

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Output 1.1

Question No. 14

Senator Crossin asked the following question at the hearing on 31 October 2006:

In relation to the changes to the Marriage Celebrant Program in 2003:

- (a) What additional administrative requirements are placed on registered marriage celebrants.
- (b) What additional qualifying requirements are placed on those applying to become registered marriage celebrants?
- (c) How many staff were employed in the Marriage Celebrant Section of AGD prior to the changes to the Marriage Celebrant Program in 2003?
- (d) Has the Department undertaken a review of the effects of the changes to the Marriage Celebrant Program.

The answer to the honourable senator's question is as follows:

- (a) The reforms to the Marriage Celebrants Program included the following additional administrative requirements of Commonwealth-registered marriage celebrants: (i) the requirement to undertake professional development annually, (ii) the requirement to submit an Annual Return, and (iii) the requirement to participate in complaints processes and performance reviews, as necessary. Please see below.
 - (i) Professional development obligations are a legislative requirement of all Commonwealth-registered marriage celebrants – s.39G of the *Marriage Act 1961* and Regulation 37M of the *Marriage Regulations 1963* refer. The requirements are for these marriage celebrants to undertake at least two professional development activities totalling at least five hours each registration year, including any activity that has been set by the Registrar of Marriage Celebrants as compulsory for that year. A marriage celebrant must not include any activity that he or she has already undertaken in the preceding five years.
 - (ii) At the end of each registration year, and before 31 October of that year, each Commonwealth-registered marriage celebrant must provide an Annual Return to the Registrar of Marriage Celebrants, stating which professional development activities have been undertaken in the previous registration year, as well as the number of marriage ceremonies performed that year – Regulation 37M(7) of the *Marriage Regulations 1963* refers.
 - (iii) A complaint about the solemnization of a marriage by a marriage celebrant can be made by a party to the marriage, a member of the public, the registering authority of the State/Territory in which the marriage was solemnized or was intended to be solemnized, or by a person on behalf of a department or agency of the Commonwealth, a State or a Territory. The complaint must be made in writing to the Registrar of Marriage Celebrants within three months of the matter being complained of taking place, or within a longer

period if the Registrar considers it justified. The Registrar will decide whether the complaint is to be resolved by conciliation or determination. The complaints resolution procedures are outlined in subdivision 2 of Division 1A, Part III of the *Marriage Regulations 1963* (Regulations 37Q – 37Z).

Amendments to the *Marriage Act 1961* which took effect on 1 September 2003 introduced a requirement that the Registrar of Marriage Celebrants review the performance of each Commonwealth-registered marriage celebrant. A review must be conducted not later than five years from the date of appointment or the date of the last review. A review can be conducted by the Registrar of Marriage Celebrants at any time if circumstances demonstrate the need for it.

In considering a marriage celebrant's performance, the Registrar must take into account any complaint dealt with by the Registrar, any information received concerning the marriage celebrant's performance, whether the marriage celebrant has complied with the Code of Practice, whether the marriage celebrant has undertaken the required professional development, whether the marriage celebrant has provided the required Annual Returns, and whether the marriage celebrant has developed any physical or mental incapacity that prevents him or her from continuing as a marriage celebrant – s.39H of the *Marriage Act 1961* and Regulation 37N of the *Marriage Regulations 1963* refer.

- (b) Since the Marriage Celebrants Program reforms commenced in 2003, the Registrar of Marriage Celebrants can only register a person as a marriage celebrant if satisfied that the person is aged 18 years or over, has all the qualifications and/or skills determined by the Registrar to be necessary, and is a fit and proper person to be a marriage celebrant – s.39C(1) of the *Marriage Act 1961* refers.

Attainment of the marriage celebrancy unit of competency, as described in Regulations 37F – 37G of the *Marriage Regulations 1963*, is the minimum requirement for an applicant for registration as a marriage celebrant. The qualifications are a certificate awarded by a university showing successful completion of a course including the marriage celebrancy unit, a Certificate IV in Marriage Celebrancy or a Statement of Attainment in the marriage celebrancy unit awarded by a registered training organisation, or a written assessment given by a qualified assessor showing attainment of competency in the marriage celebrancy unit.

The matters to be taken into account by the Registrar in determining whether a person satisfies the fit and proper person test include the person's (a) knowledge of relevant laws, (b) commitment to advising couples about relationship support services, (c) standing in the community, (d) any conviction of an offence punishable by imprisonment for one year or more, (e) any conflict of interest or benefit to a business that may be the result of registration as a marriage celebrant, (f) commitment to fulfil certain obligations as a marriage celebrant (under s.39G of *Marriage Act 1961*), and (g) any other matter the Registrar considers relevant – these items are listed in s.39C(2) of the *Marriage Act 1961*.

- (c) Prior to the 2003 reforms to the Marriage Celebrants Program there were 3.8 full-time equivalent staff employed in the Marriage Celebrants Section.
- (d) The Department is monitoring the changes to the Program. The monitoring conducted to date includes: (i) conducting a survey of marriage celebrants' experience of participating in Ongoing Professional Development; (ii) monitoring celebrants' fulfilment of Ongoing

Professional Development obligations; and (iii) establishing a liaison group with marriage celebrant representative bodies to provide information and receive feedback about the Marriage Celebrants Program.