

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

**Program 1.3**

**Question No. 81**

**Senator Wright asked the following question at the hearing on 18 October 2011:**

1. Were Commonwealth Marriage Celebrants, until recently, allowed a measure of interpretation of sections 45 and 46 of the Marriage Act?
2. Have Commonwealth Marriage Celebrants, who are not ministers of religion of a recognized denomination, been advised that they are now required to adhere strictly to sections 45 and 46 of the Marriage Act?
3. Will the Marriage Law and Celebrant Section provide Commonwealth Marriage Celebrants with legal advice as to the adequacy of the wording they intend to use and its compliance with the requirements of the Marriage Act?

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

1. Sections 45 and 46, in their current form, have formed part of the *Marriage Act 1961* since its enactment. Since 2003 marriage celebrants have been provided with detailed guidance on the requirements of these sections of the Act.
2. From 2003, marriage celebrants who are registered by the Commonwealth have been given detailed guidance on the content and requirements of these sections, as well as on those changes they can introduce to the statutory wording that will still comply with the legislative requirements.
3. While the Department is not able to provide legal advice to marriage celebrants, the Section provides individually tailored guidance to marriage celebrants about marriage-related matters. This guidance includes the best way to apply the requirements of the *Marriage Act 1961* and the *Marriage Regulations 1963* to the particular situations facing marriage celebrants. Marriage celebrants are advised that they should seek guidance from the Section when the situation concerning them is not covered within the existing information and explanatory materials provided to them.