

UNCLASSIFIED

Hello

As discussed with [REDACTED], please find below Family Law Branch's comments on some of the questions posed in the Consultation Paper for the Review of the Sunsetting Framework.

Please feel free to contact me if you would like to discuss.

Kind regards

[REDACTED]

[REDACTED] | A/g Principal Legal Officer

Marriage Law and Celebrants Section | Attorney-General's Department | [REDACTED]

1. To what extent has the purpose of the sunsetting framework been realised, and is that purpose still appropriate?

The purpose of the sunsetting framework, that legislative instruments are kept up to date and only remain in force for so long as they are needed, remains appropriate. For example, the requirements of the sunsetting framework have prompted the Marriage Law and Celebrant's section (MLCS) to conduct a comprehensive review of the Marriage Regulations 1963. It has provided MLCS with an opportunity to review the instrument works holistically, and enables resources to be allocated to the review regulations within timeframes that have been set by legislation.

2. Do you have any other issues or concerns about the sunsetting framework?

It would be useful for the Committee to examine how the framework could differentiate between complex legislative instruments such as the Marriage Regulations 1963, and simple instruments, such as the Marriage (Celebrant Registration Charge) Determination 2014, and allow for flexible timeframes in which to manage the review of instruments and compliance with sunsetting timeframes. This could include, for example, the ability of the Attorney-General to defer the sunsetting of an instrument for more than 12 months in certain circumstances.

3. Is the current sunsetting period of 10 years appropriate?

Yes.

10. Should the Attorney-General have the power to defer the sunsetting of an instrument for more than 12 months?

Yes.

14. Should the power to grant deferrals of sunsetting be delegable?

No, but the criteria for enabling the deferral of sunsetting could be broadened to include reference to an instrument proposed to be made in substitution for the instrument which will not be able to be completed before the sunsetting day because of the complexity of the instrument and/or the complexity of the process of making the instrument.

16. Would it be appropriate for more than one deferral of sunseting to be granted for the same instrument?

Yes, in circumstances in which a second deferral is justified on specific grounds, for example where the first deferral period was insufficient for the new instrument to be made. A maximum of 24 months deferral period would provide greater flexibility for reviews of complex legislation.

37. How useful is the sunseting information provided on the FRL? What could be done to enhance this information?

The utility of the information would be improved if the sunseting date were specified in the 'details' section of each instrument's webpage, in the same place where the 'registered' and 'start' date are currently listed.