



CHURCHES OF CHRIST IN WESTERN AUSTRALIA INC

13 June 2024

Notice of amendments to the Marriage Act - *Attorney-General's Portfolio Miscellaneous Measures Act 2024*

Over the past months, the Australian Government has been progressing a bill before parliament to update, clarify, and improve the intended operation of legislation administered by the Attorney-General, including the *Marriage Act 1961*. The changes seek to clarify and improve the operation of the Marriage Celebrants Program and include a new requirement for celebrants to meet separately and in person to ensure safeguards for real consent to a marriage are maintained, and the ability to witness the signing of NOIMs in Australia on line.

The *Attorney-General's Portfolio Miscellaneous Measures Bill 2023* received Royal Assent on 11 June 2024 and became law on 12 June 2024.

The changes to the Marriage Act are summarised below. Please ensure you advise your nominated ministers of these changes immediately and incorporate into any training or reference materials you provide for them.

Should you have any questions, please do not hesitate to email marriagecelebrantssection@ag.gov.au with the subject name 'MARRIAGE ACT ENQUIRY'.

Yours sincerely

Marriage Law and Celebrants section

Attorney-General's department

Summary of upcoming amendments to the Marriage Act

Remote witnessing

The Marriage Act will be amended to permanently provide couples with the option to have their Notice of Intended Marriage (NOIM) witnessed remotely, via audio-visual link, as well as in person.

NOTE: The requirements for authorised witnesses will remain unchanged and location-dependent. If the couple is in Australia then the person remotely witnessing the NOIM (which can include an authorised celebrant) must also be in Australia. If the couple is outside Australia, the authorised witness (which cannot be a celebrant) must also be outside Australia. To be clear, you cannot witness online a NOIM for a person or couple outside Australia.

Separate Meetings

The Marriage Act will require an authorised celebrant to meet separately and in person with each party to the marriage before the marriage is solemnised. The purpose of the meeting is to ensure that each party is freely and voluntarily consenting to the marriage.

A separate meeting needs to occur in the absence of the other party to the marriage and in a culturally safe environment – but this does not mean you need to meet alone with a party. Other persons can attend with the party's permission.

The timing of the separate meetings is at the discretion of the celebrant and the couple. It can occur at any time up to and including the day of the marriage, providing it occurs before the marriage is solemnised. Additional guidance material will be provided to assist you to meet these requirements.

Evidence of date and place of birth

The amendments re-order the acceptable evidence of date and place of birth under paragraph 42(1)(b) of the Marriage Act. They clarify that where it is impracticable (practically impossible) for the party to the marriage to obtain a certificate or official extract of an entry in an official register and they do not have a passport, only then should they rely on a statutory declaration to declare to the best of their knowledge, their date and place of birth.

The term impracticable does not mean inconvenient. For example, it is not impracticable for a person born in Australia to apply to the state or territory Registries of Births, Deaths and Marriages for a copy of their birth certificate, or except in special circumstances, for overseas born persons to apply to the appropriate authorities in their country of birth.

Transfer of the NOIM

The amendments also clarify the circumstances when a NOIM can be transferred to another authorised celebrant include at the request of the marrying couple. This is in addition to transfers due to the death, absence or illness of the celebrant or where it is otherwise impracticable for a celebrant to solemnise the marriage.

Other measures

Other amendments include:

1. the introduction of deputy registrars for the Marriage Celebrants Program
2. extending the timeframes for considering an application for registration as an authorised celebrant
3. providing for the refund of the application fee only if an applicant does not have the requisite qualification or skills referred to in the Marriage Act
4. clarifying that a celebrant must be physically present to solemnise a marriage, together with the parties and 2 witnesses and

5. confirming that a celebrant can only be registered or authorised under one subdivision of the Marriage Act at a time (this applies only if the person's application is received after the commencement of Schedule 3, Part 7 ie, 28 days after the Act receives Royal Assent).

Questions

The Marriage Law and Celebrants Section is available to assist you with any questions you may have about these amendments