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Message from our team

Welcome to the Summer 2015/2016 issue of Marriage Celebrant Matters.

The annual registration process for 2015-2016 is now complete. Thank you to all marriage celebrants who assisted in this process. As expected, there was a significant increase in the number of enquiries received during the annual registration charge period (there were more than 6,300 enquires in July and August). Overall the number of registrations has been keeping pace with the number of celebrants leaving the Marriage Celebrants Programme. At the end of September we had approximately 8,500 registered celebrants.

The Marriage Law and Celebrants Section (MLCS) met with celebrant associations in October. These regular meetings provide an opportunity for the MLCS and associations to discuss a broad range of issues including ongoing professional development (OPD), the annual registration process, the review of the Marriage Regulations, the performance review questionnaire and performance monitoring, conflict of interest and the forms review. The next meeting is scheduled for March/April 2016.

As the end of year is rapidly approaching, all celebrants should be aware of their obligation to complete five hours of OPD by 31 December, unless you have received an exemption. Applications for exemption from OPD can be made up until 31 December 2015. However we encourage celebrants to apply sooner rather than later, as the OPD obligation remains if an exemption is not granted.

With the spring/summer wedding season in full swing, the MLCS is available to discuss any questions regarding obligations under the Marriage Act and Marriage Regulations, either on the phone or via email. The *Guidelines on the Marriage Act 1961 for Marriage Celebrants* are also available on our website and provide comprehensive guidance for celebrants.

Marriage Celebrants Programme Team

Ongoing professional development in 2015

You have until 31 December 2015 to complete your five hours of OPD, or seek an exemption. OPD is delivered by a member of the Panel of OPD providers and includes a two hour compulsory activity, and at least one elective activity from the approved list. Please visit our website for a list of approved activities and providers for OPD in 2015.

OPD Exemptions

Exemptions from OPD can be sought in exceptional circumstances. To be considered for an exemption, you will need to demonstrate that you were unable to undertake OPD for the 12-month period.

Applications for an exemption must be made by 31 December 2015, including payment of the \$30 application fee. You should apply for an exemption as early as possible to ensure you have an outcome before the deadline. Applications for exemptions should be made through the celebrant self-service portal. Celebrants should choose the option that allows for the processing fee to be paid at the time of lodging the application. More information, including guidelines for seeking an exemption, is available on our website.

Wrap up of 2015-16 invoicing process

On 7 July, over 8,800 invoices were sent out to marriage celebrants. For the first time, invoices were emailed where we had an email address for the celebrant. Invoices were also available on celebrant's individual portals.

This year, in addition to a letter sent in June 2015 about the upcoming invoice process, there were three invoice payment reminders (two emails and one text message) where invoices were not paid by the due date. We saw a significant surge in payments received after each reminder message was sent.

MLCS accepts payments via credit card, electronic funds transfer (EFT) and cheque. We continue to experience some problems reconciling EFT payments which either used incorrect BSB and account numbers, or failed to adequately identify which celebrant the payment was from. It is very important to follow the instructions on the invoice with regard to EFT payments, as celebrants who made payments which could not be identified or reconciled received deregistration letters.

IMPORTANT – keep your contact details accurate

Maintaining up to date contact details is your responsibility under section 39G of the *Marriage Act 1961*. Invoices are sent to your email address as recorded in our system, as notified by you. Your ongoing registration will depend on you receiving communications from MLCS.

Do not assume that your email address has been updated if you email us from a different address. The MLCS receives thousands of email and phone correspondence from many sources and we will not automatically update your contact details unless you advise us to do so. Even if we reply to your general enquiry email this does not mean we have updated your email address in our system. Many people make 'one-off' enquiries from different email addresses or phone numbers so we will not assume a change unless specifically notified. You can update your contact details through your self-service portal, or by notifying MLCS.

Questionnaire

Thank you to all celebrants who completed the annual questionnaire. These celebrants took advantage of the questionnaire to check that they were meeting their obligations, and to provide important feedback and suggestions to the MLCS. The MLCS is currently considering the large volume of feedback received.

Cost recovery update

The first full year of cost recovery of the Marriage Celebrants Programme has now been implemented, and the Programme is currently operating in line with forecasts. The MLCS responded to more than 31,741 emails, phone calls and letters during the 2014-2015 financial year. In addition, the MLCS resolved 29 complaints and issued 495 disciplinary measures, including where celebrants did not comply with their 2014 OPD obligations. Fees and charges remained the same for 2015-16. MLCS will continue to monitor alignment between the programme's expenses and revenue and ensure that fees and charges remain as low as possible. The current Cost Recovery Implementation Statement can be found on our website.

Misleading advertising

In 2012, the Registrar of Marriage Celebrants released the 'Guidelines on Advertising for Commonwealth-Registered Marriage Celebrants' to provide guidance to celebrants on how to market celebrancy services in a manner that is consistent with celebrants' obligations under the Marriage Act and the Code of Practice. Those obligations include the need for celebrants to maintain a high standard of service in their professional conduct and practice, and a requirement to observe the laws of the Commonwealth and the state or territory where the marriage is to be solemnised.

Consumer protection and fair trading laws make it illegal to mislead or deceive. Celebrants must therefore ensure their advertising (which may include statements they make to clients verbally and in email) is not misleading or deceptive.

The Registrar continues to receive complaints from couples and Registries of Births, Deaths and Marriages (BDMs) about confusion resulting from some celebrants' promotion of 'registry-style' weddings. Celebrants who offer this style of wedding should take particular care to ensure their clients know they are not dealing with the BDM. Do not assume clients understand the difference.

Some practical steps you can take to avoid confusion include:

- Do not imply that you are a representative or employee of either a state or territory, or the Australian Government.
- Avoid using terms like 'registry office', 'registry wedding' or 'marriage registry' in your signage, website, emails and other correspondence with clients.
- Have a notice prominently displayed on your website, and in your emails stating you are not affiliated in any way with the BDM.
- Tell your clients directly that you are not the BDM before you accept a payment or confirm a booking.
- If it appears from emails or conversations with your clients that they think you are the BDM (for example, if they refer to you as the 'registry' or the 'courthouse'), take immediate steps to correct them, and provide them with contact details for the BDM.

Observing practices like these will lessen the risk of confusion and complaints, and enhance your professional standing as a marriage celebrant.

Using PA systems – local regulations

Celebrant associations have raised concerns about local regulations restricting the ability of celebrants to use their own PA systems at venues due to noise restrictions. The following information is intended to assist celebrants to determine how they can best manage this situation. While it is clearly desirable as part of

your service to your clients for all attendees to hear the marriage ceremony, to be legally valid under the Marriage Act only the couple and the witnesses must be able to hear the vows (section 45 of the Marriage Act) and explanation of the nature of the marriage relationship (section 46 of the Marriage Act).

Paragraph 5(g) of the Code of Practice for marriage celebrants requires celebrants to make efforts to ensure the marriage ceremony is audible to all those present (using audio equipment if required). If a venue does not allow the use of a celebrant's PA system, the celebrant should make all reasonable efforts for their voice to be heard by the ceremony audience. However, it is not a requirement that everyone at the ceremony must be able to hear the ceremony or that a celebrant must use their own PA system. The Code of Practice also requires celebrants to observe the laws of the State or Territory where the marriage is solemnised.

Update on review of marriage forms

The review of all forms approved for use under the Marriage Act and Marriage Regulations is well underway. MLCS engaged a designer who has revised and modified a number of existing forms using feedback from the survey undertaken earlier this year, and other feedback MLCS has received. The designer was asked to modernise the forms with a more professional appearance, and make them easier to understand and complete.

The next stage of the process has commenced, with the draft revised forms sent to BDMs for their feedback. MLCS will be working with BDMs to ensure the forms meet their requirements, and that appropriate time is provided once the forms are approved for the BDMs to make any required update to their systems.

MLCS will continue to consult with celebrant associations on the forms, including discussions about the transitional period needed for celebrants to use up any of the current forms they may have ordered from CanPrint.

Forced marriage – tougher penalties update

Marriage, as defined under the Commonwealth *Marriage Act 1961*, is a union that is 'voluntarily entered into'. The consent of both parties to be married is a key requirement of all legal marriages. Without consent, the marriage is void.

A 'forced marriage' under the Commonwealth *Criminal Code Act 1995* is when a person gets married without freely and fully consenting, because they have been coerced, threatened or deceived.

On 10 November 2015, the Australian Parliament passed legislative amendments to expand the definition of forced marriage to specifically include circumstances where a person is incapable of freely and fully consenting because he or she is incapable of understanding the nature and effect of a marriage ceremony, for reasons such as age or mental capacity.

The legislative amendments also increased the penalties for the forced marriage offences to ensure they are commensurate with the most serious slavery-related facilitation offences in the Criminal Code. The original forced marriage offences carried a maximum penalty of 4 years imprisonment for a base offence and 7 years imprisonment for an aggravated offence (aggravating circumstances include where the victim is under 18 years of age). The legislative amendments increased these penalties to 7 years and 9 years respectively. The offences apply to any person who causes a forced marriage to occur, so would apply to a celebrant who knowingly or recklessly purported to solemnise a forced marriage.

These increased penalties reflect the seriousness of forced marriage as a slavery-like practice, a form of gender-based violence, and an abuse of fundamental human rights, which puts people at risk of emotional and physical abuse, loss of autonomy and loss of access to education.

The forced marriage offences in the Criminal Code operate in conjunction with offences in the Marriage Act. A celebrant who solemnises, or purports to solemnise a marriage where there

is a legal impediment, which includes a lack of real consent, may also be liable for prosecution under the Marriage Act. Conviction of this offence can give rise to a financial penalty or up to six months imprisonment.

Further information on the government's response to forced marriage, including copies of the 'Forced Marriage Community Pack' is available at: <www.ag.gov.au/forcedmarriage>.

Website updates

Taking into account feedback received from various website users, we have reviewed and updated the Marriage website – www.ag.gov.au/marriage. The website has been restructured to ensure simple and logical navigation so you can easily access the information and support tools you need to perform your work in line with the Marriage Act and Marriage Regulations. This includes through the dedicated *For Commonwealth-Registered Marriage Celebrants* page. This part of the website provides marriage celebrants with resources including information about managing your registration, marriage celebrant associations and networks, OPD and the online self-service portal. You may notice we have also changed the look of some of our information resources. We encourage you to visit the marriage website regularly as it is the best way to remain informed about changes to the law and practices.

Contact us

Phone: 1800 550 343 Monday to Friday from 10am to 1pm and 2pm to 5pm AEDT.

Email: marriagecelebrantssection@ag.gov.au

Postal address:

3-5 National Circuit, Barton, ACT, 2600.

For feedback or suggestions for this newsletter or our Programme, you should email us at marriagecelebrantssection@ag.gov.au.

The Attorney-General's Department will be closed between 25 December 2015 and 3 January 2016 over the Christmas period.