



**Australian Government**  
**Attorney-General's Department**

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## **COST RECOVERY IMPLEMENTATION STATEMENT**

### **Marriage Celebrants Regulation**

**1 July 2018–30 June 2019**

## **1. INTRODUCTION**

### **1.1 Purpose of the CRIS**

This Cost Recovery Implementation Statement (CRIS) provides information about how the Attorney-General's Department (AGD) implements cost recovery for the regulation of marriage celebrants. It also reports financial and non-financial performance information for the regulation of marriage celebrants and contains financial forecasts for 2018–19 and three forward years. AGD will maintain the CRIS until the activity or cost recovery for the activity ceases.

### **1.2 Description of the activity**

#### **Background**

The *Marriage Act 1961* (the Act) establishes the legal framework for marriage in Australia. The Act establishes the position of 'Registrar of Marriage Celebrants' (the Registrar) (section 39A of the Act). The Registrar is required to maintain the Register of Marriage Celebrants (section 39B of the Act), and is responsible for administering the Marriage Celebrants Programme (the Programme). The Registrar registers and regulates marriage celebrants.

In managing the programme, AGD, on behalf of the Australian Government, sets out to make marriage celebrant services available throughout Australia, improve the professional standards of marriage celebrants, and ensure compliance with the legislative framework. It is important for marriage celebrants to provide high quality services that comply with their legislative obligations (such as identity checking and ensuring consent of both parties to the marriage has been freely given) and do not result in invalid marriages (which could have serious consequences in terms of inheritance issues, property rights and proof of identity).

To deliver this, the programme is divided into two outputs:

- (1) Assessing applications for registration as a marriage celebrant. This includes: assessing answers to legal questions and scenario tests; undertaking a criminal history check; and processing applications from applicants who seek an exemption from the registration application fee, and
- (2) Ongoing regulatory services provided to celebrants as a group. This includes: monitoring performance; investigating complaints; administering fees; providing information via phone, email and website; engaging with stakeholders; and assessing applications from marriage celebrants who seek an exemption from the annual celebrant registration charge or from fulfilling their ongoing professional development (OPD) obligations.

Further details of the activity can be found in section 3.1 of this Statement.

Currently, about 78%<sup>1</sup> of Australian marriage ceremonies are civil ceremonies, conducted by marriage celebrants registered under the programme, or state officers. At the time of writing, there are approximately 9,000 marriage celebrants registered under Subdivision C and Subdivision D of the Act.

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<sup>1</sup> Australian Bureau of Statistics, *Marriages and Divorces, Australia, 2015*, viewed December 2018, <http://www.abs.gov.au/ausstats/abs@.nsf/Latestproducts/3310.0Main%20Features12017?opendocument&tabname=Summary&prodno=3310.0&issue=2017&num=&view=>.

### ***Purpose of cost recovery***

Cost recovery for the programme enables the government to ensure that the costs of regulating marriage celebrants are borne by those who are the subject of regulation and not the general public. AGD is committed to continually evaluating the efficiency, productivity and responsiveness of the programme.

### ***Stakeholders***

The primary stakeholders for the cost recovered activities are marriage celebrants and aspiring marriage celebrants. Other secondary stakeholders include:

- marrying couples who have an interest in accessing information and services from marriage celebrants
- registered training organisations who deliver the required training for aspiring celebrants and ongoing professional development for registered celebrants, and
- other government agencies such as:
  - state and territory registries of births, deaths and marriages, who are responsible for the registration of all Australian marriages
  - the Department of Home Affairs, and
  - the Australian Federal Police.

In addition to Subdivision C celebrants (marriage celebrants) and Subdivision D celebrants (religious marriage celebrants), the Act also empowers other authorised celebrants to solemnise marriages. Other authorised celebrants are: ministers of religion who solemnise marriages for religious organisations that have been proclaimed as recognised denominations for the purposes of the Act (Subdivision A celebrants); and officers who solemnise marriages for their state or territory (generally in registry offices and courts) (Subdivision B celebrants). Cost recovery does not apply to these two categories of authorised celebrants as they are regulated by the state and territory registries of births, deaths and marriages. The Commonwealth does not incur costs in relation to regulation of these other authorised celebrants except through administering the relevant parts of the Act, which is a core responsibility of AGD.

## **2. POLICY AND STATUTORY AUTHORITY TO COST RECOVERY**

### ***2.1 Government policy approval to cost recover the activity***

Cost recovery for marriage celebrants' regulation was announced as part of the 2011–12 Budget<sup>2</sup>. Full cost recovery through charging of an application registration fee, an annual celebrant registration charge and fees for exemption applications were implemented by AGD on 1 July 2014.

### ***2.2 Statutory authority to charge***

The cost recovery charges are authorised by section 6 of the *Marriage (Celebrant Registration Charge) Act 2014* (the Celebrant Registration Charge Act) and section 39FA of the Act.

The Celebrant Registration Charge Act empowers the Minister to, by legislative instrument, determine the amount of celebrant registration charge payable in a financial year. As

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<sup>2</sup> Australian Government Budget 2011–12, viewed December 2018, [www.budget.gov.au/2011-12/content/bp2/html/bp2\\_expense-03.htm](http://www.budget.gov.au/2011-12/content/bp2/html/bp2_expense-03.htm)

ongoing regulation is a service provided to the general population of celebrants, and not to a particular person, the charge for the ongoing regulation of celebrants was required to be established under separate legislation. This charge is characterised as a cost recovery levy, rather than a fee. The annual registration charge is set by the Marriage (Celebrant Registration Charge) Determination 2014, and is \$240. It has remained \$240 since 1 July 2014.

The *Marriage Amendment (Celebrant Administration and Fees) Act 2014* amended the Act to create a liability to pay the celebrant registration charge; made provision for a separate registration application fee; and provides for exemptions from fees, charges and OPD obligations and fees for applying for those exemptions. The registration application fee, and fees for applications for exemption from fees and OPD obligations, relate to services provided to an individual. Therefore, they are not characterised as a levy, and do not require separate legislation to implement.

The Marriage Regulations 2017 (the Regulations) empower the Minister, by legislative instrument, to determine the registration application fee, and fees for applying for exemptions from the application fee, annual registration charge and OPD obligations. These are set in the Marriage (Celebrant Fees) Determination 2014. The registration application fee is \$600 and the fee to apply for an exemption from a fee, charge or OPD obligations is \$30. These fees have remained the same since 1 July 2014.

The legislation and legislative instruments are available on the Federal Register of Legislative Instruments at [www.legislation.gov.au](http://www.legislation.gov.au). Information about the current fees and charges is also available on the AGD website, [www.ag.gov.au/marriage](http://www.ag.gov.au/marriage).

### **3. COST RECOVERY MODEL**

#### ***3.1 Outputs and business processes of the activity***

The programme is divided into two outputs: (i) registration of marriage celebrants; and (ii) ongoing regulation of marriage celebrants. These outputs are essential to achieving the policy outcomes of the programme that:

- marriage celebrants comply with their obligations under the Act and the Regulations
- marriage celebrants conduct themselves professionally and legally when solemnising marriages, and
- marriage celebrant services are available across Australia, including in remote areas.

### ***Registration of celebrants***

To deliver this output, AGD performs the following processes:

- assessing applications for exemption from the registration application fee, requesting more information from the applicant to assess their application for exemption from the registration application fee, where appropriate, and notifying applicants of the outcome of their application
- assessing application information including identifying documents, qualifications, possible conflicts of interest and an understanding of relationship support services, and requesting more information from the applicant to assess their application, where appropriate
- undertaking a national police history check for each applicant through the Australian Criminal Intelligence Commission
- assessing whether each applicant has sufficient legal knowledge relating to the solemnisation of marriage
- conducting interviews with applicants, where appropriate
- discussions with applicants' referees, where appropriate
- registering successful applicants, and
- notifying unsuccessful applicants with reasons for the decision.

### ***Ongoing regulation of registered celebrants***

As part of delivering this output, AGD performs the following processes:

- monitoring celebrants' performance, including through targeted performance reviews and compliance with ongoing professional development (OPD) obligations
- investigating complaints about celebrants
- producing and maintaining relevant educational material for celebrants
- providing access to an online celebrant portal to allow celebrants to securely manage their information, pay the annual celebrant registration charge, view their professional development history and engage with AGD
- managing a database which underpins administration of the Programme
- handling enquiries by telephone and email
- participating in OPD development, approval and management
- ongoing review of the programme and related legislative framework
- engaging with stakeholders, including celebrant associations; celebrants; and state and territory registries of births, deaths and marriages; and other government agencies
- administering the fees and charges, including deregistration of celebrants who do not pay the annual celebrant registration charge
- responding to Administrative Appeals Tribunal applications
- assessing applications for exemption from paying the annual celebrant registration charge and applications for exemption from yearly OPD obligations, and

- notifying applicants of the outcome of their application for an exemption from the celebrant registration charge or OPD obligations.

### 3.2 Costs of the activity

The main cost drivers of the activity are:

- staffing and associated costs to administer the registration of new celebrants, and the ongoing regulation of existing celebrants, and
- general maintenance of, and improvements to, the IT system which underpins the administration of the Programme.

The costs of the activity are relatively stable. Approximately 90% of costs can be attributed to staffing the activity. Staffing costs are impacted by increases in AGD’s employment agreement, and also the Government’s efficiency dividend. The total number of full time equivalent positions in the programme is 13.11.

Information technology makes up the majority of remaining costs. AGD utilises a customised Customer Relationship Management database (MarCel) to underpin the administration of the programme. AGD has invested capital resources into MarCel each year to ensure performance stability is maintained and enhancements to the operating system are introduced where improved administrative efficiencies can be realised. Depreciation of these capital resources occurs once discrete work on the database has been finalised. Support for the ongoing maintenance is also costed.

National police history checks, legal advice, and the dedicated telephone service make up a very small proportion of total costs and variations on these costs have minimal impact on the overall cost of the activity.

#### Cost estimates for current budget year 2018-19

	Direct costs '000	Indirect costs '000	Depreciated capital costs '000
<b>Output 1: Registration of marriage celebrants</b>	<b>251</b>	<b>94</b>	<b>45</b>
Business Process 1.1: Processing applications to become registered as a marriage celebrant and applications for exemption from registration fee	251	94	45
<b>Output 2: Ongoing regulation of marriage celebrants</b>	<b>1,291</b>	<b>467</b>	<b>406</b>
Business Process 2.1: Managing Celebrant Training, Performance Management, Complaints and OPD exemptions	711	260	203
Business Process 2.2: Managing Enquiries, Fee Administration, Stakeholder Engagement and Annual Charge exemptions	580	207	203
<b>TOTAL = 2,554</b>	<b>1,542</b>	<b>561</b>	<b>451</b>

In the above table:

- **Direct costs** are those incurred in the direct day-to-day running of the marriage celebrants’ regulation and information activities. These include staff salary and

superannuation costs, as well as supplier costs (eg office equipment and training). Other direct costs include costs of administering the telephone service, criminal history checks for applicants and programme-related external legal advice.

- **Indirect costs** are overhead costs, including corporate services, office space, IT systems and utility costs.
- **Capital costs** reflect depreciation for IT assets which are not included in direct or indirect costs. AGD has invested approximately \$2.250m in capital funding to improve the IT assets which underpin the administration of the programme.

### **3.3 Design of cost recovery charges**

#### ***Registration application fee***

The registration application fee reflects the cost of AGD staff assessing applications for registration as a marriage celebrant. The fee is payable at the time an application for registration as a marriage celebrant is submitted and covers only the costs that relate to the processing of an application. The application fee applies irrespective of whether the application is successful.

A flat registration fee is appropriate as all applications are processed and assessed according to the criteria set out in the Act. These assessment requirements apply equally to each application.

The registration application fee provides for the assessment of an application; the completion of a national police history check; the costs associated with maintaining a secure and accessible IT system to support the completion and lodgement of online applications; revising any explanatory documents as required; and registering or rejecting an application. At the introduction of cost recovery for the programme on 1 July 2014 this fee was set at \$600. The fee remains unchanged.

#### ***Celebrant registration charge***

The celebrant registration charge provides for regulation and information related activities. This charge has been \$240 since it was introduced on 1 July 2014. The charge and pro-rata amounts listed below remain unchanged in 2018–19. The celebrant registration charge is prorated as follows:

- registered between 1 July and 30 September - \$240
- registered between 1 October and 31 December - \$180
- registered between 1 January and 31 March - \$120, and
- registered between 1 April and 30 June - \$60.

This acknowledges that AGD incurs costs in relation to newly registered celebrants within a financial year and that celebrants registered later in a financial year will not have been regulated prior to their registration.

#### ***Exemption application fees***

The exemption application fee of \$30 only partially covers the cost of processing a request for exemption from the registration application fee, the annual celebrant registration charge or the OPD requirements. All exemption applications require payment of a minimal, non-refundable, processing fee which cannot be waived. The business processes undertaken by AGD to process these requests are set out at section 3.1 above. AGD absorbs approximately 90 percent of the costs of processing exemption applications.

### Charge rates and revenue estimates for current budget year 2018-19

Charge title	Type	Rate	Est. Volume	Est. total revenue ('000)	Output	Business process
Registration Application	Fee	\$600	732	439	Registration of celebrants	Assessing applications for registration as a marriage celebrant
Celebrant Registration	Levy	\$240	8,257	1,982	Ongoing regulation of celebrants	Managing Celebrant Training, Performance Management and Complaints, Managing Enquiries, Fee Administration, Stakeholder Engagement
		\$180	183	33		
		\$120	183	22		
		\$60	183	11		
Application for Exemption from Registration Fee	Fee	\$30	2	0	Ongoing regulation of celebrants	Assessing whether applicant is in a remote area and eligible for exemption
Application for Exemption from Annual Charge	Fee	\$30	50	2	Ongoing regulation of celebrants	Processing and assessing applications for exemption from the celebrant registration charge
Application for Exemption from obligation to do OPD	Fee	\$30	50	2	Ongoing regulation of celebrants	Processing and assessing applications for exemption from fulfilling ongoing professional development obligations for the year
<b>TOTAL</b>				<b>2,491</b>		

Estimated volumes in the above table are calculated on the previous three year average for each charge title. The celebrant registration volume assumes that new registrations will occur in a linear progression over each quarter of the financial year.

#### 4. RISK ASSESSMENT

The key risks and management strategies to the Programme are set out in the table below.

Risk	Management Strategy
Marriage celebrant services are available throughout Australia – cost recovery charges / fees reduce the number of celebrants available in rural and remote Australia	The programme has in place policies to encourage the retention of celebrants in remote and very remote regions of Australia. A celebrant who resides in a location determined by the Australian Bureau of Statistics to be remote or very remote, will be eligible for an exemption from the celebrant registration charge if there is no more than one other registered celebrant sharing the same postcode. The fee for applying for an exemption application is \$30. An exemption from the application fee is also available for people in remote or very remote regions wishing to be a celebrant. A person who receives an exemption from the application fee, and is subsequently

	registered as a marriage celebrant receives an automatic exemption from their first year annual registration charge.
Professional standards of marriage celebrants	AGD regulates the professional standards of celebrants via the requirement to complete ongoing professional development each year (which may include a compulsory component) and the provision of comprehensive guidance materials and an advice service. AGD also manages a complaint process addressing complaints made about individual celebrants.
Cost recovery charges and fees do not result in significant over or under recovery	AGD regularly monitors revenue and expenditure to determine if the programme will under or over recover. A forecasting tool has been developed to assist with assessing revenue and expenditure over the budget forward estimates.

No major implementation issues have occurred and the overall assessment of the operation of the programme is a low risk.

## 5. STAKEHOLDER ENGAGEMENT

AGD continues to consult with marriage celebrant associations about the regulation of the programme and cost recovery through bi-annual meetings. At the meeting held in October 2018, AGD confirmed that the application fee, the annual celebrant registration charge and the exemption application fees for 2018–19 remained the same as the previous three years at \$600, \$240 and \$30 respectively. AGD continues to welcome feedback from celebrants and their representatives about the operation of cost recovery and the regulation of the programme. Stakeholders are notified when the CRIS is published on the AGD website.

## 6. FINANCIAL ESTIMATES

	A	B	C	D	E
	Forecast 2018–19 ('000)	YTD 2018–19 ('000)	2019–20 ('000)	2020–21 ('000)	2021–22 ('000)
Expenses = X	2,554	1,607	2,421	2,429	2,368
Revenue = Y	2,491	2,615	2,502	2,513	2,524
Government Revenue (see note below) Y.1	34	30	34	34	34
Balance = Y + Y.1 – X	-29	1,038 (see material variance explanation below).	115	118	190

	A	B	C	D	E
Cumulative balance	374	N/A	489	607	797
Explain material <sup>a</sup> variance	<p>The number of applications for registration as a marriage celebrant has exceeded forecasts in 2018/19. This has resulted in a greater number of registered celebrants and an increase in the revenue collected. Based on the increases experienced year to date, it is expected that revenue will be \$2.745m this year.</p> <p>While most of the programme's revenue has already been received through the celebrant registration charge, expenses are still continuing. There has been a small reduction in staffing from the previous financial year, however this has been offset by a higher than anticipated depreciation of capital assets as the programme has moved to an updated administrative database. It is expected that total expenses will be consistent with the forecast of \$2.554m.</p> <p>The increased revenue is expected to result in a slight over recovery rather than the under recovery originally forecast.</p>				
Explain balance management strategy	<p>AGD regularly monitors the financial position of the programme. If the upward trend in new registrations and total number of celebrants continues through 2018/19, AGD will review the revenue options.</p>				

<sup>a</sup> As defined by AASB1031 and Division 12 – Materiality and Disclosure of the Finance Minister's Orders.

Note (Y.1): AGD covers the additional cost of processing applications for exemption not recovered through the exemption fees. In addition, AGD covers the cost of exemptions granted for remoteness.

Note YTD column B: Expenses and revenue are as at 1 March 2019.

## 7A. FINANCIAL PERFORMANCE

Cost recovery for this activity commenced on 1 July 2014. This is the fourth year of historical data being available.

	2014–15	2015–16	2016–17	2017-18	N/A
Expenses = X	2,312	2,340	2,470	2,609	
Revenue = Y	2,447	2,450	2,522	2,590	
Government Revenue (see note above) Y.1	36	25	31	33	
Balance = Y + Y.1 – X	171	135	83	14	
Cumulative balance	171	306	389	403	
Explain material <sup>a</sup> variance	<p>There has been a cumulative over recovery of approximately \$400,000 since the introduction of cost recovery. This represents approximately 4% of total revenue received to date. There was a drop off of approximately 20% of total celebrant numbers immediately prior to cost recovery being introduced. It was forecast that the number of celebrants would increase after cost recovery for a couple of years before stabilising. As the total number of celebrants stabilised, revenue</p>				

	2014–15	2015–16	2016–17	2017-18	N/A
	would reduce and the over recovery would move back to a neutral figure. However, celebrant numbers have not stabilised as expected; but rather, they have continued to increase. As a result, revenue is higher than initially forecast, and an over recovery is now projected.				
Explain impact on balance management strategy	AGD continues to monitor financial performance with the aim of cost recovery being cost neutral. As stated above, if the upward trend in new registrations and the total number of registered celebrants continues, AGD will review the revenue options.				

<sup>a</sup> As defined by AASB1031 and Division 12 – Materiality and Disclosure of the Finance Minister’s Orders.

## 7B. NON-FINANCIAL PERFORMANCE

As discussed above at section 1.2, the outputs of the activity are:

- assessment of applications for registration as a marriage celebrant, and
- ongoing regulatory and information services provided to celebrants as a group.

In compliance with the Regulator Performance Framework, AGD published a self-assessment report about its non-financial performance in 2017-18. This is the third year the report has been published, and provides further detailed assessment of regulator performance.

### ***Applications for registration***

In 2017-18, AGD received 851 applications and registered 795 marriage celebrants. The average time for finalisation of an application was two months, with processing times consistent with the legislated timeframe of within three months. AGD is continually looking to introduce efficiencies into the making of applications and also the assessment of applications. In 2018-19, the online application portal will be enhanced to facilitate real time transfer of information from the application portal to the programme database. Further, the application portal will be amended so that new applicants cannot submit an application to AGD without attaching required documentation. Currently an application can be submitted without attachments, which subsequently requires AGD to follow up with the applicant seeking the outstanding information. Further, applicants will not be able to submit their applications via the portal until full payment has been made. This change will improve efficiency as previously an applicant could request for an invoice to be provided to them which resulted in a manual process for AGD.

### ***Ongoing regulation of marriage celebrants***

AGD continues to provide comprehensive guidance and assistance for celebrants. The *Guidelines on the Marriage Act 1961 for authorised celebrants* (Guidelines) were published in July 2018. The Guidelines updated a previous version of the document, taking account of feedback received from stakeholders, the introduction of marriage equality in December 2017, and the Regulations which commenced on 1 April 2018. In addition to the Guidelines, AGD maintains a range of fact sheets which deal with specific issues, for example:

- Marriage equality, Questions and answers on sex and gender
- Protections for ministers of religion and marriage celebrants with religious beliefs about marriage, and
- New subcategory of religious marriage celebrants.

Marriage celebrants are required to complete five hours of ongoing professional development each year, including a compulsory activity, if a compulsory activity has been specified for the OPD year. In 2018, celebrants were required to complete the compulsory activity “Marriage equality: key messages”, which was 120 minutes in duration. AGD actively monitors compliance with celebrant OPD obligations with disciplinary measures such as a caution or additional OPD hours placed on non-compliant celebrants through to suspension or deregistration for continual non-compliance.

#### 8. KEY DATES AND EVENTS

10 October 2018	Consultation with celebrant associations.
21 May 2019	Consultation with celebrant associations.

#### 9. CRIS APPROVAL AND CHANGE REGISTER

Date of CRIS change	CRIS change	Approver	Basis for change
17/06/2014	Certification of the CRIS	Secretary, Attorney-General’s Department	New cost recovered activity
26/06/2014	Agreement to the CRIS	Attorney-General	New cost recovered activity
23/06/2015	Update financial estimates and amend description of business processes to reflect new Department of Finance CRIS template.	Secretary, Attorney-General’s Department	Update CRIS template and revalidate costing model
03/09/2015	Update with end of year financial results	Secretary, Attorney-General’s Department	Continuous disclosure
27/10/2016	Forward estimates and update end of year financial and non-financial results	Secretary, Attorney-General’s Department	Continuous disclosure
3/4/2018	New forward estimates and update end of year financial and non-financial results	Secretary, Attorney-General’s Department	Continuous disclosure
6/6/2019	New forward estimates and update end of year financial and non-financial results	Secretary, Attorney-General’s Department	Continuous disclosure