

THE SENATE
STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

**Inquiry into the Marriage Amendment (Celebrant Administration and Fees) Bill
2013 and the
Marriage (Celebrant Registration Charge) Bill 2013**

04 APRIL 2013

Submission prepared by and from:

NORTH QUEENSLAND CELEBRANTS NETWORKING GROUP

Signatory:

Kay Earl (Saralyn Kay Earl)

Convenor

North Queensland Celebrants Networking Group

Dear Senators,

Please accept our submission relating to the Inquiry into the Marriage Amendment (Celebrant Administration and Fees) Bill 2013 and the Marriage (Celebrant Registration Charge) Bill 2013

NOTE: [North Queensland Celebrants Networking Group](#) to be further noted in this submission as **NQCNG**.

The NQCNG accepts the Clauses –

Clause 1: Short Title - NQCNG agree that when enacted, the Act to be referred to as the *Marriage Amendment (Celebrant Administration and Fees) Act 2013*

Clause 2: Commencement of the Act - NQCNG agree that the suggested dates of commencement be allowed

Clause 3: Schedules(s) - NQCNG agrees to the enabling of the Schedules to amend the Acts under the title of the relevant Act.

NQCNG agrees to but has made comments in red -

SCHEDULE 1, - Amendments relating to fees and charges

Part 1 – Amendments relating to Annual Celebrant Registration Charge

- an annual celebrant registration charge (as already concluded by MLCS), not exceeding \$240.00 for all new and continuing celebrants be implemented from July 1, 2013.

Item 1 – subsection 5 (1) of the Marriage Act– inserting the term *celebrant registration charge* into subsection 5(1) of the Marriage Act.

Item 2 – subsection 5 (1) of the Marriage Act - The charge payment day is defined in subsection 39FA (3) inserting the term *charge payment day* into subsection 5(1)

Should this read as “..The charge payment day is defined in subsection 39FA(2) (Page 10) and not 39FA(3) (Page 11)?

Item 3 – Celebrant registration charge (Page 10)

inserting new section 39FA – Celebrant registration charge: liability to charge (ie., cost recovery charges)

- 39FA(1) – Annual celebrant registration charge

NQCNG agrees but has made comments in red –

Inserting ... That the MLCS notify celebrants by email of the actual despatch date of the posted Notices re the annual celebrant registration charge. This would alleviate concerns of de-registration due to unforeseen circumstances whereby a Notice may not have been received within the 30 days, by the celebrant ie., lost, stolen mail, natural disaster intervention etc.

- 39FA(2) – Registrar of Marriage Celebrants to send Notice to those who are liable to pay the charge under 39FA(1). The Charge payment day to be at least 30 days after the day on which notice is sent.

NQCNG agrees but has made comments in red –

- 39FA(3) (Page 11) – Regulations may provide for the granting of exemptions on grounds specified in the regulations from liability to pay the celebrant registration charge. ... (Of particular note to the NQCNG is the mention that eligibility for exemptions be available for celebrants in remote areas to assist remote communities to maintain access to a civil celebrant service. As it is there are many towns hundreds of kilometres from the nearest celebrant. Many celebrants who do live in the areas of the Gulf country, Torres Strait, Inland Australia – may only do 2 or 3 weddings a year, and only charge a low fee (if any).
- 39FA(4) – Fee for recovery of cost of processing an application for exemption.
- 39FA(5) – Internal review of an exemption decision

Insert new section 39FB- Celebrant registration charge: consequence of non-payment

- 39FB (1) – if a person has not obtained an exemption or paid the registration charge by the due day, the person must be deregistered by Registrar by notice ...
- 39FB(2) – notice referred to in 39FB(2) must comply with certain requirements advising the person that they will be deregistered after a specified day that is at least seven (7) days after the day on which the notice is sent.
- 39FB(3) – The Registrar of Marriage Celebrants must deregister the person by removing that person’s details from the Register

Item 4 – Addition at the end of paragraph 39J(1) (c) of Marriage Act (Page 12)- application may be made for review of a decision to suspend or deregister a celebrant to Administrative Appeals Tribunal

SCHEDULE 1, Part 2 (Page 13)– **Amendments relating to fee for applying to become a marriage celebrant**

- an application fee of \$600 to become a new celebrant be implemented (as already concluded by the MLCS) from July 1, 2013 (The NQCNG requests that again, consideration of a lower Application Fee be given to celebrants in remote areas to assist remote communities to gain access to a civil celebrant service.)

Item 5 – Inserts words *Applying for registration* before subsection 39D(a) to highlight the application to *become a marriage celebrant*, to differentiate from *registration as a marriage celebrant*.

Item 6 – New subsections to be inserted after 39D(1) to provide for registration application fee for aspiring celebrants.

- 39D(1A) – an application not be considered complete until the registration application fee has been paid or an exemption has been granted.
- 39D(1B) – regulations may require a fee to be paid – the registration application fee.
- 39D(1C) – enables regulations to be made to provide for exemptions from the registration application fee on grounds specified in the regulations, for fees to make an exemption application and for internal review of exemption refusal decisions.
- 39D(1D) – The amount of the registration application fee and amount of the exemption processing fee may be determined by the regulations or by the Minister .
- 39D(1E) – A person’s application to be deemed to have been made from the date of the internal review decision, not the date on which the application for internal review was made, as per requirement of (39D(2).

Item 7 - Repeal of subsection of 39D(2) dealing with the way applications are dealt with ie., order in which they are made instead of order in which they are received.

Item 8 – Repeal paragraph 39D(4)(a) changing ‘a person has made and application’ to ‘a person must have made’. (An application is not made until either registration application fee is paid or an exemption is granted.

Item 9 – Amends 39J(2)(a) whereby a person may only apply to the Administrative Appeals Tribunal for a review of a decision not to register the person as a marriage celebrant, after they have made an application and either paid the registration application fee or been granted an exemption for it. This clarifies the commencement date of the 3 month timeframe during which the Registrar must decide the outcome of an application for registration.

NQCNG agrees but has made comments in red –

SCHEDULE 1, Part 3 (Page 15) – Amendments relating to exemptions from professional development

A non-refundable processing fee of \$30 as concluded by the MLCS for seeking an exemption from OPD, the application fee or annual registration charges.

Items 10 and 11 – The new amendments to provide a new mechanism that allows regulations to require a fee to be paid for making an application for exemption from OPD – to be recovered the AG Dept.

NQCNG agrees–

SCHEDULE 1, Part 4 – Application of amendments

Item 12 (Part 1) – will apply in relation to the financial year commencing 1 July 2013 or a later financial year

Item 13 (Part 2) – will apply on or after 1 July 2013

Item 14 (Part 3) - will apply on or after 1 July 2013

NQCNG agrees but has made comments in red –

SCHEDULE 2 – OTHER AMENDMENTS

Item 1 – Repeal section 39E – cap on marriage celebrants. This section should be removed.

Item 2 – Performance Reviews – Removal of the requirement for the Registrar to conduct performance reviews on all marriage celebrants every five years but instead these reviews can be conducted on a more selective and targeted basis, enabling allocation of necessary resources to cases where there are grounds for concern about conduct or professional standards of marriage celebrants.

Item 3 and 4 – References in Marriage Act (39J(1)(a) to the cap on marriage celebrants are now redundant.

Item 5 and 6 – Subparagraph 42(1)(b) Australian Passport as evidence of place and date of birth.

Item 5 - Amendment inserts the word 'and' rather than 'or' in subparagraph 42(1)(b)(iii).

Item 6 – Allowing additional documentation be produced by a party to a marriage to the Authorized celebrant in respect that party’s evidence of his or her date and place of birth as required by paragraph 42(1)(b) of the Marriage Act.
.....A new subparagraph 42(a)(b)(iv) be inserted to allow an Australian passport to be used as evidence of the date and place of birth of a party in addition to the existing provisions. This amendment increases the documentation that an authorized marriage celebrant may use to determine the date and place of birth of the marrying parties.

Item 7 – Subsection 115 (1) – date for publication lists of celebrants
The deleting of the phrase *as soon as practicable after each 14 March* to list being automatically updated overnight on each working day to reflect any updates.

OPD Compulsory Requirement – Evidence of completion of having carried out this requirement. NQCNG suggests that there is an inclusion that the Marriage and Law Celebrants Section (MLCS), or the OPD Provider as directed by the MLCS, provide to the celebrants, evidence of completion of compulsory 5 hour OPD in the form of either (a) an electronic Certificate or (b) written posted Certificate.

SCHEDULE 2, PART 2 – Transitional Provisions

NQCNG agrees to the transitional provisions relating to the removal of the five year performance review requirements introduced by Item 2.

Item 8 - Transitional definitions - Agree to the definition of the term as mentioned.

Item 9 - Transitional provisions relating to amendments to performance reviews –

- Obligation by Registrar to conduct a review ceases on commencement of the amended Act if the review had not been completed by that time
- Any previous obligation upon the Registrar to conduct performance reviews within a five year period ceases to exist
- Any disciplinary measures made under the old Act re performance reviews remain in force despite the new amendment.