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Committee Secretary
Senate Legal and Constitutional Affairs Committee
Parliament House
Canberra ACT 2600

Dear Secretary

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

Thank you for the opportunity to make a submission to the Committee's inquiry into Marriage Amendment (Celebrant Administration and Fees) Bill 2013 and the Marriage (Celebrant Registration Charge) Bill 2013.

I make this submission in my capacity as

- an authorised civil marriage celebrant
 - registered 2 September 2006
 - solemnise an average of 90 marriages a year
 - one of a handful of celebrants who makes a full-time living (albeit at a very modest level) from celebrancy
- a citizen concerned about the negative impact of conversion of lifetime registration of civil marriage celebrants to a one year renewable appointment will have on the confidence of the marrying public in the civil celebrant program and on the experience of couples on their wedding day

Perspective of a marriage celebrant on the proposed changes to the Marriage Act

Application fee for new celebrants

I support the imposition of an application fee.

The annual fee and punitive measures for non-payment

In principle, **I am not opposed to cost-recovery via the imposition of an annual fee.**

I am opposed to deregistration being the automatic punitive measure for non-payment as this effectively reframes the role of a Commonwealth registered celebrant into that of a casual contractor or franchisee.

In common with every celebrant registered since Lionel Murphy implemented the program in 1973, my appointment is for life and continuation of my authorisation is contingent upon complying with Section 39G of the Act and upon determination by the Registrar that my performance has been satisfactory over the previous 5 year period.

Section 39I of the Act currently includes a range of disciplinary measures available to the Registrar for failure to meet these requirements.

Apart from failure to comply with Ongoing Professional Development requirements (as reported by the Marriage Celebrant Section), about which the Department appears reluctant to exercise the disciplinary measures available in an expeditious manner, evidence of the

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need for increased regulation is lacking. Thus the professionalism of civil celebrants, or perceived lack of it, should not warrant a drastic change to the terms of registration.

Civil celebrants have performed millions of marriages over four decades. Since the changes to the Civil Celebrant program were implemented in 2003, approximately 5 complaints per annum have been made to the Department about marriage celebrants and of the 8 cases regarding the validity of marriages heard a court of law, 6 were dismissed. Only 1 of the two cases upheld involved a marriage solemnised by a civil celebrant. Suspension, with re-instatement on payment of the amount owing, would be sufficiently draconian to compel compliance with the fee.

It is also noteworthy that while a primary justification for the annual fee is to recover costs for the 5-yearly review, such reviews will be eliminated. Indeed, there are a number of tasks which the Department has ceased carrying out, without need to change the legislation to do so, but is now seeking a change to the legislation to reinstate. These include answering celebrant questions by telephone and requiring an annual report from celebrants about completion of Ongoing Professional Development and number marriages solemnised.

Set-up costs to comply with the Code of Practice are considerable. No celebrant can recoup set-up costs in the first year. Indeed, the average celebrant, conducting the average number of weddings per celebrant, will take many years to recoup those costs.

My set-up costs were in excess of \$20,000 and, though in the first year I solemnised 20 marriages and over the subsequent years steadily increased that annual number to the current level of between 90 and 100 marriages per annum, it took 3 years to reach break-even point.

My set-up costs included

- Provision of a suitable area/office to meet couples
- Secure storage for documents
- Purchase of suitable clothes to perform ceremonies
- Purchase of an upgraded computer
- Registration of domain names and development of more than one website
- Purchase of a PA system to comply with Code of Practice requirements
- Purchase of a celebrant software to manage ceremony records
- Ongoing education (I continued to study, obtaining an Advanced Diploma in Marriage Celebrancy and a Certificate IV in Marriage Celebrancy, together with non-marriage related celebrancy qualifications)
- Establishment of a large library of marriage ceremony related books and other resources

To these must also be added recurring costs for

- Professional Indemnity and Public Liability Insurance
- Ongoing Professional Development
- Purchase of official marriage register and marriage certificates
- Payment for delivery from Canprint of the "free" Form 14A pamphlet that all celebrants are required to give marrying couples
- Advertising
- Support costs for celebrant and other software
- Vehicle and office costs

While recurrent costs are increasing, ceremony fees are not as undercutting continues as a significant proportion of celebrants compete for bookings (if the number of civil marriages available to registered celebrants were evenly divided among the 10,500 celebrants each would be conducting 6-7 weddings a year. According to Service Seeking.com the average fee charged is \$400.

Acceptance of Australian passport as evidence of the date and place of birth of the party

I support the Amendment of Section 42(1)(b) of the Marriage Act to allow an Australian passport to be presented as evidence of date and place of birth of a party seeking to marry.

In rare cases, however, this may create problems for both a celebrant and a party to the marriage as a birth certificate is the only conclusive documentary proof of the gender of the party. If a party has undergone sexual reassignment surgery, application can be made by a person born or adopted in Australia to have the changed gender noted on birth or adoption registration, but that person must not be married. Since 2011 it is possible to have a passport issued in the preferred gender despite surgical reassignment not being complete. Reliance on an Australian passport could therefore result in a celebrant proceeding with the marriage unaware that to do so would be in breach of the Act. Where the surgical reassignment is complete but the birth certificate not yet amended, proceeding on the basis of the passport would result in the parties having to divorce in order for the gender reassignment to be reflected on the birth certificate.

Therefore, I propose that the Act be amended to include a provision that where, in good faith, and by relying on the gender noted on an Australian passport, a celebrant marries a woman and a woman or a man and a man no penalties should apply to that celebrant.

Perspective of a concerned member of the public

Civil celebrants are a critical asset in ensuring that marriage remains an essential part of the fabric of a stable Australian society.

Converting a lifetime appointment to a 1 year appointment will have a range of negative effects on marrying couples and their guests:

- it could slow the renewal of the celebrant pool by speeding up departure from the industry of older, more experienced celebrants, particularly those who have been subsidising their celebrancy practice from fixed incomes (pensions or annuities) while simultaneously giving aspiring celebrants cause for pause
- it may deter existing registered celebrants from replacing or upgrading essential equipment such as computers and PA systems, resulting in a less than optimal wedding experience for couples and their guests.
- removing many able and experienced celebrants from the pool in favour of those for whom being a celebrant is a sideline would reduce the pool of celebrants willing and able to effectively mentor less experienced celebrants through celebrant associations
- it would create uncertainty in couples wishing to arrange their weddings well in advance as to whether their chosen celebrant will still be registered when their wedding day comes around
- it would potentially remove choice from the couple regarding their celebrant if that celebrant were to be deregistered and thus required to pass booked marriage ceremonies over to another celebrant. In order to comply with the seven day timeline it would most likely be the celebrant who would identify and nominate a replacement celebrant

Yours sincerely

Jennifer Cram

21 April 2013