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26 April 2013

The Committee Secretary  
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Senate Legal and Constitutional Affairs Committee  
Parliament House  
PO Box 6100  
CANBERRA ACT 2601

Dear Sir,

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

Thank you for the opportunity to provide this submission in respect to the abovementioned amendments.

I was formerly the Deputy Registrar of Births, Deaths and Marriages, Commonwealth Attorney-General's Department, Darwin from 1 December 1977 – 4 July 1979. I was subsequently appointed as a Civil Marriage Celebrant on 12 May 1981 (No. A1300) to solemnize marriages at any place in Australia and was exempted from compliance with sub-section (1) of section 46 of the *Marriage Act*.

As a Commonwealth Registered Marriage Celebrant of near 35 years' standing, I have been interested in reviewing the proposed amendments and concerned with the future direction of the Civil Marriage Celebrants Program.

Attached please find my comments addressing the specific items under the amendments.

As a professional celebrant with an excellent reputation who is well respected throughout the Darwin community and in great demand, it is appropriate and indeed essential that my life-time appointment is not revoked.

Thank you for your consideration.

D M J HART  
26 April 2013

## ITEM 1

### ***Marriage Amendment (Celebrant 5 Administration and Fees) Bill 2013***

#### **Schedule 1, Part 1 Annual Celebrant Registration Charge**

I oppose the introduction of an Annual Celebrant Registration Charge for Commonwealth registered marriage celebrants, unless this charge applies to all marriage celebrants namely:

- Division 1 - Authorised Celebrants Subdivision A - Ministers of Religion; and
- Subdivision B - State and Territory officers etc., who are exempt under the current proposal.

This is clearly discriminatory.

My appointment was made on a life-time basis by the Federal Attorney-General and there was never an indication that one day I would have to pay a registration fee to subsidise the staffing of the Marriage Celebrants Legal Section, a federally funded government department. I find this proposal completely bizarre and unethical and would like to know which other government departments, if any, are funded by their representatives in this fashion.

Should the imposition of this revenue raising registration fee be unavoidable, then I would like to be assured it will not increase by more than the CPI each year and that it will only apply to new celebrants appointed after the passing of this Bill and the introduction of the fee.

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

I am concerned that the proposal to deregister celebrants who do not pay this registration fee within 60 days from the date of the invoice is exceedingly harsh and punitive, does not identify the mechanism for ensuring the invoice is received and fails to take account of individual circumstances.

The additional proposal from the Marriage Celebrants Legal Section that Notices of Intended Marriage would need to be transferred to another celebrant within seven days of deregistration has serious implications for marrying couples from regional and remote areas such as are found in the Northern Territory and country Australia. There is no assurance that another appropriate celebrant will be available to take on the transferred marriages and confirm the date and time of the bookings and there is potential for marrying couples to be left without any celebrant at all for their marriage. This is likely to have an enormous impact on the community's confidence in the professionalism and availability of marriage celebrants.

It should be noted that it is not uncommon for me to receive Notices of Intended Marriage 18 months prior to the proposed date of marriage, or be given a heads-up two years in advance.

Furthermore, being a civil celebrant is now more of a business rather than what was initially a community service – we pay taxation, we purchase official documentation from Canprint, we have home offices, have invested in office equipment, promotional material and events, and we are forced to undertake Ongoing Professional Development. If a celebrant is deregistered then there is a risk that the Commonwealth may be the subject of litigation for loss of earnings, loss of business – equating to unfair dismissal.

## **Ongoing Professional Development**

I oppose the proposal that celebrants provide evidence of their completion of Ongoing Professional Development (OPD) and suggest that the registered training providers of OPD provide the Marriage Celebrants Legal Section with completed attendance and participation records, which would reduce the need for double handling.

This is a retrograde step. With today's technology a celebrant can fabricate a bogus certificate and who would be the wiser? There are only three OPD providers which charge celebrants to participate in OPD. Surely these providers, like any other RTO, can collate the information and provide it to the Marriage Celebrants Legal Section as part of their contract obligations?

I find it ludicrous that celebrants such as myself, with over thirty years' experience, more than three years of which were as the BDM Clerk and Deputy Registrar of Births, Deaths and Marriages, Darwin, are expected to undergo such OPD and not be exempt. How much more can I learn? How much don't I already know? More often than not, I am a greater authority on most subjects than the OPD presenters, and while I have delivered presentations at national marriage celebrant conferences, I am unable to deliver approved OPD courses because I do not have a Certificate IV in Training and Assessment. I believe the presentations I have delivered provided more valuable information to celebrants than most other subjects.

OPD should be made optional for celebrants of more than ten years' experience, with the exception of OPD relating to changes to the *Marriage Act*, other applicable legislation and to changes in technology.

## **ITEM 2**

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

### **Schedule 1, Part 2 Fee for applying to become a marriage celebrant**

I support the implementation of an application fee for new marriage celebrants. Such a fee would deter those who are not fully committed to the role and enhance the professionalism of celebrants in Australia. The fee should be accompanied by an interview to determine whether the applicant is indeed a fit and proper person, with the insight, education, training and professionalism to create and conduct meaningful and culturally appropriate ceremonies for marrying couples.

For the record, when I sought appointment as a celebrant in my own name, rather than as an ex-officio, my referees and I were interviewed by the Northern Territory Police to ensure I was a fit and proper person. Celebrants have virtually been appointed at the stroke of a pen – hence the introduction of OPD to rectify the flood of incompetent and unscrupulous celebrants (in my opinion) who were authorised carte blanche quite a number of years ago and those more recently who have been authorised since the cap was lifted.

The number of new celebrants appointed should be capped, with new celebrants only appointed to replace those retiring or as demonstrated increasing community demand require. This would reduce current problems with oversupply and reduced standards.

### ITEM 3

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

#### **Schedule 2 - Other amendments Sub-sections 39H(1) and (2) Performance Reviews**

I oppose the removal of five year reviews of life-time appointments as reviews provide celebrants with the opportunity to consider their role and their developmental needs, in conjunction with the Marriage Celebrants Legal Section (MCLS). The MCLS would ideally engage leading celebrants to conduct the reviews, thus reducing the burden on the MCLS and ensuring that celebrants are reviewed appropriately by peers who have a full understanding of the role. Reviews should include interviews with couples whose marriage has been solemnised by the celebrant, who are the best positioned to comment on the celebrant's performance.

This really needs more consideration and input from the local Registrar of Births, Deaths and Marriages such as a Celebrant's:

- Level of activity;
- Compliance with and application of the *Marriage Act* (have there been any breaches, omissions, complaints etc.);
- Quality and consistency of documentation;
- Community reputation.

What is the process for such reviews?

### ITEM 4

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

#### **Schedule 2 – Other Amendments Subparagraph 42(1)(b)**

#### **Australian Passport as evidence of place and date of birth**

#### ***Australian Passport inclusion***

This is long overdue and I fully support this proposed amendment to provide for the acceptance of an Australian Passport as evidence of birth.

Besides having photographic identification of the person, the place of birth is included in a passport, whereas this is omitted from Certificates of Naturalisation.

There has been disparity being able to accept foreign passports but not accept Australian passports.

## ITEM 5

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

### **Page 6 of the Explanatory Memorandum** *Rights to work and rights in work*

Prior to the introduction of the celebrant registration charge, a celebrant was authorised for life, subject to compliance with obligations under section 39G of the *Marriage Act*.

I am strongly opposed to this proposed change from a lifetime appointment to a one year appointment, on the following grounds:

1. I am a professional celebrant who has invested considerable time, study, research and finances to building an excellent reputation as a leader in my field. To have my appointment changed to a one year appointment would have significant impacts on my ability to commit to my clients, many of whom book their weddings with me up to two years in advance.
2. The proposed provision for immediate and automatic deregistration changes are clearly to the detriment of the marrying public who will no longer have the comfort that I, as their preferred celebrant, will be definitely available to conduct their marriage.

I am opposed to the proposed conversion of my lifetime appointment as a celebrant to a one year term; it is simply unworkable and totally unacceptable to me, my clients and my community.