



*The National Association of Professional Celebrants*

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Submission to:

**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**

by

Australian Federation of Civil Celebrants Inc. (AFCC)

**Submission Preface**

The Australian Federation of Civil Celebrants Inc. (AFCC) is the largest celebrant association with (as at April 2013) 1,450 members. The AFCC is a national independent association that supports professionalism and ethical standards within the celebrant profession. This AFCC submission is based on member consultation and, although some members opinions may differ, is based on majority view.

**Submission Summary**

The AFCC supports the proposed changes to the *Marriage Act 1961* and the *Marriage Regulations 1963* that seeks to give effect to a 2011-12 Budget measure to introduce 'cost recovery' for Commonwealth-registered marriage celebrants from 1 July 2013.

The AFCC also supports the provisions outlined in the Administration and Fees Bill making minor amendments to the administration of the Marriage Celebrants Program.

Consultation with AFCC members shortly after the policy announcement in May 2011 of the proposed introduction of a Professional Celebrants Fee was made, revealed that approximately 57% of member respondents accepted the proposal whilst 22% totally rejected it.

At that time, approximately 13% suggested it would not be commercially viable for them to continue (as celebrants) with a fee at that level (then generally believed to be \$600), but some may now have found it acceptable at a lower fee. Approximately 9% were confused over some of the issues involved. Some of this later group did not indicate objections to the policy *per se*.

Anecdotal evidence subsequent to that consultation reveals that, as a consequence of further information and discussion, including the now proposed initial fee of \$240, acceptance of the proposal is higher due to the three elements of the basis of the AFCC support outlined in detail below.

## **Submission on Specific Bill Provisions.**

### **Marriage (Celebrant Registration Charge) Bill 2013**

#### **Clause 3 Object of Act**

The AFCC supports the imposition of this charge. For reference please see member consultation statistics at 'Submission Background' below.

The basis of support for this provision is centred on three elements;

- 1. The excessive number of Authorised Celebrants currently registered;
- 2. the principle of 'user pays'; and
- 3. the proposed improvement in services to Authorised Celebrants.

#### **1. The excessive number of Authorised Celebrants currently registered**

For some time celebrant associations and celebrants generally have raised concerns over the number of celebrants either appointed or registered and a number of suggestions have been made as to how that number can be reduced or restricted.

Many of those suggestions have been made based on self interest and without any practical way of reducing the numbers in an equitable manner. The AFCC believes that the introduction and subsequent management of the proposed charge to Authorised Celebrants is a practical and equitable way in which the wishes of associations and celebrants to reduce numbers can be addressed.

Currently there are approximately 10,500 Celebrants on the Attorney-Generals' register of Authorised Marriage Celebrants. The AFCC is aware of a number of celebrants who are included on the register, but who are not practising or exercising their authority to solemnise marriages.

In addition, there is a large number of celebrants registered who practise very rarely and may not be conversant with many of the changes to the legislation or society's expectation of service levels and therefore may inadvertently bring the celebrancy profession and professionalism into disrepute.

Members of the AFCC, and many other celebrants regard themselves as professionals and respect the privilege they hold in being Authorised Celebrants. They also believe that there should be a requirement to make some commitment to continue to enjoy that authorisation beyond investment in business equipment, training and the required ongoing professional development.

The AFCC believes that the introduction of a Professional Celebrants Fee (PCF) is a reasonable method of reducing the number of Authorised Celebrants and to ensure that those celebrants registered are professional and committed.

Additionally, it is believed that any consequent reduction in the number of Authorised Celebrants will allow the program to retain more of those committed to the profession in a more viable market and, therefore, assist in providing a better level of service to the marrying public.

## **2. User pays.**

The AFCC supports the concept of user pays. Member consultation showed that many believed that the payment of a “licence” fee was overdue and went some way to give celebrancy more credibility as a profession.

Members generally agreed that, like other professionals subject to a 'legislative licence' but who are free to charge an unregulated fee for service, Authorised Celebrants who receive payment in any form for their services should make some payment for their 'licence'.

## **3. The proposed improvement in services to Authorised Celebrants.**

Authorised Celebrants have been critical of the service to Celebrants provided by the Attorney-General's Department and look forward to an improvement in service predicated on direct funding through a PCF. Further, it was seen as improper that the general taxpayer should be burdened by service costs to a profession that, although providing a valuable and much sought after service to the community, is commercially based.

### **Clause 7 Amount of Charge**

The AFCC agrees with the principle of paragraph (1) of this clause which allows the charge to be varied by instrument.

The AFCC agrees and supports the capability afforded by paragraph (2) to apply the charge *pro rata* in the event of a person being authorised part way through a financial year.

### **Clause 8 The Statutory Limit**

The AFCC agrees with the restriction of the Statutory Limit of the charge and the method of adjusting that Statutory Limit without necessitating legislative change.

### **Remaining Clauses**

As all remaining clauses relate to the application of the Act without introducing additional factors, the AFCC does not have further comment in relation to this particular bill.

## **Marriage Amendment (Celebrant Administration and Fees) Bill 2013**

### **Part 1 – Amendments relating to annual celebrant registration charge**

#### **Clause 3**

##### **39FA Celebrant registration charge: liability to pay charge.**

The AFCC supports the imposition of the charge as outlined above in relation to the imposing legislation (*Marriage (Celebrant Registration Charge) Bill 2013*). Consequently, the AFCC supports the provisions of this clause which applies the liability to pay charge.

In feedback to the Attorney-General's Departmental staff during the consultation period leading to the tabling of these bills, the AFCC made it clear that it wished to ensure that the liability for charge would include Non Aligned Religious Celebrants also registered under the same part of the *Marriage Act 1961*, being aware that the subsequent Act could not constitutionally impose a charge upon celebrants registered by the States, or employees of the State conducting marriages as part of their position.

The AFCC is pleased to note that the application of the charge covers all marriage celebrants including non aligned religious celebrants, authorised or registered under Part IV, Division 1, Subdivision C of the *Marriage Act 1961*.

The AFCC also notes the provision of a capability to provide granting of exemptions from the charge under specific (to be outlined in Regulations) grounds. The AFCC supports the process of limiting review to an internal process without recourse to an outside agency therefore reducing costs to the program which otherwise would have the potential of increasing the future level of the charge for any specific year.

##### **39FB Celebrant registration charge: consequence of non-payment.**

The AFCC supports the imposition of punitive measures that are a consequence of non-payment of the charge.

In the opinion of most AFCC members, the imposition of the charge may go some way to reduce the number of celebrants currently on the register, but it is seen as imperative that non-payment would lead to removal of the person from the register as soon as possible. AFCC members have expressed their frustration at the lack of a fast and practical mechanism for removal of celebrants who, for example, have failed to complete the required yearly Ongoing Professional Development (OPD).

The ongoing registration of celebrants who have failed to meet their legislative requirements is seen as inequitable by those who do comply. A fast, decisive and compelled removal from the register and subsequent exposure to committing an offence if they continue to perform marriages (after being de-registered) is therefore seen as an equitable application.

The AFCC also supports the notation after subparagraph (3) of the amended Section 39FB that a de-registered celebrant may reapply under Section 39D of the principle Act.

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

In feedback to the Attorney-General's Departmental staff during the consultation period leading to the tabling of these bills, the AFCC suggested the imposition of a 'new celebrant application fee'.

The principle behind that suggestion was to reduce the amount of program costs being passed onto existing celebrants that were not directly attributable to existing registered celebrants.

In addition, AFCC members felt that the imposition of an application fee would go in some way to reduce the number of applicants who are not aware of, or who do not acknowledge the commitment and obligations to the role of an Authorised Marriage Celebrant.

The AFCC, therefore, fully supports the imposition of a fee for applying to become a marriage celebrant.

## **Part 3 Amendments relating to fee for applying for exemption from professional development requirements.**

### **Clause 10 & 11**

The AFCC supports the proposed provisions for fees to be charged for any individual process of exemption or appeal.

### **Schedule 2-Other amendments**

#### **Clause 1 Section 39E - repeal**

The AFCC acknowledges that this Section is now redundant. The AFCC believes that the introduction if the charge combined with market forces will make future artificial capping unnecessary.

#### **Clause 2 Subsections 39H(1) and (2)**

The AFCC supports the introduction of performance reviews when necessary rather than at a prescribed period. This move is considered both as a cost saving measure and as an acknowledgement that global, time based regular reviews are ineffective in identifying unsatisfactory performance.

#### **Clause 6**

The AFCC supports the inclusion of an Australian Passport as an acceptable proof of date and place of birth.

### **Remaining Clauses**

As all remaining clauses relate to the application of the Act or consequential amendments without introducing additional factors, the AFCC does not have further comment in relation to this particular bill.

## **Submission Background.**

1. The Australian Federation of Civil Celebrants Inc. (AFCC) is the largest national professional Celebrants Association with 1,450 financial members.
2. From the latest information (March 2013) there are 10,492 entries on the Register. Of that number, 1,056 are Non-Aligned Religious Celebrants, leaving 9,436 Civil Celebrants registered.
3. Anecdotal evidence suggests that only approx. a third are members of a celebrant association, which implies that only just over 3,000 are professional enough to consider being members of an organisation that expects a level of standards.
4. Of those 3,000 celebrants, almost half are members of the AFCC. It is considered that members of a professional celebrant association accept they have professional and ethical standards to uphold and that they are supported by their peers.
5. Further, are tangible and intangible benefits professional associations provide to their members. Financial members of the AFCC, for example, are automatically covered with Professional Indemnity and Public Liability insurance and Copyright protection, consistent with what is expected of any professional practice, as well as giving peace of mind to clients and clients' guests.
6. To that end, the AFCC rightly assumes its members are primarily from the more professionally aware sector of Authorised Celebrants.

This submission is respectfully lodged for, and on behalf of the members of the Australian Federation of Civil Celebrants Inc. under authorisation of the Management Committee by Alan Milson, Vice President and Manager, Legal and Ethics Portfolio.

If required, an officer of the AFCC is prepared to appear before the Senate Standing Committee. Alternatively, the AFCC is willing to provide further information or clarification through Alan Milson.

### **Signed**

*Alan Milson*

Vice President

Australian Federation of Civil Celebrants Inc.