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Commonwealth of Australia

HOUSE OF REPRESENTATIVES

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Marriage Amendment (Celebrant Administration and Fees) Bill 2013

No. , 2013

(Attorney-General)

**A Bill for an Act to amend the *Marriage Act 1961* in
relation to celebrants, and for other purposes**

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1 **A Bill for an Act to amend the *Marriage Act 1961* in**
2 **relation to celebrants, and for other purposes**

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *Marriage Amendment (Celebrant*
6 *Administration and Fees) Act 2013*.

7 **2 Commencement**

8 (1) Each provision of this Act specified in column 1 of the table
9 commences, or is taken to have commenced, in accordance with
10 column 2 of the table. Any other statement in column 2 has effect
11 according to its terms.
12

Schedule 1—Amendments relating to fees and charges

Part 1—Amendments relating to annual celebrant registration charge

Marriage Act 1961

1 Subsection 5(1)

Insert:

celebrant registration charge: see subsection 39FA(1).

2 Subsection 5(1)

Insert:

charge payment day: see subsection 39FA(2).

3 After section 39F

Insert:

39FA Celebrant registration charge: liability to pay charge

(1) A person is liable to pay *celebrant registration charge* to the Commonwealth in respect of a financial year if:

(a) the person:

(i) is a marriage celebrant on 1 July in that financial year;
or

(ii) becomes a marriage celebrant later in that financial year; and

(b) the person has not, before the end of the charge payment day, been granted an exemption from liability to pay the charge.

The charge must be paid by the end of the charge payment day.

Note: For the imposition and rate of the charge, see the *Marriage (Celebrant Registration Charge) Act 2013*.

(2) The Registrar of Marriage Celebrants must, in respect of a financial year, send each person who is a marriage celebrant on

Schedule 1 Amendments relating to fees and charges

Part 1 Amendments relating to annual celebrant registration charge

- 1 1 July in the financial year, or who becomes a marriage celebrant
2 on a later day in the financial year, a notice that:
- 3 (a) specifies:
- 4 (i) the amount of celebrant registration charge that is
5 payable by the person (unless the person is granted an
6 exemption); and
- 7 (ii) the **charge payment day** (being a day that is at least 30
8 days after the day on which the notice is sent); and
- 9 (b) complies with any other requirements prescribed by the
10 regulations relating to the content of the notice, or how it is to
11 be sent.
- 12 (3) The regulations may do all or any of the following:
- 13 (a) provide for the granting of exemptions, on grounds specified
14 in the regulations, from liability to pay celebrant registration
15 charge in respect of a financial year;
- 16 (b) require a fee to be paid in respect of an application for an
17 exemption;
- 18 (c) provide for internal review of decisions to refuse to grant
19 exemptions.
- 20 (4) Regulations made for the purpose of paragraph (3)(b) may specify
21 a fee, or provide for a fee to be determined by the Minister by
22 legislative instrument.
- 23 (5) Regulations made for the purpose of paragraph (3)(c) must provide
24 that the outcome of an internal review of a decision (the **original**
25 **decision**) is either:
- 26 (a) that the original decision is confirmed; or
- 27 (b) that a different decision is substituted for the original
28 decision, with effect from the time when the original decision
29 was made.
- 30 (6) An amount of celebrant registration charge that a person is liable to
31 pay:
- 32 (a) is a debt due by the person to the Commonwealth; and
- 33 (b) may be recovered by action in a court of competent
34 jurisdiction.

39FB Celebrant registration charge: consequence of non-payment

(1) If a person has not, by the end of the charge payment day, paid an amount of celebrant registration charge that the person is liable to pay, the Registrar of Marriage Celebrants must, as soon as practicable after that day, send the person a notice in accordance with subsection (2), unless the Registrar considers that the notice should not be sent at that time because the person's liability to pay the charge may be affected by:

- (a) the outcome of an application for internal review of a decision to refuse to grant an exemption; or
- (b) any other circumstance of which the Registrar is aware.

Note: Depending on the outcome of matters referred to in paragraph (a) or (b), it may turn out that the person is not liable to pay the charge.

(2) The notice referred to in subsection (1) must:

- (a) advise the person that, because the person has failed to pay celebrant registration charge, the person will be deregistered as a marriage celebrant after the day specified in the notice (being a day that is at least 7 days after the day on which the notice is sent); and
- (b) comply with any other requirements prescribed by the regulations relating to the content of the notice, or how it is to be sent.

(3) The Registrar of Marriage Celebrants must deregister the person as a marriage celebrant by removing his or her details from the register of marriage celebrants as soon as practicable after the day specified under paragraph (2)(a).

Note: If the person wishes to become a marriage celebrant again, the person may reapply under section 39D.

4 At the end of paragraph 39J(1)(c)

Add "(including under subsection 39FB(3))".

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

3 ***Marriage Act 1961***

4 **5 Before subsection 39D(1)**

5 Insert:

6 *Applying for registration*

7 **6 After subsection 39D(1)**

8 Insert:

9 (1A) An application is taken to be made if, and only if:

10 (a) the application complies with subsection (1); and

11 (b) the applicant has either:

12 (i) paid the registration application fee in respect of the
13 application; or

14 (ii) been granted an exemption from liability to pay the
15 registration application fee.

16 Note: The application is made on the day on which paragraphs (a) and (b)
17 are first satisfied in relation to the application.

18 *Registration application fees*

19 (1B) The regulations may require a fee (a ***registration application fee***)
20 to be paid in respect of an application.

21 (1C) The regulations may also do all or any of the following:

22 (a) provide for the granting of exemptions, on grounds specified
23 in the regulations, from liability to pay a registration
24 application fee;

25 (b) require a fee to be paid in respect of an application for an
26 exemption;

27 (c) provide for internal review of decisions to refuse to grant
28 exemptions.

1 (1D) Regulations made for the purpose of subsection (1B) or
2 paragraph (1C)(b) may specify a fee, or provide for a fee to be
3 determined by the Minister by legislative instrument.

4 (1E) Regulations made for the purpose of paragraph (1C)(c) must
5 provide that the outcome of an internal review of a decision to
6 refuse to grant an exemption is either:

7 (a) that the refusal decision is confirmed; or

8 (b) that an exemption is granted, with effect from when the
9 internal review decision is made.

10 **7 Subsection 39D(2)**

11 Repeal the subsection, substitute:

12 *How Registrar deals with applications*

13 (2) The Registrar must deal with applications in the order in which
14 they are made (see subsection (1A)).

15 **8 Paragraph 39D(4)(a)**

16 Repeal the paragraph, substitute:

17 (a) the person has made an application (see subsection (1A));
18 and

19 **9 Paragraph 39J(2)(a)**

20 Omit “under section 39D”, substitute “(see subsection 39D(1A))”.

1 **Part 3—Amendments relating to fee for applying for**
2 **exemption from professional development**
3 **requirements**

4 ***Marriage Act 1961***

5 **10 Section 39G**

6 Before “A marriage celebrant”, insert “(1)”.

7 **11 At the end of section 39G**

8 Add:

9 (2) Without limiting subsection (1), the regulations may require a fee
10 to be paid in respect of an application for an exemption from
11 requirements prescribed by regulations made for the purpose of
12 paragraph (1)(b). The regulations may specify the fee, or provide
13 for the fee to be determined by the Minister by legislative
14 instrument.

1 **Part 4—Application of amendments**

2 **12 Application of amendments made by Part 1**

3 The amendments made by Part 1 apply in respect of the financial year
4 starting on 1 July 2013 or a later financial year.

5 **13 Application of amendments made by Part 2**

6 The amendments made by Part 2 apply in relation to the making of
7 applications for registration as a marriage celebrant on or after 1 July
8 2013.

9 **14 Application of amendments made by Part 3**

10 The amendments made by Part 3 apply in relation to the making of
11 applications for exemptions on or after 1 July 2013.

Schedule 2—Other amendments

Part 1—Amendments

Marriage Act 1961

1 Section 39E

Repeal the section.

2 Subsections 39H(1) and (2)

Repeal the subsections, substitute:

- (1) The Registrar of Marriage Celebrants may, from time to time, review the performance of a marriage celebrant in respect of a period to determine whether the Registrar considers that the celebrant's performance in the period is satisfactory.

Note: The period to which a review relates is at the discretion of the Registrar.

3 Paragraph 39J(1)(a)

Omit "(unless a ground for the decision was that the Registrar would breach section 39E by registering the person)".

4 Subsection 39J(3)

Omit "(even if doing so at the time the action is taken would cause a breach of a limit under section 39E)".

5 Subparagraph 42(1)(b)(iii)

Omit "; and", substitute "; or".

6 At the end of paragraph 42(1)(b)

Add:

- (iv) an Australian passport, showing the date and place of birth of the party; and

7 Subsection 115(1)

Omit ", as soon as practicable after each 14 March".

1 **Part 2—Transitional provisions**

2 **8 Definitions**

3 In this Part:

4 ***amended Act*** means the *Marriage Act 1961* as in force after
5 commencement.

6 ***commencement*** means the commencement of this Schedule.

7 ***old Act*** means the *Marriage Act 1961* as in force immediately before
8 commencement.

9 **9 Transitional provisions relating to amendment made by**
10 **item 2**

11 (1) If:

12 (a) before commencement, the Registrar of Marriage Celebrants
13 was obliged to conduct a review of a marriage celebrant's
14 performance in respect of a period under section 39H of the
15 old Act; but

16 (b) the review had not been completed by commencement;
17 the obligation to conduct the review ceases on commencement. The
18 Registrar may (at the Registrar's discretion) complete any such review
19 under section 39H of the amended Act.

20 (2) To avoid doubt, disciplinary measures may, after commencement, be
21 taken in accordance with section 39I of the amended Act in relation to a
22 review that was completed under section 39H of the old Act before
23 commencement, or that is completed after commencement as mentioned
24 in subitem (1).