activities in writing
3. Suspension of Appointment up to six months (subject to appeal)
4. De-registration (subject to appeal)
5. "shaming" by informing the community of the Disciplinary Measure. *See Act Section 39G*

Setting fines for these 3,000 celebrants @ \$500 for each breach would have raised more than \$1.5 million in the last 5 years as many of these celebrants have not completed more than one year of the OPD obligations.

Creating "Fines" an additional Disciplinary Measure would not only be a stronger incentive for celebrants to meet their obligations given the current low gross income climate for independent celebrants, it would

1. penalise those not meeting their obligations, rather than those who are (i.e. all pay an annual fee)
2. raise income for the Department
3. give the Registrar clear and immediate grounds for taking Disciplinary Measures, which would not involve the AAT and its cost and time implications for the Department.

With these types of measures the Department can raise income and better meet its Regulatory responsibilities.

Recommendation 1:

391 Disciplinary measures be amended to add a new item after existing item 2 (a), make amendments to existing item 2 (c), and renumbering such that 391 states

(2) (b) A fine of \$500 for each failure to meet one's Obligations as a marriage celebrant, or such amount as determined by Regulation and where the failure has relates to non-attendance to annual approved 5 hours Ongoing Professional Development activities, the celebrant will be required in the following OPD year to compete 10 hours of OPD

(2) (b) to be renumbered as (2) (c)

(2) (c) to be renumbered as (2) (d)

(2) (d) suspend the marriage celebrant's registration for a period (*suspension period*) of up to 6 months ADD where the marriage celebrant has received three fines with a five-year review period, or for any other reason as the Registrar sees fit by annotating the register of marriage celebrants to include:

(2) (d) to be renumbered as (2) (e)

5. 2 Will these Bills achieve what is purported to be “increased professionalism” of independent celebrants?

No.

Increased professionalism comes from the professional practitioners, not bureaucrats who have no professional experience in conducting weddings.

Marrying couples want to know they are legally married, nothing more.

What marrying couples want is a ceremony to uphold their desire for “one of the best days of their lives” and that justifies bringing their family and friends together to celebrate their happiness with them.

As noted before professionalism issues are better addressed by

1. Better Legislation
2. Better Coordination of Legal Advice and Support by the Department of all the key stakeholders - Marriage Law & Celebrant Section, Registries of Birth, Deaths and Marriages, the peak body CoCA and professional celebrant associations
3. Better training systems and qualifications prior to appointment
4. Better assessment and selection processes for appointment
5. Better professional association advice and support
6. Better ongoing professional development

And all of the above would be better improved by the involvement of the peak body CoCA in conjunction with professional celebrant associations.

It is said that 70% of current independent civil celebrants do not belong to professional associations, because their return on investment is so low or the low training between 2003 and 2010 lead them to believe there was little to know and do to be a civil celebrant.

As CoCA has argued paying an annual fee is not a measure of competence as a celebrant, rather it is a measure of a person's income from other employment, income stream such as pensions or superannuation, or personal financial reserves.

Nor should the Government set up a system creating over-supply in the first place to the point where the average gross income is \$3,500 pa, then expect the celebrant subsidise this flawed system (not of their own making), with income not derived from marriage work i.e. forcing celebrants to be charities!

This is not the government expectation of the other two Subdivisions of Celebrants, so neither should it be here!

Taking \$240 pa from independent civil and religious celebrants will force marriage celebrants to cut costs further, and so rather than increase celebrant's chances of being able to access professional celebrant advice and support via celebrant associations, this 'registration' fee will result in lower professional association involvement.

Again this is a case of penalising those celebrants who are demonstrating a commitment to their profession and raising the standard of their work beyond basic training, and having access to “professional consultancy” by celebrants who have experience with dealing with couples in challenging or difficult circumstances.

With less opportunity to “learn on the job”, access to other celebrant's expertise is even more important now than in the past.

Belonging to a professional association is usually a requirement in most professions and needs to be required of independent civil celebrants as a Fit & Proper person requirement of one's obligation as a Marriage Celebrant.

There are 13 CoCA associations to which celebrants may belong as well as 1 non-CoCA association that provides predominantly celebrant insurance and copyright licence cover for its members.

A proportion of celebrants belong to CoCA associations but also currently access insurance and copyright protection via the non-CoCA association. The latter association is neither the first, nor the only association to offer these services.

All associations offer email and phone support, almost all daily online support via Yahoo or web-based forums, and many are open to non-aligned as well as civil celebrants.

Therefore a requirement for independent celebrants demonstrate their professional commitment to "high quality" service by belonging to a professional association is consistent with requiring these celebrants do ongoing professional development.

In fact, many association members routinely state that they receive far more benefit from their association membership than from their mandated 5 OPD hours.

Whether people take their association membership as an opportunity to learn or not (as applies to mandated OPD hours), this requirement would also assist in

1. "levelling the playing field" – *as all celebrants would be financially supporting the development of association support for the profession*
2. Reducing incidence of complaints about issues related professionalism

Also non-association celebrants would not be advantaged financially by saving one fees, which places those who do in a position of disadvantage.

Recommendation 2:

39G Obligations of each marriage celebrant be amended to add a new item (b) then renumber existing items 39G (b) and (c) accordingly

(b) undertake and maintain membership of a professional celebrant association whilst registered as a Subdivision C marriage celebrant

39G (b) renumbered as (c)

39G (c) renumbered as (d)

5.3 Are there more equitable ways to achieve what the Bills claim is their objective?

The Coalition of Celebrant Associations (CoCA) Inc. Submission makes a number of recommendations that would achieve the objective of these Bills.

This submission fully endorses the CoCA Submissions and its recommended amendments

<i>The Coalition of Celebrant Associations (CoCA) Recommended Amendments</i>	
1	NOT to approve the Celebrant Registration Fee
2	Collect a fee from all Marriage Certificate sales to cost recover Marriage Law work of the Department
3	Collect a fee from marrying couples via the sale of Marriage Registration Stamps through Australia Post to cost recover Marriage Law work of the Department
4	Retain Section 39E to cap marriage celebrant numbers on a regional basis to balance access to work with public interest and to appoint the best applicants available fill the vacancies on a 5 year cycle.
5	Strengthen Conflict of Interest Provisions
6	Implement a post-training pre-appointment independent knowledge and skills assessment
7	Introduce fines as a Disciplinary Measure
8	Establish Joint Standing Committee for Approval and Monitoring OPD Activities for Subdivision C celebrants
9	Capping {Section 39E, Paragraph 39J(1)(a) and Subsection 39J(3)} NOT be repealed.
10	NOT remove 5 yearly reviews
11	Minor adjustment for Online Applications be approved
12	The Australian passport as evidence of age be approved
13	Online Register negates need for annual publication dates – to be approved
14	Celebrant registration charge fee NOT be adopted, unless this applies to ALL Categories of marriage celebrants.
15	Consequence of non- payment” of the fee NOT be adopted
16	Regulation fee be set at \$50 for 2013/2014.
17	The statutory limit —\$250

The above recommendations are made on the effects on the Marriage Celebrant Program of the pre-post analysis of the impact of the 2003 changes.

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% (next to 26-50), 3.73% (next to 101-150)

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%	523
Between 5 and 10	20.5%	300
Between 10 and 20	17.8%	261
Between 20 and 30	8.3%	122
Between 30 and 40	4.2%	61
Between 40 and 50	2.7%	49
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: 16.35% (next to 40-50)

Note: These figures demonstrate the 2003 changes' impact has decreased by 50% the chance of access to marriage work by independent marriage celebrants.

Overall Effect on Access to Work and Remuneration of the 2003 Changes from 1999 to 2011

% of celebrants doing 1 to 10 weddings increased from 29.53% to 52.3 %

% of celebrants doing 11 to 25 weddings decreased from 26.20% to 21.95 %

% of celebrants doing 25 to 100 weddings decreased from 33.8 % to 16.35 %

% of celebrants doing over 100 weddings decreased from 3.73 % to 2.1 %

Given Commonwealth 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 33.8 % celebrants with over 25 wedding per to make a part-time to full-time income from work as a civil celebrant. **This opportunity 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).**

These figures demonstrate that Civil celebrants, like other professionals, need fair recompense for their work, but remuneration is not the prime or only reason they offer their services to the community.

This massive drop in work (35 to 7 weddings pa) and average gross income (\$17,500 down to \$3,500) is a systemic problem, not created by individual celebrants, but the structure of the appointment and regulatory system.

This requires government action with capping, not penalises individual celebrants with a "registration fee".

RE: *the fee at \$240 may be just "a half a wedding" or at the Statutory Limit proposed at \$600 "just one wedding" ..*

The above analysis, CoCA Inc and other submissions to the Senate Inquiry make this point:
there are simply not enough weddings to go around!

But wont' this fee be a deterrent?

No.

This seeing fees in terms of one half or a whole weddings is exactly the reason a \$600 fee to apply to be an Independent Marriage Celebrant or \$240 pa to remain one will not deter most people from considering this profession!

5.4 Is Marriage Act is Discriminatory (*leaving Same Sex issues aside*) and how can this be addressed?

The Explanatory Materials give independent religious celebrants two methods for "opting out" of paying this fee, making it clear that, except for the 500 Registry Staff (on salaries), this so called "registration fee" targets civil marriages only.

The CoCA Senate Submission provides the advice of the Constitutional lawyer Professor Michael Pryles (Minter Ellison Morris Fletcher) May 13, 1992.

See: <http://www.collegeofcelebrancy.com.au/Pages3/Pryles2.html>

This extract states

The Government's anti-discrimination policy as evidenced by this legislation is consistent with international trends and current notions of morality and fairness. **It is surprising, therefore, that civil celebrants are in an inferior position to Ministers of Religion in the instances outlined above. We believe that this constitutes an instance of discrimination which runs counter to the general policy of the Australian Government, has nothing to commend it, and is fundamentally unfair.**

3. **We also believe that the discrimination against civil celebrants is contrary to Section 116 of the Constitution.** This provides as follows: "The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercising of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth."

The Attorney-General's Departmental staff acknowledged the Marriage Act is outdated and discriminatory but are unwilling to address these bigger issues, while 'same sex' marriage issues are in the media limelight.

This submission, as did the Civil Celebrations Network (CCN) Inc 2012 Submission on Cost Recovery, argues the Marriage Act is discriminatory to heterosexual marrying couples.

Table 1 on Page X is an analysis of the various inequities in the Marriage Act as regards:

- **Marriage Act Requirements of Marrying Couples their ceremony and their celebrant**
Differences in length of Notice to marry, Section 45 exchange of vows requirements, Section 46 requirement to state authority to marry under law, Section 47 celebrant right to refuse to marry
- **Qualifications for Appointment of celebrant**
Differences relating to Prior training requirements, prior Marriage legal knowledge, Fit & Proper Person requirements, commitment to providing advice on Relationships Support Services, Good standing in the Community, Criminal history, Actual and Potential Conflict of Interest, Community Need, Selection Processes
- **Compliance once appointed**
The Code of Practice, Compulsory OPD, Complaints Processes, Performance Reviews and now a Proposed Fee, either not required or assumed so these factors can not be formally used to terminate an appointment of Subdivision A nor B celebrants as they can for Subdivision C.
yet make it clear that the
- **The Attorney-General's Department** has a national role to play for all marriage celebrants.

The Civil Celebrations Network (CCN) Inc raised these issues in its Submission to the Consultation on Cost Recovery and Increased Professionalism.

See: <http://www.celebrations.org.au/submissions/926-ccn-incs-submission-re-agd-celebrant-fee-and-reforms->

Most people do not appreciate marriage is, and always has been a civil function" Oliver Cromwell, for example, forbade English couples from marrying in churches when he was in a position of power.

Australia could be like France and other countries that allow civil marriage only.

Personally I prefer the Australian model in that the 3 different Subdivisions of marriage celebrants provide for the three basic styles of wedding ceremonies Australian couples want, yet ensure a valid legal marriage is conducted on behalf of the Australian government.

When the Act was created, Sections 45, 46 and 47 were drafted in a time when the Registry Office was the only civil ceremony on offer.

Most modern brides are unaware of the huge stigma marrying outside one's religion or in a Registry carried before the 1970s carried. If the choice was a church, couples married 'behind the altar' or if married in a registry office, they risked being stigmatized as 'heathens' or 'atheists' and their number of guests limited by the location. If pregnant, the bride was expected "not to wear white" as an obvious sign of their sin.

Whilst some may consider 'civil' marriage to be the cause of most social ills, the truth is Australian Marriage and Divorce laws allow people to live in truth and love, not behind closed doors in misery enforced by the legislation and social disapproval of the unmarried and divorced.

The founder of the Christian religion certainly espoused "truth and love" as two corner stones to living ethically and the harmony with one's neighbours.

Some may not like what they see as high divorce figures.

However society knowing the extent of relationship breakdown is in a better position to find ways to strengthen marriage, than pretending breakdown does not exist.

Before the 1970s people were forced to do so. Couples led lonely separate lives behind the closed front door. Some were forced to use prostitutes to stage evidence of adultery as grounds for divorce. Children born out of wedlock, through no fault of their own, were called 'bastards' and treated with contempt and disdain.

Marriages are lasting longer, but that does not mean we do not need to do more to support the value of marriage in our culture. Meaningful marriage ceremonies are one way to highlight its importance to our government to whom our citizens entrust their general way of life.

It is time the same basic rules for marriage ceremonies applied to all marriage ceremonies whatever the Subdivision of Marriage Celebrant under the Marriage Act.

One country, one Act, one set of basic rules for all in the actual ceremony such as:

1. The celebrant stating they are (also) authorised by law to marry people
2. A statement of the definition of marriage according to law (all relevant Acts)
3. An indication of free consent to their marriage by both parties in the physical presence of witnesses, preferably verbally in plain English, but if this is not possible, then by suitable alternative means.

The rational for this simple approach to Sections 45, 46, and 47 would remove a lot of unnecessary pedantic "legalese" required of civil marriage yet make the way to ensure the supporting written documentation required beforehand and afterwards is given much higher priority for establishing identity and consent prior to the actual marriage. It is also a simple way to ensure all citizens are clear of the important legal as well as its family, social, spiritual, religious nature of marriage. See *CCN Inc Cost Recovery Submission February 2012*

10.2 SECOND RELIGIOUS MARRIAGE CEREMONIES

The other exception to the general rule against second marriage ceremonies arises where two people already married to each other wish to go through a religious marriage ceremony.⁷⁵ This may be in order to renew their marriage vows, to follow a civil ceremony by a religious ceremony, or to have two religious ceremonies in churches of different denominations.

In the case of a second religious marriage ceremony, the authorised celebrant must not prepare or issue in respect of the second ceremony, any certificate of marriage under or referring to the Marriage Act. In addition, the authorised celebrant must not issue any other document to the parties in respect of the ceremony unless the parties are described in the document as being already legally married to each other.⁷⁶

In relation to a second religious ceremony involving parties who are already married, the procedures for the solemnisation of marriages under the Marriage Act do not apply. The NOIM, declarations as to conjugal status, and so on, are not to be given.⁷⁷

A couple wishing to have a second religious marriage ceremony must provide the proposed authorised celebrant with the following:⁷⁸

- a certificate of their existing marriage, and

⁷⁵ Subsection 113(5) of the Marriage Act

⁷⁶ Subsection 113(6) of the Marriage Act

⁷⁷ Subsection 113(6) of the Marriage Act

⁷⁸ Paragraph 113(5)(b) of the Marriage Act

There are other examples of differences in the way different civil and religious celebrants are treated.

For example, Religious Celebrants can perform second marriage ceremonies, without telling the guests present the couple is already married. Thus they are able to 'pretend' the couple is not legally married, and the guests are falsely led to believe they have witnessed a legal marriage.

Civil celebrants are specifically prohibited from doing the same. See *Marriage Guidelines 10.2 opposite*.

Australia now has training and other resources to bring parity to the three different types of ceremonies, their couples and their celebrants.

For some time now, CoCA has urged Government to acknowledge the problems created by the 2003 changes to the Australian Marriage Act.

Late last year, as Secretary of CoCA, I was fortunate to be part of a delegation to the Attorney-General and following meetings to recommend, amongst others, the need for Senate Inquiry to have a comprehensive Review of the Act.

SEE: <http://www.coalitionofcelebrantassociations.org.au/progress/delegation-to-the-attorney-general/> and <http://www.coalitionofcelebrantassociations.org.au/progress/ongoing-representations/>

Such a broad Senate Inquiry is needed to find a way forward to ensure a sustainable and professional service is available to the vast majority of marrying couples choosing a civil ceremony.

SEE <http://www.coalitionofcelebrantassociations.org.au/progress/ongoing-representations/1-senate-inquiry/>

The analysis in Table 1 of the Marriage Act shows how the different Subdivisions of celebrants are treated differently.

For the sake of argument, if Independent Marriage Celebrants were 'employed' by the Department then one could lodge a Complaint under Fair Work Australia legislation regarding these Bills.

Using a work place analogy, one could consider that originally the Subdivision C Marriage Celebrants entered an 'Enterprise Bargaining Agreement' with the Government.

In return for 'flexible employment', 'fixed fees for marriage services' and "limited competition" people applied for marriage celebrant appointments knowing they would be able to recoup their set-up costs and eventually make an hourly rate from their work .

Independent Marriage Celebrants still had to provide the same legal requirement as other marriage celebrants on behalf of the government, but could provide a more 'personal and flexible' choices in the style of ceremony.

This 'Enterprise Bargaining Agreement' with the Government was altered in a significant way around 1995 when the government was forced to deregulate the fees celebrants could charge and increased the per capita numbers of celebrants

However the 2003 changes, whilst coming on the basis of widespread community consultation in effect meant that the government "tore up" its agreement with its existing Independent Marriage Celebrants.

A new 'Enterprise Bargaining Agreement' was drawn up by the government in 2003. The Amendment Bills once again mean the government plans to "tear up" the 2003 agreement with Independent Marriage Celebrants who applied for appointment in and after 2003.

If the conditions of 'employment' for Religious & Registry Staff (Subdivision A or B) celebrants were changed in the way Independent (Subdivision C) celebrants have been, then no doubt they would have grounds for action.

As stated at the beginning of this submission, if the government wants its marriage celebrants, ALL its marriage celebrants, to uphold "*social, cultural and legal significance of marriage and the marriage ceremony in the Australian community, and the importance of strong and respectful family relationships*" then what better place to start than with its independent marriage celebrants?

Recommendation 3:

As proposed by CoCA to the Department in 2012, a Senate Inquiry with the following Terms of Reference is recommended to both Houses of Commonwealth Government.

Australia's marriage law and marriage celebrant services including:

- (i) A review of the current law and practice and the extent to which it is sustainable in delivering high standards of professionalism
- (j) The effectiveness of the Celebrants' Code of Practice and Guidelines for Celebrants
- (k) The extent to which current training regimes are fit for purpose
- (l) Celebrant appointment processes
- (m) The extent to which the treatment of civil celebrants and religious ministers is equitable
- (n) The effectiveness of the current complaints handling system.
- (o) The appropriateness of current fees and levies imposed on celebrants
- (p) Any other relevant matters.

5.5 Personal Perspective

In 1989 at age 42, after applying to be a marriage celebrant, a simple letter from the Attorney-General of Australia arrived saying I was authorised to marry couples anywhere and at anytime in Australia. Quite an emotional and challenging statement given there was no prior training, although in those days, having public speaking experience, offering volunteer work and being of good standing in one's community was a simple yet reasonably effective way of finding people with the sorts of qualities needed to become a 'good' celebrant.

The NSW celebrant association invited new celebrants to an information session in Sydney so I travelled from the Blue Mountains to find out more about my role, to meet other celebrants and to receive some guidance and advice about my new path in life.

Looking back how naïve and ignorant! Still there was little other choice. No questions to consider as the CCNA provides (*See Appendix 5*). Yet in other ways, my training as a teacher, my work in community health education and other services and my personal life journey had prepared me for the role of a civil celebrant in so many ways.

My life has been so enriched by meeting so many wonderful ordinary Australians. Being able to be part of their lives at times of their greatest joys and deepest pains, when they are vulnerable and open hearted, whether defensive or overly trusting has been a privilege and more rewarding than any financial gain I may have received, if any.

Most celebrants, as I have been, take for granted most of the ways in which they, and their own families, contribute to their celebrancy practice. Most are not good 'business' people, because if they were they would be alarmed at the sheer cost of offering their services. If the use of their personal and family resources were purchased and maintained only for celebrancy use (*including their home office, clothing, vehicle, computer, phone, etc.*), and if every moment of their time in setting up, developing and maintaining their celebrancy practice costed at a professional hourly rate with a loading for their experience, skills, personality, expertise as a performer, were tallied up by a 'forensic' accountant then the fee for personalised civil celebrancy services would be more than double, maybe quadruple, whatever fee most independent celebrants can charge.

Our community is largely ignorant of how much energy and skill is needed to be a 'good' or 'great' civil celebrant. Unlike religious celebrants, each civil ceremony needs to be crafted to meet the individual circumstances of the couple or family. 'Good' celebrants make the family occasion the 'star' of the day, not themselves. 'Great' celebrants also make a ceremony appear to happen by magic, to run smoothly and seamlessly, creating an atmosphere of intimacy and warmth and ensuring everyone is valued in some way by their presence.

'Great' celebrants can make the event look like their presence and involvement was minimal. Thus the conundrum – how do we communicate the value of our work when at its best, it maybe the most hidden?

In almost quarter century of my involvement in celebrancy, especially in the last decade when I worked in associations providing direct celebrancy services to others, I've interacted with hundreds if not thousands of celebrants. Ordinary, yet extraordinary, people who all care about people and the work they do for and with their couples and families.

I am constantly amazed at the variety of personalities, life experiences, knowledge and skills of my celebrant colleagues. Yet is that not just what is needed?

Unique people – all competent and skilled – yet unique enough to match all those unique couples and families. That sort of caring is not able to be quantified in dollar values anymore than one can quantify caring in family or friendship roles.

Of course celebrants need money to survive and thrive – but that does not make them 'just a business'.

I am deeply saddened our work is so undervalued by the Government. That these Bills can remove my lifetime appointment and those of my colleagues without even a thank-you or 'bye' your leave!

A class action by independent celebrants for loss of this condition of appointment needs to be considered as a likely outcome of these Bills, over and above the red tape of AAT appeals that should also be considered by my colleagues.

What is so disappointing about these Bills before parliament is: they miss the point. These Bills reduce independent civil celebrants to numbers and dollars on a page.

As a son or daughter, lover or companion, parent or a friend,
is that what you really want or need at your next family wedding or funeral?

Rona Goold
Authorised Civil Celebrant No 2288

Table 1

Marriage Act 1961 Part IV Division. 1	Subdivision B State and Territory Officers	Subdivision A Ministers of religion	Subdivision C Authorised Celebrants – authorised to conduct "religious ceremonies"	Subdivision C Authorised Celebrants – authorised to conduct "civil ceremonies"
@ 2012	Birth Deaths Marriage (BDM) Marriage Officers 500 celebrants	120 Recognised Religions 23,500 celebrants	Non-aligned Religious 1,500 celebrants	Civil ceremonies 9,000+ celebrants
Role of Marriage Law and Celebrant Section				
AGD MLCS – Act, Regulations, Policy & Review	Provided for all celebrants	Provided for all celebrants	Provided for all celebrants	Provided for all celebrants
AGD MLCS – Register of ALL Celebrants	Required of AGD - Act 28 Transfer of State registers	Required of AGD - Act 28 Transfer of State registers	Required of AGD - Act 28 Transfer of State registers	Required of AGD - Act 28 Transfer of State registers
Celebrant REQUIRED to notify change of Contact Details within 30 days	ASSUMED NOT RELEVANT	YES - Act Section 35 (1)(b)	Required – Act Section 39G (c) (i)	Required – Act Section 39G (c) (i)
AGD MLCS - Website	Provides information for ALL couples	Provides information for ALL couples	Provides information for ALL couples	Provides information for ALL couples
AGD MLCS - Guidance	Provided for ALL celebrants	Provided for ALL celebrants	Provided for ALL celebrants	Provided for ALL celebrants
Marriage Act Requirements of Marrying Couples their ceremony and their celebrant				
All FORMS determined by Act & Regs	SAME CCN Inc proposes changes to forms to aid better practice	SAME CCN Inc proposes changes to forms to aid better practice	SAME CCN Inc proposes changes to forms to aid better practice	SAME CCN Inc proposes changes to forms to aid better practice
Document referred to in paragraph 42 (5A) – Happily Ever after	SAME CCN Inc proposes changes to add rights & responsibilities & complaints mechanism	SAME CCN Inc proposes changes to add rights & responsibilities & complaints mechanism	SAME CCN Inc proposes changes to add rights & responsibilities & complaints mechanism	SAME CCN Inc proposes changes to add rights & responsibilities & complaints mechanism
Marriage registration requirements	ALL at state or territory BDMs	ALL at state or territory BDMs	ALL at state or territory BDMs	ALL at state or territory BDMs
Advice on Marriage Law	Available at BDMs	Available at BDMs	Available at BDMs	Available at BDMs
Notice time	As required – one month	Minimum month but can make this longer with other conditions	As required – one month	As required – one month
Section 46 – statement authorised to marry in ceremony	NOT REQUIRED	NOT REQUIRED	REQUIRED	REQUIRED
Section 46 – statement of definition of marriage	CCN Inc proposed this required	CCN Inc proposed this required	REQUIRED	REQUIRED
Section 45 – set form of full vows for consent – old fashioned and discriminatory for some women	Not required but do anyway? CCN INC propose required	NOT REQUIRED	REQUIRED	REQUIRED
Section 47 Can refuse to marry	REQUIRED CCN Inc proposed simple plain English statement of consent for all CANNOT REFUSE to marry CCN Inc proposes same flexibility if Same Sex Marriage legalised	NOT REQUIRED CCN Inc proposed simple plain English statement of consent for all CAN REFUSE to marry on prior marriage status or for any reason	NOT REQUIRED CCN Inc proposed simple plain English statement of consent for all CAN REFUSE to marry on prior marriage status or for any reason	REQUIRED CCN Inc proposed simple plain English statement of consent for all CANNOT REFUSE to marry, unless lies. CCN Inc proposes same flexibility if Same Sex Marriage legalised

Table 1

<i>Qualifications for Appointment of celebrant -</i>					
Marriage Act 1961 Part IV Division. 1	Subdivision B State and Territory Officers	Subdivision A Ministers of religion	Subdivision C Authorised celebrants – authorised to conduct “religious ceremonies”	Subdivision C Authorised Celebrants – authorised to conduct “civil ceremonies”	
@ 2012	BDM Marriage Officers 500 celebrants	120 Recognised Religions 23,500 celebrants	Non-aligned Religious 1,500 celebrants	Civil ceremonies 9,000+ celebrants	
General Knowledge & Skill to be a celebrant	ASSUMED – Act 39 (1) A person who, under the law of a State or Territory, has the function of registering marriages solemnised in the State or Territory or a part of the State or Territory may solemnise marriages in that State or Territory or in that part of the State or Territory, as the case may be	ASSUMED Decided and referred by Recognised Religious body Act 29	YES - Act 39C(1)	YES - Act 39C(1)	
Prior Training in marriage law CoCA Act / Regs to require training of all MC prior to appointment	NONE CoCA proposes 2 Marriage compulsory units	NONE CoCA proposes 2 Marriage compulsory units	YES Currently Full Cert IV in Celebrancy CoCA proposed 4 Marriage compulsory units + one core	YES Currently Full Cert IV in Celebrancy CoCA proposed Full Cert IV to include 2 extra core units. VET system currently examining Diploma level qualification	
Prior Fit & Proper	ASSUMED - Decided by BDM	Decided and referred by Recognised Religious body - Act 29	YES – Act 39C	YES – Act 39C	
Age	NOT STATED	21 YEARS – Act 39C(1) (a)	18 YEARS – Act 39C(1) (a)	18 YEARS – Act 39C(1) (a)	
Residency	ASSUMED	The person is ordinarily resident in Australia - Act 29 (c)	ASSUMED	ASSUMED	
Fit and proper person	ASSUMED	ASSUMED By Recognised Religious body	YES – Act 39C(1) (c)	YES – Act 39C(1) (c)	
Prior Legal Knowledge	NOT	NO	YES – Act 39C (1) (b) + 39C (2)	YES – Act 39C (2)	
Committed to advising couples of the availability of relationship support services	ASSUMED	ASSUMED	YES – Act 39C(2) (b)	YES – Act 39C(2) (b)	
The person is of good standing in the community	ASSUMED	ASSUMED	YES – Act 39C(2) (b)	The person is of good standing in the community – Act 39C(2) (b)	
Commitment to part-time or full-time service as a celebrant	ASSUMED as BDM Staff members	REQUIRED TO: devote a substantial part of his or her time to the performance of functions generally performed by a minister of religion. – Act 31(1) (c)	NO	NO	
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	ASSUMED	ASSUMED	– Act 39C(2) (d)	– Act 39C(2) (d)	

Table 1

<i>Qualifications for Appointment of celebrant - Continued</i>				
Marriage Act 1961 Part IV Division. 1	Subdivision B State and Territory Officers	Subdivision A Ministers of religion	Subdivision C Authorised celebrants "religious ceremonies"	Subdivision C Authorised Celebrants – authorised to conduct "civil ceremonies"
@ 2012	BDM Marriage Officers 500 celebrants ASSUMED NOT TO HAVE	120 Recognised Religions 23,500 celebrants CAN BE DE-REGISTERED IF (ii) has been making a business of solemnising marriages for the purpose of profit or gain; – Act 33 (1) (d) (ii)	Non-aligned Religious 1,500 celebrants WEAK OR NIL APPLICATION OF THIS PRINCIPLE - The person has 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; – Act 39C(2) (e)	Civil ceremonies - 9,000+ celebrants WEAK OR NIL APPLICATION OF THIS PRINCIPLE The person has 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; – Act 39C(2) (e)
Conflict of Interest	ASSUMED NOT TO HAVE	ASSUMED. Would be a contradiction if a religious celebrant were also wedding planner, florist, sex-worker, hire car driver, a reception function owner, is not a fit and proper person to solemnise marriages; Act 33 (1) (d) (iii)	WEAK OR NIL APPLICATION OF THIS PRINCIPLE - ... likely to result in the person gaining a benefit in respect of another business that the person owns, controls or carries out; – Act 39C(2) (f)	WEAK OR NIL APPLICATION OF THIS PRINCIPLE - ... likely to result in the person gaining a benefit in respect of another business that the person owns, controls or carries out; – Act 39C(2) (f)
Ability to fulfil obligations			the person will fulfil the obligations under section 39G; – Act 39C(2) (g)	the person will fulfil the obligations under section 39G; – Act 39C(2) (g)
Level of Community Need	ASSUMED - STAFFING NUMBERS as determined by BMD's	REFUSED APPOINTMENT IF , , , already registered under this Subdivision sufficient ministers of religion of the denomination - Act 31(1) (a)	OPEN MARKET FORCES SINCE 2003 Prior to 2003. Based upon need. 2003-2008 Capping of number of marriage celebrants for 5years - Act 39E (1) and (2)	OPEN MARKET FORCES SINCE 2003 Prior to 2003. Based upon need. 2003-2008 Capping of number of marriage celebrants for 5years - Act 39E (1) and (2)
Any other relevant matter		(e) that person is, for any other reason, not entitled to registration under this Subdivision. Act 31(1)(e)	Any other matter the Registrar considers relevant to whether the person is a fit and proper person to be a marriage celebrant. – Act 39C(2) (h)	any other matter the Registrar considers relevant to whether the person is a fit and proper person to be a marriage celebrant. – Act 39C (2) (h)
Selections Process Interview	On Interview for a BDM position	A process of determination by the Recognised Religious body that person is suitable – series of interviews	Need to demonstrate a congregation whom the minister serves – ALTHOUGH with small sects may be the reverse. Person sets up a group to serve their world view	NONE _ NO INTERVIEW CoCA proposes post-training pre-appointment independent knowledge & skills assessment and/ or Regional Based Committee Interviews
Registrar may refuse appointment	Applicant may be refused registration in certain circumstances (... if, in the opinion of the Registrar: - Act 31 (1) (a)	Applicant may be refused registration in certain circumstances (... if, in the opinion of the Registrar: - Act 31 (1) (a)	The Registrar must register a person - Act 39D (4) (a) + (b) The Registrar must not register a person as a marriage celebrant in any other circumstances.	The Registrar must register a person - Act 39D (4) (a) + (b) The Registrar must not register a person as a marriage celebrant in any other circumstances.
Authorised to perform marriages	(a) may authorise a person to solemnise marriages at any place in Australia or only in the part or parts of Australia specified in the instrument of authorisation; - Act 39 (3) (a)	A minister of religion who is registered under this Subdivision in any register may solemnise marriages at any place in Australia - Act 32	A person who is registered as a marriage celebrant may solemnise marriages at any place in Australia - Act 3(F)	A person who is registered as a marriage celebrant may solemnise marriages at any place in Australia. 39F

Table 1

<i>Compliance once appointed</i>	By BDMs	Minimal by BDMs	Set by AGD - MLCS	Set by AGD - MLCS
Marriage Act 1961 Part IV Division. 1	Subdivision B State and Territory Officers	Subdivision A Ministers of religion	Subdivision C Authorised Celebrants – authorised to conduct "religious ceremonies"	Subdivision C Authorised Celebrants – authorised to conduct "civil ceremonies"
@ 2012	BDM Marriage Officers 500 celebrants Can be dealt with under Removal from the Register – Act Section 33(1)	120 Recognised Religions 23,500 celebrants Can be dealt with under Removal from the Register – Act Section 33(1)	Non-aligned Religious 1,500 celebrants REQUIRED – Act Section 39G (c) (ii)	Civil ceremonies 9,000+ celebrants REQUIRED – Act Section 39G (c) (ii)
Occurrence of an event	NOT REQUIRED	NOT REQUIRED	YES - Act Section 39G (a)	YES - Act Section 39G (a)
Code of Practice	NONE CoCA proposed OPD legal topic	NONE CoCA proposed OPD legal topic	5 hours annually - Act Section 39G (b) CoCA proposed OPD legal topic	5 hours annually - Act Section 39G (b) CoCA proposed more flexibility
Compulsory OPD	NOT ADDRESSED	NOT ADDRESSED	YES	YES
Complaints Process required	NOT REQUIRED – but assumed	NOT REQUIRED – but assumed	YES Minimum 5 yearly – Act 39H (1) & (2)	YES Minimum 5 yearly – Act 39H (1) & (2)
Regular performance reviews	NONE CoCA proposed marrying couples fee or marriage certificates levy cover 'cost recovery'	NONE CoCA proposed marrying couples fee or marriage certificates levy cover 'cost recovery'	YES CoCA proposed marrying couples fee or marriage certificates levy cover 'cost recovery'	YES CoCA proposed marrying couples fee or marriage certificates levy cover 'cost recovery'
ANNUAL FEE for cost recovery	NO	NO	YES	YES
Deregistered on NON-compliance of	• OPD • Code of Practice • Serious Complaint • NON-payment of fees if Bills Passed			